

ANNUAL REPORT OF THE  
OF THE  
FEDERAL  
TRADE COMMISSION

FOR THE

FISCAL YEAR ENDED JUNE 30, 1924

WASHINGTON  
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1924

FEDERAL TRADE COMMISSION

HUSTON THOMPSON, *Chairman.*

VERNON W. VAN FLEET.

NELSON B. GASKILL.

JOHN F. NUGENT.

CHARLES W. HUNT.

OTIS B. JOHNSON, *Secretary.*

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# **ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION FOR THE FISCAL YEAR ENDED JUNE 30, 1924**

## **INTRODUCTION**

*To the Senate and House of Representatives:*

Pursuant to statute the Federal Trade Commission herewith submits to the Congress its annual report for the fiscal year July 1, 1923, to June 30, 1924. The commission, which was created by an act of Congress approved September 26, 1914, was organized March 16, 1915. The present is the tenth annual report to Congress.

On June 30, 1924, the commission consisted of Huston Thompson, of Colorado, chairman; Vernon W. Van Fleet, of Indiana, vice chairman; Nelson B. Gaskill, of New Jersey; John F. Nugent, of Idaho; and Charles W. Hunt, of Iowa. Mr. Hunt entered upon duty on June 16, 1924, to succeed Victor Murdock, of Kansas, who resigned as of January 31, 1924.

Of the work accomplished during the year special mention is made of : (1) The order to cease and desist issued against the United States Steel Corporation and its subsidiaries requiring discontinuance of the Pittsburgh plus basing point for steel; (2) Report to the President on the Gasoline Situation in 1924; (3) Report to the House of Representatives on the Radio Industry; (4) Report to the Senate on the Cotton Trade, and dealing chiefly with the operations of cotton exchanges and marketing conditions.

The commission here reports its administration of the Federal Trade Commission act, approved September 26, 1914 (38 Stat. 717) ; delegated sections of the Clayton Act, approved October 15, 1914 (38 Stat. 730); and the export trade act, approved April 10, 1918 (40 Stat. 516).

The work goes steadily forward. The law of unfair competition is being developed with resulting clarity in the channels of trade, valuable and pertinent facts relating to economic subjects amid business matters are being gathered and published, and the export trade act having to do with associations engaged solely in export trade is being administered.

Most pressing is the increasing demand upon the energies of the commission are the field of unfair competition. To this demand relief to the utmost is afforded, but the figures tell the story of efforts only partially effective because of lack of men and money. And the calendar of cases undisposed of at the end of the year does not diminish. A 10-years' view of the deception, bad faith, fraud, and oppression



of which the business world and the public complain teaches that the certain and speedy challenge of this commission to such practices is the effective remedy. But the commission must report a docket of cases grown old and age necessitates reinvestigation by reason of changed conditions or customs and the unknown whereabouts some of whom may be dead. Therefore a case grown witnesses, of old not only adds costs not contemplated, but, more serious, the remedy is postponed or fails.

Coming to the economic duties, two precedents are recorded. First, a deficiency was asked through appropriate agencies, and second, an inquiry respecting flour and bread under a Senate resolution could not be commenced because funds were not available, and the Senate was so informed.

The request for deficiency appropriation was submitted in order to respond to the call of the President of the United States for an "immediate" inquiry into the gasoline situation. The deficiency was refused, but the inquiry was made by delaying current work, and the report submitted.

The inquiry into the production and distribution of flour and bread, called for by the Senate resolution, while considerably delayed, is now under way. Otherwise the economic work and likewise the work connected with the export trade associations has been normal.

Briefly, the commission has been engaged during the year, as heretofore, in the prevention of unfair methods of competition in domestic and foreign commerce, in the elimination of practices which substantially lessen competition or tend to create monopoly, and in gathering and publishing facts for the information of the President, the Congress, and the public with respect to the economic phases of domestic industry and foreign trade. Differently stated, the commission's duty is to sustain those practices which support the competitive system, as opposed to monopoly, in furtherance of the fundamental object of Congress in the enactment of the Federal Trade Commission Act and the Clayton Act. The commission has sought to protect the public against those methods described by the Supreme Court in the Grata case as (1) methods opposed to good morals because characterized by deception, bad faith, fraud, or oppression, and/or (2) methods regarded as against public policy because of dangerous tendency unduly to hinder competition or create monopoly.

The work for the year covered the entire scope of the trust problem and related subjects. It reached from the simplest form of unfair methods of competition on through all phases to the more complex question of trust dissolution. These activities touched the whole range of commerce--raw materials, manufacturing, wholesaling, retailing, exporting, manipulation of markets and, as representing the public interest, consumption. The whole trust problem

can be approached satisfactorily only by approaching it on the economic as well as the legal side. Activities in both these fields as disclosed in the report here given register an advance in an understanding of the matter.

While in all its divisions the commission in those activities having to do with the preservation of competition and the prohibition of unfair methods of competition dealt primarily with questions arising in trade in manufactured products, it may also be noted that many of these matters affected agricultural interests. During the year the commission made reports for Congress and the same were published on the cotton trade; flour-milling industry ; costs, profits, and margins in the handling of grain; stove industry ;and taxation and tax-exempt income. At the request of the President there was submitted to him a special report on gasoline prices. A comprehensive report on the radio industry was also prepared for the House of Representatives and published.

Among the legal proceedings under way during the year were cases relating to food, fuel, clothing and shelter, etc., i. e., steel (Pittsburgh plus), radio, farm implements, grain, groceries, coal, furniture, food products, lumber, soaps, silverware, silks, woollens, photoengraving, typothetae, tobacco, paper and stationery, motion pictures, etc.

The legal proceedings of the commission make frequent and extensive demands on the economic staff for expert assistance from economists and accountants and also for statistical and clerical service. During the fiscal year under report professional assistance was rendered especially in connection with the Pittsburgh Basing Point case, the Bethlehem-Midvale-Lackawanna steel merger, and the cases relating to anthracite premium prices and quantity discounts on corn products. Clerical assistance was given in various other cases. In this connection 17 members of the economic staff were engaged on legal work during the fiscal year.

Aid to other branches of the Government was rendered by detailing expert accountants to the Senate Committee on Public Lands and Surveys in connection with the Teapot Dome investigation conducted by that committee. In addition, a number of statistical experts and clerks familiar with the coal industry problems were temporarily assigned to the United States Coal Commission in connection with that commission 's inquiry into costs, prices, and profits of coal-mining operators.

For the administration of the acts of Congress committed to its care, the commission has been organized into four major divisions i.e., administrative, legal, economic, and export trade--and the work of the year is reported under those captions in the order given.

## ADMINISTRATIVE DIVISION

This division conducts the business affairs of the commission. It is made up of several units such as are usually found in Government establishments, the functions of the units being governed largely by general statutes. These units are personnel, fiscal affairs, publications, docket, mail and files, supplies, stenographic, and library.

The units are under the direct supervision of the assistant secretary of the commission. The character of work of each is indicated by its designation.

### PERSONNEL

Under the rule of the commission providing for the rotation of the office of chairman, Commissioner John F. Nugent was chosen chairman for the year beginning December 1, 1923. Commissioner Nugent waived the chairmanship, and Commissioner Huston Thompson, the next in order of seniority, was chosen chairman. Commissioner Vernon W. Van Fleet was chosen vice chairman for the same period.

Commissioner Victor Murdock, of Kansas, resigned, effective January 31, 1924, and to fill the unexpired portion of his term, ending September 25, 1925, the President, on May 26, 1924, sent to the Senate the nomination of Mr. Charles W. Hunt, of Iowa. This nomination was confirmed by the Senate on May 31, 1924, and Mr. Hunt took the oath of office and entered upon duty on June 16, 1924.

On June 30, 1924, there were 309 employees on the pay roll, with a total basic salary of \$742,240 and a bonus of \$49,660, a grand total of \$791,900. Of these employees, 181 were under the civil service and 128 held positions excepted by law from the civil-service regulations. Of the total of 309 employees, 160 were administrative employees, clerks, etc.; 90 were lawyers; 30, economists; and 29, accountants. The average salary of all employees on June 30, 1924, including bonus, was \$2,562.78. The average salary for administrative employees was \$1,747.50; for lawyers, \$3,697.22; for economists, \$3,425.00; for accountants, \$2,675.17. There were 100 women employees.

During the year ended June 30, 1924, 40 employees, or 13 per cent, left the service of the commission and 31 appointments of a permanent character were made. The number of employees coming under the provisions of the civil service retirement law was 178.

As of July 1, 1924, the Personnel Classification Board classified the employees. Nine suffered salary reductions in total amount of

\$2,080. The Personnel Classification Board did not increase the allocation or salary of any employee over the allocation given by the commission, but decreased the allocation of 78 employees. However, the rates of salaries paid by the commission to certain employees were adjusted to accord with the salary rates provided in the classification act. This adjustment under the law operated to grant nominal salary increases to 115 employees, a total of \$14,580, with a total net increase in the salary roll as a result of reclassification of \$12,500. This represented an increase of 1.58 per cent in the employees' salary roll. A number of appeals from the board's allocation were filed both by the commission in behalf of its employees and by the employees individually. The commission protested the board's allocation of economists and accountants to the clerical, administrative, and fiscal service. These the commission held belonged in the professional and scientific service. The commission also protested the relatively low allocation given by the board to its legal staff. In all, appeals were filed by about one-third of the employees. A number of appeals have been granted and from time to time changes in the allocations of employees are being made by the Classification Board. These will be shown in the next annual report.

At the time of the commission's organization, March 16, 1915, the personnel consisted of 144 persons, these being carried over from the Bureau of Corporations of the Department of Commerce. The total number on the rolls on the date of declaration of war against Germany, April 6, 1917, was 198, and the number in the service at the time of the signing of the armistice, November 11, 1918, was 691. The high-water mark, so far as number of employees is concerned, was on December 9, 1918, when there were 710 employees in the service.

The turnover in the force in the short period of the history of the commission has been exceptionally high. There have been 2,158 original appointments in a little more than nine years, and of this number 1,844 have left the service. This means that the commission has had six times as many employees come and go as it now has on its rolls.

A statement of the personal, including commissioners at the end of each fiscal year since the organization of the commission, is given below :

June 30, 1915	143	June 30, 1920	418
June 30, 1916	224	June 30, 1921	315
June 30, 1917	214	June 30, 1922	318
June 30, 1918	663	June 30, 1923	308
June 30, 1919	376	June 30, 1924	314

This table shows a war-time personnel promptly cut in half after the armistice and a stationary personnel for the past four years.

## FISCAL AFFAIRS

Appropriations available to the commission for the fiscal year ended June 30, 1924, under the executive and sundry civil ad, approved February 13, 1924, amounted to \$1,010,000. This includes an item of \$50,000 for salaries of commissioners and \$20,000 for printing and binding, leaving \$940,000 for the general work of the commission.

Expenditures for the year plus outstanding liabilities amounted to \$979,440.18, which left an unexpended balance of \$30,559.72. Of this amount, \$8,563.78 represented the unexpended balance of the appropriation provided for the payment of increase of compensation (bonus); \$3,750, unexpended balance of salaries for commissioners and secretary (statutory); and \$580.75, unexpended balance of appropriation for printing and binding. The remainder, \$17,665.19, represents the unexpended balance of the lump sum appropriation.

The appropriation, including unexpended balances of appropriation for previous years, and expenditures, are tabulated below.

<i>Appropriations and expenditures</i>		
	Amount available	Amount expended
Federal Trade Commission, 1924:		
Salaries, commissioners, secretary	\$51,000.00	\$51,210.10
Increase of compensation (bonus)	55,000.00	46,436.22
Printing and binding	20,000.00	15,451.35
All other authorized expenses	880,000.00	842,911.89
Total fiscal year 1924	1,010,000.00	956,049.46
Unexpended balances:		
Federal Trade Commission-		
1923	22,514.09	20,619.89
1922	42,001.38	1.90
		Cr. .44
	1,071,411.47	976,710.81

It is estimated that the outstanding liabilities of the commission as of June 30, 1924, amount to \$23,390.72, payment of which will be made from the unexpended balance of the appropriations, "Federal Trade Commission," 1924.

A detailed analysis of the costs of the commission is given in the following statement:

<i>Statement of costs of the Federal Trade Commission for the fiscal year ended June 30, 1924</i>			
	Office	Field	Total
Administrative	\$235,972.70	\$727.38	\$236,700.08
Economic	195,516.22	11,981.81	207,498.03
Legal:			
Chief counsel	164,245.40	59,731.71	223,981.11
Chief examiner	171,149.30	45,301.91	216,451.21
Board or review	20,045.91	904.90	21,910.81
Export trade	11,060.05	2,303.02	13,363.07

Trading with the enemy	2,019.01		2,019.05
Grand total	800,008.63	120,954.73	920,963.36

ADMINISTRATIVE DIVISION

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*Detailed statement of costs of the Federal Trade Commission for the fiscal year ended June 30, 1924*

Item	Office	Field
Annual leave	\$62,975.03	
Applications for complaints	54,711.76	\$18,069.06
Board of review	18,910.74	
Bread inquiry	2,200.81	
Briefs	248.86	
California oil	4.55	
Clayton Act, section 7, general investigation	157.88	
Clayton Act, section 8, general investigation		Cr. 3.22
Coal-trade inquiry	7,965.97	704.72
Communications	3,889.15	
Complaints, formal	154,289.39	77,089.09
Computing machine work	1,215.24	
Corporation reports	8.13	
Cotton trade inquiry	31,027.32	4,108.55
Court leave	.68	
Decline in w heat prices	10.23	
Docket section	15,098.28	
Economic super vision	14,951.49	
Equipment	4,243.81	
Export grain inquiry	415.82	Cr .50
Export trade	9,568.01	2,303.02
Fiscal affairs	9,774.89	
Flour milling	9,908.47	Cr .59
Gasoline inquiry	29,402.28	6,019.01
General administration, commissioners' etc	71,326.98	506.22
Grain and produce exchange	9,643.12	129.13
Heat and light	104.17	
House-furnishings investigation	19,997.82	816.74
Injunction proceedings against the commission	12.25	
Labor	2,652.66	
Legal supervision	47,937.47	847.48
Library section	7,210.12	
Lumber	8.24	
Mail and file section	9,968.97	
Medical attendant	1,281.38	
Messengers	7,891.51	
Military leave	623.37	
Miscellaneous economic	279.85	
Miscellaneous legal	4.96	
National wealth inquiry	54,955.86	3,983.79
Paper schedules	63.41	
Personnel section	8,038.01	
Petitions for mandamus	2,025.15	
Preliminary inquiries	18,847.69	3,885.53
Preliminary work on formal complaints	10.89	
Printing and binding	15,451.35	
Publications section	12,456.90	
Purchases and supplies section	4,762.39	
Radio industry	1,412.31	636.00
Rents	9,847.98	
Repairs	110.07	
Services rendered to Coal Commission	306.00	
Services rendered to Department on justice	311.00	57.48
Services rendered to Federal Real Estate Board	3.01	
Services rendered to Reclassification Commission	385.20	
Services rendered to Senate Committee on Public Lands and Surveys	112.40	
Sick leave	16,417.92	
Special briefs	250.45	
Special legal work for the commissioners	873.41	215.93
Steel	659.36	
Stenographic section	30,915.60	1,297.05
Stock securities (blue sky)		92.30
Study of procedure	1,194.88	38.77
Supplies	9,585.10	
Time excused by Executive or commission's order	8,109.94	
Tobacco situation	104.60	

Trade practice submittal	210.96	
Trading with the enemy	1,693.32	
Transportation of things	199.05	
	800,008.63	120,954.73
Total office expenses		800,008.63
Total cost		920,963.36

*Adjustments.*--The following adjustments are made to a count for the difference between the costs and expenditures:

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Total cost for the year ended June 30, 1924	\$920,963.36
Less transportation paid	40,198.05
New total	880,765.31
Plus transportation paid	42,143.78
New total	922,909.09
Allotted to the retirement fund	7,365.50
Increase of compensation (bonus)	46,463.22
Expenditures for the year ended June 30, 1924	976,710.81

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

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	142,187.32	156,678.00
1919	1,753,530.75	1,522,331.95	231,198.80
1920	1,305,708.82	1,120,336.32	185,372.50
1921	1,032,005.67	938,664.69	93,340.98
1922	1,026,150.54	956,632.01	69,518.53
1923	974,480.32	970,768.41	3,711.91
1924	1,010,000.00	979,240.18	30,559.72

## PUBLICATIONS

The following publications were issued during the fiscal year ending June 30, 1924:

- Annual Report for the Fiscal Year ended June 30, 1923 ; November 20, 1923 ; 218 pages.
- Methods and Operations of Grain Exporters, Volume II, Speculation, Competition, and Prices; June 18, 1923; 264 pages.
- House Furnishings Industry, Volume II, Stoves ; October 1, 1923 ; 187 pages.
- Grain Trade, Volume IV, Middlemen's Profits and Margins, September 26, 1923 ; 215 pages.
- Radio Industry, December 1, 1923 ; 347 pages.
- Decisions, Findings and Orders of the Federal Trade Commission, Volume V (May 22, 1922, to February 13, 1923); June 12, 1924 ; 628 pages.
- Rules of Practice, Amended, February 1, 1924 ; 11 pages. Cotton Trade, Part I, May 5, 1924; 280 pages (printed as Senate Document 100).
- Wheat Flour Milling, May 16, 1924 ; 143 pages (printed as Senate Document 130).



Taxation and Tax-exempt Incomes, June 4, 1924; 157 pages (printed as Senate Document 148).

War-Time Costs and Profits of Steel.

Copies of these publications may be purchased from the Superintendent of Documents, Washington, D. C., for nominal sums. During the fiscal year ended June 30, 1923, 4,718 copies of report. of the commission were sold by the Superintendent of Documents for \$1,265.65. The figures for the fiscal year 1924 are not yet available.

## DOCKET

This section is somewhat comparable to the office of a clerk of court. In this section are kept the documents and records pertaining to the legal work of the commission. These records are reported under the caption, "Legal work," on page 20.

## LIBRARY

The library has a collection of over 20,000 books, pamphlets, and bound periodicals, devoted largely to the subjects of law, economics, and industries. In addition are extensive files of clippings, leaflets, etc. The 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 the 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, catalogues, trade lists, etc., which are not ordinarily found in libraries of even a technical character. The greater amount is furnished gratuitously. This material furnishes 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 bulk of the law collection consists of the various national and regional reporter systems and the more important reference encyclopedias and reference books that are commonly found in law libraries. The distinctive feature, however, is a file of records and briefs of antitrust cases, which were acquired without expenditure.

Care is exercised to limit the selection of books to supply only those needed constantly and immediately in the commission's work. The commission is far removed from other governmental law libraries and the library of the Supreme Court of the United States and must have available sufficient volumes to answer the ordinary requirements of the legal and economic force. In all other instances use is made of the other libraries in Washington, including the Library of Congress.

## QUARTERS

The commission is housed in one of the temporary war structures at Twentieth and D Streets NW. To facilitate trial and investigatory work, and in the interest of economy, small branch offices are maintained at New York City, Chicago, and San Francisco. All communications should be addressed to the commission at Washington, D. C.

## LEGAL DIVISION

Under this caption is reported the work relating to the prevention of unfair methods of competition prohibited by section 5 of the Federal Trade Commission act and cases of price discrimination, tying contracts, corporate-stock acquisitions, and interlocking directorates arising under sections 2, 3, 7, and 8, respectively of the Clayton Act.

To make clear the duties of the commission in this regard, pertinent portions of the acts are quoted. It will be noted that the function of the commission is remedial, not punitive, and that no power is given to impose any penalty. The commission prevents the unfair act to protect the public, not to punish the doer of the act.

### FEDERAL TRADE COMMISSION ACT

Section 5, in part, reads:

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, and common carriers subject to the acts to regulate commerce, from using unfair methods of competition in commerce.

Whomever 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 30 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. \* \* \* If upon such hearing the commission shall be of the opinion that the method of competition in question is prohibited by the act, it shall make a report iii 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.

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 for the enforcement of its

order \* \* \*. The court shall have power to make and enter 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. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 240 of the Judicial Code.

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 an 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.

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 any way relieve or absolve any person, partnership, or corporation from any liability under the antitrust acts.

## CLAYTON ACT

### Section 2--Price discriminations :

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, while 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.

### Section 3--Tying contracts :

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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### Section 7--Corporate stock acquisitions :

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.

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.

### Section 8.--Interlocking directorates :

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.

The legal division consists of the chief counsel and staff and the chief examiner and staff. The chief counsel is the legal adviser to the commission and is charged with the conduct of the trial of cases before the commission and in the courts. The chief examiner conducts the preliminary investigations and ascertains the facts in all matters involving alleged violations of laws enforceable by the commission, and reports the facts and the laws applicable thereto. This includes special legal inquiries in response to presidential and congressional action. The chief examiners also supervises the corps of examiners, who act in a capacity somewhat similar to that of masters in chancery, representing the commission in the taking of testimony, the examination of witnesses, and the submission of evidence under complaints.

### SUMMARY

To measure the legal work is difficult. Many cases present simple facts representing types, such as misbranding, wee with respect to which the law is established (Winsted Hosiery case in the Supreme Court) and readily applied. Iii other groups-for instance, guaranty against decline and price maintenance--the facts are obtained) only after extended inquiry. In still other groups, such as those of corporate stock acquisition, the facts may be uncontested but the application of the law uncertain. Each group presents its several problems and requires different treatment. One attorney, during the course of a year, may handle a number of cases of false advertising or misbranding, while one case involving monopoly, trade restraint, or lessening of competition may require the entire services of not only two or more trial lawyers but also a corps of experts, account-ants, and statistical clerks for a period of one, two, or perhaps three years. In other words, a case may be disposed of upon a stipulation of fact set forth on a few typed pages, while another case, such as the steel basing point case, might require the taking of 20,000 pages of testimony and the receipt and consideration of approximately 60,000 pages of exhibits. The foregoing applies to complaint cases handled by the chief counsel. With some variation the situation with respect to informal matters handled by the chief examiner is identical.

This report can best reflect the character and volume of the legal work performed by a simple method of arithmetical expression supplemented by the recitation of typical cases. It can be said that under the laws which it administers the commission was called upon during the year to handle 3,111 separate legal matters relating in



large part to unfair competition in foreign and domestic trade. It disposed of 2,048 of such matters. This left on hand undisposed of at the end of the fiscal year 1,063 legal matters.

While the figures for 1924 are not comparable in every respect with those of 1923, the 1921 figures correctly register an increase in legal matters handled, disposed of, and left on hand at the close of that year. Of controlling interest, however, is the fact that there was an increase of 17 percent in the number of individual legal matters on hand on June 30, 1924, in excess of the number on hand June 30, 1923. Thus, in legal work the commission is not only unable to handle the current receipts, during the year fell considerably behind. The reason is an insufficient staff. That the work was diligently pressed is shown by a substantial increase in the number of matters disposed of, notwithstanding there was no increase in the staff. To conduct the legal work the commission is limited to a staff of 87 lawyers, of whom 35 were attached to the chief counsel's office and 52 attached to the chief examiner's office.

A summary of the legal record for the year reads:

*Preliminary inquiries.*--One hundred and eighty-one preliminary inquiries were on hand at the beginning of the year; 1,584 were received during the year, making a total of 1,765 on hand. Of these, 1,531 were disposed of and 234 undisposed of at the close of the year.

*Applications for complaints.* --There were 572 applications for complaint pending at the beginning of the year ; 377 were docketed during the year, and there were 5 recessions of previous action, making a total of 954 for disposition during the year. Of these, 389 were disposed of, 143 by the docketing of complaints and 246 by dismissal of the application, leaving 565 pending at the close of the year.

*Complaints.* --Two hundred and thirty-two complaints were on hand at the beginning of the year; 154 were issued during the year, and there were 6 recessions of previous action, making a total of 392 on hand during the year. Of these, 128 were disposed of by the issuance of 92 orders to cease and desist and by the dismissal of 36 complaints. Thus left on hand 264 complaints undisposed of at the end of the year.

*Court cases.*--Thirteen cases were in the courts at the beginning of the fiscal year, and 19 were taken to the courts during the year, making a total of 32. Of these, 10 were disposed of, leaving 22 on hand at the end of the year.

*Tabular statement.*--Statistics for the present year and for the entire history of the commission are inserted on pages 62, 63, and 64.

Since its organization in 1915 to date, the commission has received 9,249 preliminary inquiries, docketed 3,591 applications for complaints, issued 1,197 complaints, and 635 orders to cease and desist, and dismissed 298 complaints. Fifty-five of these orders to cease and desist have been taken to courts.

#### METHODS OF COMPETITION CONDEMNED

Among the unfair methods of competition and Clayton law violations condemned by the commission and prohibited by orders to cease and desist may be mentioned the following :

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 or trade secrets of competitors by espionage, by bribing their employees, or by similar means.

Procuring breach of competitors' contracts for the sale of products 1)y misrepresentation or by other means.

Inducing employees of competitors to violate their contracts or enticing away employees of competitors in such numbers 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 mislead lug 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 misrepresent the scope thereof.

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 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 bills 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 point 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 lot or chance, thus in effect setting up a lottery.

Any and all schemes 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.

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

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 there is mingled with the customary stock inferior goods, and other methods are employed so that as a matter of fact no such concessions are in fact accorded.

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

Discriminating in price.

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.

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

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

Concealing business identity in connection with the marketing of one's product.

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 endorsement 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 raw material entering into said products.
- (5) False claim of "no extra charge for credit."
- (6) Of being manufacturers' 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 in the observance of uniform prices 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, etc.

Securing business through undertakings not carried out and through dishonest 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 undertaking 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.

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.

### SPECIAL LEGAL INQUIRIES

The chief examiner conducted two special legal inquiries during the year, as follows:

*Gasoline.*--At the direction of the President, a report on the gasoline situation 1924, which covered economic and legal phases, was prepared jointly by the chief examiner and the chief economist. The chief examiner's investigation had reference to monopoly, prices, and competitive conditions in the marketing of gasoline. The gasoline report is more fully covered under the caption of "Economic work," page 79.

*Radio.*--Pursuant to House Resolution 548, Sixty-seventh Congress, fourth session, adopted March 3, 1924, an inquiry was conducted and report submitted to the House of Representatives under date of December 1, 1923, with respect to the radio industry. The report covered (a) the ownership of patents covering radio ap-

paratus; (b) contracts, leases, or agreements respecting the sale or use of radio apparatus; (c) contracts, leases, or agreements with respect to radio communication; and (d) the organization, practices, etc., of the most important companies in the industry.

The investigation showed that the Radio Corporation of America is the most important factor in that industry. It has entered into cross-licensing agreements with various companies which own or control practically all patents covering radio devices considered of importance to the art. These companies include the General Electric Co., Westinghouse Electric & Manufacturing Co., the American Telephone & Telegraph Co., the United Fruit Co., and the Radio Engineering Co. of New York. It was also developed that the Radio Corporation of America is the dominant factor in the communication field. With respect to international communication, it has secured a monopoly by virtue of traffic agreements entered into with various foreign governments and radio concerns. Agreements of this character have been made with Marconi's Wireless Telegraph Co. ( Ltd.) covering the British possessions, and the Governments of Norway, Germany, France, Poland, Sweden, the Netherlands, Japan, and China.

#### PROCEDURE AND STATISTICS ON LEGAL WORK

Responsive to many inquiries, it has been thought well to set forth details of the procedure upon legal matters. This is done in connection with statistics under topic headings which carry the unfair competition and Clayton law cases from their inception, through their several steps, to decision in the Supreme Court of the United States, the end of the process in the final determination of existing law. These topic headings are (1) preliminary inquiries, (2) applications for complaints, (3) complaints, including orders to cease and desist, and (4) court cases.

#### PRELIMINARY INQUIRIES

These are handled by the chief examiner and his staff. The preliminary inquiry is the initial approach to the commission in an unfair competition or Clayton law case, and is usually in the form of a letter from the general public, through an individual or corporation, calling attention to some alleged illegal or harmful practice in foreign or domestic commerce. In bringing these matters to the commission no formalities or blank forms are required. A letter suffices if it is signed by the complaining party and contains the name and address of the party complained against and a statement of the

nature of the relief sought. It should also transmit all the evidence in the possession of the complaining party, documentary or otherwise, to aid in the inquiry. Upon its receipt the preliminary inquiry is immediately referred to the chief examiner, who causes the same to be examined for certain necessary jurisdictional elements—the public interest, unfair competition, and the interstate-commerce feature.

The examination of the papers submitted by the applicant is supplemented when necessary by correspondence. At this stage the inquiry is regarded as confidential, to which no publicity attaches. If the jurisdictional elements are present, and without them the commission can not proceed, and the matter fails of disposition by conferences and correspondence with the chief examiner, the preliminary inquiry is docketed as a application for the issuance of a complaint.

During the year here reported upon the commission was called upon to handle 1,765 preliminary inquiries, this number being made up of 181 on hand at the beginning of the fiscal year and 1,584 received during the year. Of this number, 1,209 were disposed of to the satisfaction of the parties upon summary review by the chief examiner, at small cost to the Government, and 322 by the docketing of applications for complaints. This left 234 on hand undisposed of at the end of the year.

The following table gives a record of the work on preliminary inquiries during the entire history of the commission, from 1915 until 1924, inclusive.

Preliminary inquiries	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	Total
Pending at beginning of year		4	12	32	19	29	61	61	182	181	588
Requests for action from public	119	265	462	611	843	1,36	1,070	1,258	1,313	1,584	8,661
Total for disposition	119	269	474	643	862	1,165	1,131	1,326	1,495	1,765	9,249
Dismissed on summary review	3	123	289	292	298	1,351	500	731	931	1,209	4,727
Docketed as applications for complaint	112	134	153	332	535	724	563	413	383	322	3,671
Total disposed of	115	257	442	624	833	1,075	1,063	1,144	1,314	1,531	8,398
Pending at end of year	4	12	32	19	29	61	68	182	181	234	822

The table shows a steady increase of from 119 in 1915 to 1,584 in 1924, or an increase of 1,924 per cent in 10 years.

The commission has used various means to meet the increase in preliminary inquiries received, and has increased the force at the command of the chief examiner as far as its funds would permit. It has made changes in procedure with a view to expediting the disposition of the inquiries, and in this way has reduced the proportion of preliminary inquiries which are docketed as applications for complaints.

The reduced proportion referred to has been possible by the fact that, as the established precedents grow in number and the field



which they cover widens, it becomes possible to dispose of more inquiries with less investigation and consideration. Court decisions have also been helpful in this respect. If it is possible to do so, the inquiries are handled without docketing as applications for complaints.

### APPLICATIONS FOR COMPLAINTS

If, upon examination, a preliminary inquiry is found to contain the necessary jurisdictional elements, it is docketed as an application for the issuance of a complaint, and this is the second stage in the development of a case. An application for complaint present some prima facie indication of violation of law, that is to say, the record before the chief examiner in a given preliminary inquiry can not be disposed of by simple correspondence or reference to precedent or court decision, and requires complete investigation to ascertain facts to be presented to the commission for its determination as to whether or not a complaint should issue. The application for complaint, like the preliminary inquiry, is handled by the chief examiner and is held confidential.

The chief examiner assigns each application for complaint to an attorney, whose duty it is to gather the facts. The first step in the investigation is to present to the party complained against a complete statement of matter, without identifying the applicant and to request the party complained against to submit such statements, evidence, and documents in defense or explanation of his position as he may desire to be brought to the attention of the commission. The investigating attorney makes such investigation as the nature of the particular case may require to develop the facts, and thereafter summarizes his investigation in a final report which is submitted, with the record, to the chief examiner, with a recommendation either (1) that the application for complaint be dismissed or (2) that formal complaint issue.

The chief examiner passes upon the investigating attorney's reports and indorses thereon his approval or disapproval and event complaint is recommended refers the entire file to the board of review. If the recommendation of the investigating attorney is for dismissal, the file goes direct to the commissioner in charge.

The board of review, a sitting board composed of three members, reviews the record and prepares a report, summarizing the evidence, reciting the law applicable thereto, and submitting a recommendation for commission action.

The file is then assigned to a commissioner, who reviews the entire record and presents the case to the full commission with his recom-

mentation either that a complaint issue or that the application for complaint be dismissed. A majority vote controls.

During the year here reported upon the commission was called upon to handle 954 applications for complaint. Of this number 572 were carried over from the previous year, 377 were docketed during the year, and 5 were rescissions of previous action. Of this total number Of 954 the commission disposed of 389 during the year. Of these 246 were dismissed after investigation for the reason that the facts developed did not call for the exercise of the remedial powers granted to the commission. One hundred and forty-three applications for complaints developed facts based upon which complaints issued. These figures indicate that the commission was able to dispose of but 41 per cent of the application for complaints which it was called upon to handle during the year. In other words, 954 were no hand during the year, and at the close of the year 565 had not been disposed of. At this rate the commission is about two years behind in this particular phase of its work. On June 30, 1924, there were 215 applications for complaints which had been on hand for an average period of over nine months.

The following table gives a record of the work on applications for complaints during the entire history of the commission, from 1915 until 1924, inclusive :

Applications for complaint	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	Total
Pending at beginning of year	0	104	130	188	280	389	554	466	458	572	3,141
Applications docketed	112	134	153	332	535	724	426	382	416	377	3,591
Total for disposition	112	238	283	520	815	1,111	980	848	874	949	6,732
Applications dismissed	8	105	79	160	301	339	357	287	181	246	2,063
Dismissals rescinded	0	0	0	0	0	0	0	0	0	5	5
Net dismissals	8	105	79	160	301	339	357	287	181	211	2,058
Applications to formal complaint	0	3	16	80	125	220	157	103	121	143	968
Total disposed of	8	108	95	240	426	559	514	390	302	384	3,026
Pending at end of year	104	130	183	280	389	554	466	458	572	565	3,706

Like the preliminary inquiry, the application for complaint docket has steadily increased from 112 in 1915 to 377 in 1924, an increase of 237 per cent.

As the specific charges in applications for complaints for alleged unfair competition and Clayton Act violations may be of interest, a table has been prepared showing the principal charges alleged in applications for complaints docketed during the fiscal year 1923 and the fiscal year 1924, together with a statement of the increases and decreases in the larger items The table follows :

Charge	1923	1924	In crease	De crease
Appropriation of values created by competitor's expenditure	9	4		5
Bogus independents	6	0		6
Boycott	4	0		4
Bribery	3	3		
Combination or conspiracy in restraint of trade	16	19	3	
Disparagement of competitor's goods or business	12	8		4
Enticement of competitor's employees	4	2		2
Espionage	1	4	3	
False and misleading advertising	149	201	52	
Full- line forcing	5	0		5
Interference with competitor's source of supply or business	21	14		7
Misbranding	68	120	52	
Misrepresentation	41	110	69	
Passing off of name and goods	48	60	12	
Price cutting	2	2		
Price fixing	15	12		3
Resale price maintenance	66	27		39
Sec 2, (Clayton Act (price discrimination)	38	3		35
Sec. 3, ( Clayton Act (tying and exclusive contracts)	12	6		6
Subsidizing salesman	3	0		3
Sec. 7, Clayton Act (corporate mergers)	9	10	1	
Threats and a intimidation	6	4		2
Violation of commission's order	6	0		6
Miscellaneous	33	23		10

From this it appears that the largest item in both years was false and misleading advertising, which showed an increase in 1923-24 over the previous year of 35 per cent; then misbranding, which increased 76 1/2 per cent; then passing off of name and goods, with an increase of 25 percent; misrepresentation, which increased 168 per cent ; and combination in restraint of trade, on which there was a small increase. The more important items showing a decrease were : Disparagement of competitor's goods or business, interference with competitor's source of supply or business, price fixing, resale-price maintenance, price discrimination, and tying and exclusive contracts.

### COMPLAINTS, INCLUDING ORDERS TO CEASE AND DESIST

The complaint is the third stage in the development of an unfair competition or Clayton Act case. It is only after the most careful scrutiny of a record that the commission issues a complaint. The commission must have, in the language of the statute, a reason to believe that the law has been violated before complaint issues. The complaint is the specified statutory means provided to bring a party charged with violation of law properly before the commission. Unlike the preliminary inquiries and the application for complaint, the complaint is a public record, and with the issuance of a complaint the formal docket is set up, which is open for public inspection. The record prior to complaint is confidential.

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. It contains notice of a hearing. Thirty days are allowed the respondent within which to

make

answer. 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.

Upon the issuance of a complaint, the case is referred to the chief counsel, who is charged with the trial and the submission of the matter to the commission thereafter. After answer is filed and upon due notice to all parties respondent the case is set down for the taking of testimony before a trial examiner. After the taking of testimony and the submission of evidence on behalf of the commission in support of its 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 made by either counsel for the commission or counsel for the respondent. The next step is the filing of briefs, and thereafter the case comes on for final argument before the full commission upon the complaint, the answer, the testimony and exhibits, the examiner's reports, exceptions thereto, and briefs by opposing counsel. The case is heard and taken under advisement, and there after the commission reaches a decision either sustaining the charges in the complaint or dismissing the complaint. If the complaint be dismissed, an order is issued requiring the respondent to cease and desist from the practices proven under the complaint. If the complaint be dismissed, an order of dismissal is issued. The above procedure is the one followed in contested cases. In other cases an admission of the matters alleged in the complaint may be made by respondent and a stipulation in lieu of testimony entered into between the commission and the respondent, upon which the commission makes its findings of facts, which are the basis of an order to cease and desist. The stipulation, of course, obviates the necessary for the taking of testimony and the briefing and argument of the case, unless the respondent desires to be heard upon the law alone.

Complaints to the number of 154 were issued by the commission during the year. In addition to these there were 232 complaints on hand and undisposed of at the beginning of the year. To thus must be added 6 rescissions of previous action, making a total of 392 separate complaints requiring the attention of the commission in the fiscal year. During the same period the commission disposed of 128 complaints, 92 by the issuance of orders to cease and desist and 36 by dismissal, leaving a total of 264 complaints on hand with which to start the fiscal year beginning July 1, 1924. During the year the dismissal of one complaint and five orders to cease and desist were rescinded.

## DISMISSAL OF COMPLAINTS

Up to June 30, 1924, the commission had dismissed 298 formal complaints. While the reason for the dismissal of a specific complaint is seldom given in the order of dismissal, a review of dismissed cases may be given in a summarized form, as follows:

Controlling court decisions	71
Dismissed without prejudice	42
Respondent out of business	29
Discontinuance of practice	19
Practice as used by respondent not unfair	38
Insufficient public interest	11
Lack of interstate commerce	23
Disposed of by civil litigation	7
Faulty pleadings	2
Lack of proof	42
Miscellaneous	14

Seventy-one cases are listed as being dismissed because of controlling decisions. Of this number, 39 were cases held in abeyance until the decision of the Supreme Court in the Beech-Nut Packing Co. case. There was reason to believe that the respondents in these cases were guilty, but the respondents contended that, as the decision of the Supreme Court constituted in reality new law on the given subject, they should be an opportunity to conform their practices in accordance with that court's decision. Complying with this request, these cases were dismissed after the Beech-Nut case, with notice that the commission would cause new investigations to be instituted to ascertain whether the respondents conducted their business in line with the Beech-Nut decision.

Those complaints dismissed without prejudice were cases in which it was generally found that because of the age of the case or the fact that the practice was not employed extensively or had been discontinued, it was thought best to dismiss without prejudice with the right to renew the action in the event the respondent continued the acts complained of. Twenty-nine cases were dismissed because when order issued the respondents either could not be found or had gone out of business. In this class of cases evidence was usually available to sustain the charges of the complaint. In 19 cases the complaints were dismissed because the practice condemned had been discontinued and in 11 cases because of insufficient public interest. These were the less important cases and were dismissed because of the age of the cases and the lack of funds with which to reinvestigate the more or less minor matters involved for the purpose of ascertaining conditions prevailing at the time of dismissal, and it was decided that to proceed further would not be in the public interest. Twenty-three cases have been dismissed for lack of interstate com-

merce, because it could not be proved that the acts complained of were done in interstate commerce, thus leaving the commission without jurisdiction. Those disposed of because of civil litigation are cases in which the respondent had already been proceeded against in the courts prior to the commission reaching these cases, but not prior to the institution of the commission's case. In these seven cases the respondents were successfully proceeded against in the courts.

The foregoing indicates that only a small percentage of complaints has been dismissed because the respondents were not found guilty of the practices as charged. In some of those cases noted as being dismissed for lack of proof the commission was unable to proceed with trial within a reasonable time after the original investigation. Later, when these cases were taken up for trial, it was found that the facts disclosed by the original investigation could not be substantiated, oftentimes by reason of the disappearance of witness. The number listed as being dismissed for lack of proof are those in which public announcement was made of the fact.

The following table gives a record of the work on complaints, including orders to cease and desist, during the entire history of the commission, from 1915 until 1924, inclusive:

Complaint	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	Total
Pending at beginning of year		0	5	10	85	133	287	312	257	232	1,321
Complaints issued		5	9	154	135	308	177	111	144	154	1,197
Total for disposition		5	14	164	220	441	464	423	401	386	2,518
Complaints dismissed		0	1	7	13	44	37	75	87	36	300
Dismissals rescinded		0	0	0	0	0	1	0	0	1	2
Net dismissals		0	1	7	13	44	36	75	87	35	298
Orders to cease and desist		0	3	72	74	110	116	91	82	92	640
Orders to cease and desist rescinded		0	0	0	0	0	0	0	0	5	5
Net orders to cease and desist		0	3	72	74	110	116	91	82	87	635
Total disposed of		0	4	79	87	154	152	166	169	122	933
Pending at end of year		5	10	85	133	287	312	257	232	264	1,535

For the 10-year period this table shows an increase in complaints issued from, 5 in 1915 to 154 in 1924. It shows an increase in orders to cease and desist in the same period from 0 in 1915 to 92 in 1924.

A complete list of complaints disposed of during the year is found on page 149 and a list of pending cases on page 195.

A large majority of the 154 complaints issued during the year charged unfair methods of competition, as this charge was made in 150 complaints. Violations of The Clayton Act were charged as follows: In 6 complaints price discrimination was the charge, in violation of section 2; in 2 complaints tying contracts were charged contrary to section 3; 1 complaint charged acquisition of stock of a competing concern, in violation of section 7; and 1 complaint alleged interlocking directorates, contrary to section 8 of the Clayton

Act. In certain of these cases the respondents were also charged with unfair methods of competition in violation of section 5 of the Federal Trade Commission act. The complaints charging violation of section 2 of the Clayton Act-price discrimination were against the Joseph P. Manning Co., International Ice Cream Co. (Inc.), Quaker Oats Co., Ralston Co., M C. Peters Mills Co., and Larowe Milling Co. The complaint against the last-named company was dismissed shortly after the close of the fiscal year. The charge of violation of section 3 of the Clayton Act-tying con-, tract-was contained in complaints against Nucoa Butter Co. et al., M C. Peters Mills Co., and Philip Carey Manufacturing Co. et al. Under section 7 of the Clayton Act, complaint was issued against the Holly Sugar Corporation. The complaints which charged interlocking directorates, contrary to section 8 of the Clayton Act, were against Holly Sugar Corporation et a].

Without attempting to enumerate all the various forms of unfair methods of competition set out in all the complaints issued during the year, it may be of interest to note that there were allegations in these complaints as follows : Price fixing, combination to effect monopoly, restriction of competition, false and misleading advertising, misrepresentation, misbranding, passing off of goods and names, conspiracies, espionage, bribery, lottery, boycott, cutting off competitors' supplies, simulation of trade-marks, enticing of competitors' employees, fraud in export trade, intimidation, resale price maintenance, etc.

#### TYPICAL COMPLAINTS

Typical complaints issued during the year and still pending are described below :

***Attention is especially invited to the fact that these complaints are pending, and consequently the commission has reached no determination as to whether or not the law has been violated. The allegations of the complaints set forth the commission's reason to believe that the law has been violated. As provided by law, the respondents have opportunity to make answer and introduce evidence in denial of the allegations. In most of the cases the respondents have already filed their answers denying the allegations of the complaints. The cases will only be determined after evidence has been taken and argument made to the commission.***

***Monopoly--Radio.--***Monopoly in radio apparatus and communication is charged in the complaint directed against the Radio Corporation of America, General Electric Co., American Telephone & Telegraph Co., Western Electric Co. (Inc.) , Westinghouse Electric



& Manufacturing Co., International Radio Telegraph Co., United Fruit Co., and Wireless Specialty Apparatus Co. The complaint charges : “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 in interstate commerce of radio devices and apparatus and other electrical devices and apparatus and in domestic and transoceanic radio communication and broadcasting.”

*Conspiracy--Farm machinery.*--A conspiracy between associations of retail dealers in farm equipment and manufacturers of farm equipment is charged in a complaint directed to the Eastern Federation Farm Machinery Dealers, its officers members, and others, a total of over 500 respondents, including the International Harvester Co., Emerson-Brantingham Co., Moline Plow Co. (Inc.) , and Oliver Chilled Plow Works. Unfair methods of competition are charged in that the respondents entered into an unlawful agreement, understanding, and conspiracy to fix and maintain prices at which agricultural implements and farm machinery should be sold in certain territories. Refusal to sell, purchase from, or otherwise deal with other than members of the federation is also alleged.

*Price fixing--Tobacco.*--The American Tobacco Co. and the P. Lorillard Co. are named as respondents in separate complaints issued by the commission during the fiscal year. In each complaint there is also named the New England Tobacco Conference, its officers and members. In these complaints the commission charges the respondents with entering into an agreement, combination, and understanding to fix uniform discounts or prices at which the products of the American Tobacco Co. and the P. Lorillard Co. shall be sold. It is further alleged that the two tobacco companies agreed with each and every one of the groups composing the New England Tobacco Conference to discontinue and refuse to sell its products to certain members of such groups and to competitors of members of the conference. The complaints state that the alleged acts and things done by respondents are all to the prejudice of the public and of respondents' competitors and constitute unfair methods of competition.

*Price maintenance--Groceries.*--The North Dakota Wholesale Grocers' Association and its officers and members are named in a complaint issued by the commission charging unfair methods of competition in the fixing of uniform prices in cooperation with each other. The complaint recites various methods which it is alleged were used by the association and its members to carry out its scheme of uniform standard price fixing and its plan of confining the distribution of groceries and allied products to what the association

regards as regular and legitimate channels of trade ; that is, from manufacturer to wholesaler and from wholesaler to retailer.

*Price fixing--Coal.*--In the complaint of unfair competition directed to the California Retail Fuel Dealers' Association et al., the charge is made that competition in the distribution and sale of coal in the State of California has been unduly obstructed and hindered and consumers of that State have been deprived of the advantages in price and otherwise which they would have obtained from the natural flow of commerce in coal under the conditions of free competition. The complaint charges that uniform prices were fixed by these respondents in cooperation with one another ; that the distribution through channels other than those determined upon by the association was prevented; that cooperative purchasing associations were prevented from obtaining coal at wholesale under any conditions, and hence the sale or distribution in interstate commerce was obstructed. It is charged that boycott, threats of boycott, and other methods of intimidation and coercion were used to compel vendors to refuse and refrain from supplying purchasers and dealers with coal.

*Misbranding--Soap.*--J. S. Kirk & Co., of Chicago, are charged with misbranding certain of their soap products. The company is a manufacturer of soap and allied products, and uses the following brand names on seven separate kinds of soap offered by it for sale to the public--"Kirk.'s Cocoa Hard Water Castile," "Bengal Castile," "Kirk's Cocoa Strip Castile," "Peerless Cocoa Castile," "Cocoa Castile," "Crown Castile," and "Floating Castile." The soaps so branded, the complaint alleges, do not contain any olive oil, as is the case with genuine castile soap, but are made, up with substitute oils and fats at a substantially lower cost.

*Misbranding--Silver plate.*--Sheffield plate figures in complaints issued against several silver plating concerns. The complaint against the Cosmopolitan Silver Co. is typical. This company, according to the complaint, manufactures quantities of silver-plated ware upon which it causes to be stamped or impressed the words "Sheffield," "Sheffield Plate," and other similar designations containing the word "Sheffield." Silver-plated ware so marked by the respondent, the complaint states, is not manufactured in Sheffield, England, and is not of a quality superior to silver-plated ware not so stamped or marked. The practice, it is asserted, is confusing and misleading and creates an undue preference for the firm's product to the detriment of competitors who refrain from marking or stamping their products with such terms or similar designations.

*False advertising--Furniture.*--To use slogans--for instance , "Direct from factory to you "--is questioned as an unfair method

of competition in complaint issued against the Factory-to-You Furniture Store and a number of other furniture dealers who do not manufacture but purchase the furniture in which they deal from manufacturers and resell to the consuming public. This group of cases also contains allegations of misbranding woods used in manufacturing the furniture sold.

*Stifling competition--Stationery.*--That the National Association of Stationers & Manufacturers of the United States had engaged in discouraging, stifling, and suppressing competition in interstate commerce in the wholesale and retail trade in stationery goods, is charged in a complaint issued by the commission April 8, 1924. Other allegations are that the association has unfairly hampered and obstructed competitors engaged in the stationery business ; that it has enhanced prices; that price competition on staple items has been largely eliminated, and that prices to the consumer on such staple items have been greatly and unreasonably advanced.

Among the more important of the 232 complaints carried over from the previous year and in course of trial during the present year may be listed the following :

*The photo-engravers' case--The Photo-Engravers' Club of Chicago.*--Complaint against was issued March 13, 1918. On November 8, 1922, the commission issued a complaint against the American Photo-Engravers' Association and others, and these two complaints are being heard jointly by the commission. The complaints charge unfair methods of competition in that the respondents conspired and agreed to adopt and maintain a scale of uniform prices for the sale of all photo-engraving products, the respondent unions and their local organizations threatening to call strikes or withdraw union employees from photo-engraving establishments that would not maintain the uniform scale. Further hearings of the commission for the purpose of receiving testimony in these cases are set for the fall of 1924.

*Austin, Nichols & Co. (Inc.)--Groceries.*--A case still in course of trial is that growing out of a complaint issued against Austin, Nichols & Co. (Inc.), charging the corporation with entering into an agreement with Wilson & Co. (Inc.) for the acquisition of the Wilson & Co., Whiteland, Ind., canning plant and control of the Fame Canning Co. and Wilson Fisheries Co., in anticipation of a consent decree resulting from the prosecution of a suit in equity brought by the Attorney General of the United States by which decree Wilson & Co. (Inc.) were perpetually enjoined from engaging in business unrelated to the meat-packing industry. The respondent is charged with substantially lessening competition be-

tween the corporations here mentioned tending to create a monopoly in the grocery and food-product business.

*Motion picture.*--Stretching now into its second year is the case involving a large portion of the motion-picture industry. The commission's case has been brought against the Famous Players Lasky Corporation, Realart Pictures, the Stanley Co. of America, Stanley Booking Corporation, Black New England Theaters (Inc.), Southern Enterprises (Inc.), Saenger Amusement Co., Adolphe Zukor, Jesse L Lasky, Jules Mastbaum, Alfred S. Black, Stephen A. Lynch, and Ernest v. Richards, jr. The complaint charges that the respondents have conspired together to secure control of and monopolize the motion-picture industry. The means employed, the commission charges, have been (a) acquisition of all the corporate stock of Bosworth (Inc.), Jesse L. Lasky Feature Play Co. (Inc.), Famous Players Film Co., and Paramount Pictures Corporation ; (b) affiliation with certain independent producers ; (c) the creation and exploitation of the Realart Pictures Corporation, which the respondents held out to the general public as wholly independent and not affiliated with or controlled by the respondents ; (d) acquiring the control of numerous theater corporations operating motion-picture theaters throughout the United States ; (e) building or acquiring or attempting to acquire by means of coercion or intimidation numerous theaters for the exhibition of respondents' motion pictures exclusively ; (f) coercing independent exhibitors to book respondents' films. Hearings in this case for receiving testimony are set down as late as November, 1924.

*Cream of Wheat.*--Awaiting briefs is the case against the Cream of Wheat Co. the complaint in which the commission issued toward the close of the fiscal year ending June 30, 1922. A great deal of testimony has been taken and the commission's brief, entailing the digest of the testimony, will be filed early in the fiscal year 1924-25. The complaint recites that the Cream of Wheat Co. has maintained prices and enforced a schedule of uniform prices for the resale of its cereal food product known as "Cream of Wheat."

*Bethlehem-Lackawanna steel merger.*--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 acquiring or has acquired the properties, businesses, and assets of the respondents Midvale Steel & Ordnance Co. and Cambria Steel Co., is the gist of a complaint issued by the commission against the Bethlehem Steel Corporation and others. Unfair methods of competition are charged in that the respondents by uniting under common ownership and management, and thereby effecting control of the sale and shipment of a substantially large portion of the iron and steel products originating in their respective territories, tend to

substantially lessen potential and actual competition. This case is still in course of trial.

*Pittsburgh Coal Co. of Wisconsin*--In its case against the Pittsburgh Coal Co. of Wisconsin and others the commission has received all the testimony on behalf of the commission and the respondents, the trial examiner has made his report to the commission, and the commission now awaits the briefs of the case before setting it down for final argument. Unfair methods of competition are charged in that the respondent companies, the largest distributors of anthracite and bituminous coal in the northwest territory, which comprises the States of Minnesota, Wisconsin, North Dakota, South Dakota, and parts of Iowa and Nebraska, entered into an agreement and conspiracy among themselves through the respondent association and with others to restrict, restrain, and suppress competition in the sale of coal by (a) abolishing commissions to jobbers; (b) refraining from soliciting certain municipal business, recognizing such business as the prospect of the local retail dealer; (c) restricting certain contracts with retail dealers to cover public utility business; (d) adopting uniform grading and cost-accounting methods for the standardization of coal sizes and costs; (e) refusing to sell to certain dealers not equipped with sheds and scales; (f) agreeing to uniform methods of accounting with retail dealers; (g) adopting uniform contracts with retail dealers and large consumers, prohibiting the diversion of coal except as authorized by the contract; (h) circulating lists of retailers to whom the respondents refuse to sell; (i) providing for the standardization and maintenance of uniform selling prices; (j) discriminating in price between the city of Duluth and the cities of St. Paul and Minneapolis; (k) selling at less than cost; (l) discriminating in price between wagon dealers and retail dealers equipped with yards and sheds; (m) arbitrarily reducing the price of coal to compel competitors to join the respondent association.

A large amount of testimony has been taken in this case and the evidence closed. In a short time the case will be presented to the commission for final determination.

*Corn Products Refining Co.--Table sirup*--Table sirups, such as Karo and other brands in common use, are involved in a case pending before the commission. Sirups are made by blending glucose with other products. The glucose, together with starch, corn, sugar, corn oil, gluten feeds, and derivatives and combinations thereof, are made from maize and Indian corn and are collectively called corn products.

These and other related facts were developed in a preliminary inquiry conducted by the commission upon the subject of guaranty against decline in price in the corn-products industry. This inquiry

caused the commission to issue a complaint against the respondent charging that price guaranties on table sirups, as effected by the Corn Products Refining Co., New York City, constitute unfair methods of competition. The Corn Products Refining Co. manufactures and sells both glucose and table sirups.

### ORDERS TO CEASE AND DESIST

The final expression of the commission in a case is an order upon the respondent to cease and desist a particular practice or practices charged in the complaint. As shown by the table on page 27, the commission during the year here reported upon issued 92 separate orders to cease and desist. All of the 92 orders covered violations of section 5 of the Federal Trade Commission act relating to unfair methods of competition. In two of these violations of section 2 of the Clayton Act--price discriminations--were enjoined, and in one order violation of section 3 of the Clayton Act--tying contracts--was enjoined. As in past years, the respondents upon whom the orders were issued have in a great majority of cases accepted the orders and filed reports with the commission signifying their compliance with the terms of the orders.

Orders to cease and desist were issued during the year as follows:

#### *Orders to cease and desist during fiscal year 1924*

Respondent	Location	Product
Aaban Radium Co	Chicago, Ill	Medicines.
Ajax Rope Co. (Inc.)	New York, N. Y.	Rope.
Allied Golf Co	Chicago, Ill	Golf balls.
Amalgamated Roofing Co	do	Roofing material
American Turpentine Co	Cleveland, Ohio	Paints, varnishes
Armstrong Paint & Varnish works et al	Chicago, Ill	Do.
Atlantic Comb Works	New York, N.Y.	Toilet articles.
Baer Bros	do	Varnishes.
Barrett Co	do	Roofing material.
Barron, George F. et al	Fort Worth, Tex	Securities
Beckman-Dawson Co	Chicago, Ill	Roofing material.
Blum, Samuel	New York, N.Y.	Men's clothing.
Broadway Knitting Co	Salt City, Utah..	Knitted and woolen goods.
Brown-Phelps Hosiery Co	Philadelphia, Pa	Hosiery.
Butterick Co. et al	New York, N.Y.	Dress patterns.
Carey Manufacturing Co., Philip	Cincinnati, Ohio	Roofing material.
Casoff, L. F.	Brooklyn, N.Y.	Varnishes.
Chamber of Commerce of Minneapolis et al	Minneapolis Minn.	Grain.
Chatfield Manufacturing Co	Cincinnati, Ohio	Roofing material.
Cincinnati Wholesale Tobacco Association et al	do	Tobacco products.
Crofts & Reed Co. et al	Chicago, Ill	Soaps.
Dellinger C. N. et al	Red Lion, Pa	Cigars.
Dings & Schuster	Long Island City N Y	Varnishes.
Dixie Tailors	Washington, D.	Men's clothing.
Don-O-Lac Co. (Inc.)	Rochester N.Y.	Varnishes.
Dunn, F. B., et al	Los Angeles, Calif	Securities.
Durable Pure Silk Fashioned Hosiery (Inc.)	Newark, N.J.	Hosiery.
Durable Roofing Manufacturing Co	Portland, Oreg	Roofing material.

Eastman Kodak Co. et al

Errera, Morris  
Froblich Glass Co. at al  
Geneva Watch Co  
Greenberg, Joseph, et al  
Greenhalgh Mills et al

Rochester, N.Y.

Washington D.C.  
Detroit, Mich  
New York, N.Y.  
Philadelphia, Pa  
Pawtucket, R. I.

Films (moving  
picture).  
Beverages.  
Paints.  
Watches.  
Overalls, trousers  
Cotton goods.

*Orders to cease and desist during fiscal year 1924--Continued*

Respondent	Location	Product
Heuser, Dr. Herman	Chicago, Ill	Beverages
Hochman & Levine	New York, N. Y	Shirts.
Hygienic Laboratories	Chicago, Ill	Hair dye.
International Roofing Manufacturing Co	do	Roofing material.
Johns-Manville Co., H. W	New York, N. Y	Do.
Jenkins Knitting Co	Provo, Utah	Knitted and woolen goods.
Kaplan, M	Washington, D. C	Hosiery.
Keystone Roofing Manufacturing Co	York, Pa	Roofing material.
King-Ferree Co. (Inc.)	Greensboro, N. C	Cigars.
Kissal & Kokalis	Washington, D. C	Beverages.
Lederer & Bros. (Inc.), Henry	Providence, R I	Pens, pen points.
Lexington Manufacturing Co. et al	Lexington, S. C	Bed ticking.
Loose-Wiles Biscuit Co	Kansas City, Mo	Bakery products.
Mallender, H	Cincinnati, Ohio	Paints, clothing.
McHenry-Milhouse Manufacturing Co	South Bend, Ind.	Roofing material.
Meriden Creamery Co	Kansas City, Mo	Butter.
Morrison Fountain Pen Co	New York, N.Y.	Fountain pens.
Mountain Grove Creamery, Ice & Electric Co	Mountain Grove, Mo	Butter.
Murray Knitting Co	Salt Lake City, Utah	Knitted and woolen goods.
National Biscuit Co	New York, N.Y.	Bakery products.
Occidental Oil Corporation et al	Washington, D. C	Securities.
Oertel Roofing Manufacturing Co	East St. Louis, Ill	Roofing material.
Pacific States Paper Trade Association et al	San Francisco, Calif	Paper.
Paraffine Cos. (Inc.)	do	Roofing material.
Peruvian Rubber Cement Co	New York, N Y	Millinery glue.
Philadelphia Blanket Co. (Inc.)	Philadelphia Pa	Blankets.
Phillips Genuine Sausage Co	Washington, D C	Sausage.
Pioneer Paper Co	Los Angeles Calif	Roofing material.
Pritchard & Constance (Inc.)	New York, N Y	Toilet preparations.
Process Engraving Co	Chicago, Ill	Stationery.
Prosperity Co. (Inc.)	Syracuse, N.Y.	Garment pressing machines.
Q. R. S. Music Co	Chicago, Ill	Player rolls music
Raff & Sons, B	New York N Y	Toilet articles.
Read & Co., C	Baltimore Md	Coffee, tea
Rochester Cloth	New York, N.Y.	Men's clothing
St. Louis Clothing Co et al	St Louis Mo	Groceries.
Salt Lake Cooperative Woolen Mills	Salt Lake City, Utah	Knitted and woolen, goods.
Schmidt, William	New York, N. Y	Stationery.
Sealpax Co	Baltimore, Md	Underwear
SiFo Products Co	St. Paul, Minn	Roofing material.
Siper-Simmons & Co. (Inc.)	New York, N. Y	Textile finishing materials.
Standard Education Society	Chicago, Ill	Books.
Stowell Manufacturing Co	Jersey City, N. J.	Roofing materials.
Technical Color & Chemical Works	New York, N. Y	Paints, varnishes
Texas-Atlantic Oil Co., et al	Fort Worth, Tex	Securities.
Turner & Porter (Inc.)	Buffalo, N. Y.	Stationery.
United States Products Co	Pittsburgh Pa	Bearing compound
United-Typothetae of America	Chicago, Ill	Printing, publishing.
Utah-Idaho Sugar Co. et al	Salt Lake City, Utah	Sugar.
Vivadou (Inc.), V	New York, N. Y	Toilet preparations.
Wasatch Woolen Mills	Salt Lake City, Utah	Knit and woolen goods.
Watson Co., H. F	Erie, Pa	Roofing material.
Weaver, Sylvester L	Los Angeles, Calif	Do.
Western Elaterite Roofing Co	Denver, Colo	Do.
Western Woolen Mills Co	Salt Lake City, Utah	Knit and woolen goods
Wholesale Tobacco & Cigar Dealers Association of Philadelphia et al.	Philadelphia, Pa	Tobacco products.
Wichita Creamery Co	Wichita, Kans	Butter.
Wisconsin Wholesale Grocers Association et al	Milwaukee, Wis	Groceries.

Appeal lies to the United States Circuit Courts of Appeal, either by the commission to enforce its order or by the respondent to set the order aside. The foregoing table sets



out that since its organization the commission has issued 635 orders to ceases and desist and that appeals have been taken in 55 cases.

## TYPICAL ORDERS

A number of typical cases have been selected to indicate the nature of the orders to cease and desist issued during the year or immediately following the close of the year. These cases are described below:

*United States Steel Corporation--Pittsburgh Plus case.*--This case was initiated in April, 1921, and the order to cease and desist was issued July 21, 1924. The cost in money was \$88,945.33. Twenty-eight employees were engaged from time to time on the case.

During the war in 1917 the War Industries Board announced a list of prices to be paid for steel as agreed upon by that board and representatives of the steel industry. Theretofore the prices of steel by the mills of the Chicago and other districts outside of Pittsburgh had been quoted f. o. b Pittsburgh, although such steel was not manufactured at Pittsburgh. The result was that when a steel user in Chicago, for instance, purchased steel from a Chicago mill he paid a price f. o. b Pittsburgh plus an amount equivalent to what the freight charge would have been on such steel if the same had been shipped from Pittsburgh to Chicago. Hence the name "Pittsburgh plus." In other words, the Chicago steel user had to pay a higher price for his steel than a Pittsburgh competitor paid by the amount of the freight rate between the two points. The same was true as to every other point outside of Pittsburgh except as to certain products of the southern steel mills. When the War Industries Board announced in 1917 a list of prices as above mentioned it quoted then as to certain steel products f. o. b. Chicago as well as f. o. b. Pittsburgh, but the board nine months later, through the solicitation of certain steel manufacturers, eliminated the f. o. b. Chicago prices and reinstated the f. o. b. Pittsburgh prices as to those products. The steel users of Chicago and other districts outside of Pittsburgh were therefore again subjected to great discriminations which operated against them and in favor of the Pittsburgh steel users.

Thereafter freight rates were increased and the discriminations against the western steel users increased accordingly. Every time the freight rates increased the discriminations against the western and southern steel users and in favor of their Pittsburgh district competitors increased by the same amounts. In July of 1919 the freight rate on steel between Pittsburgh and Chicago had reached \$5.40 per ton, which was, therefore, the amount by which the Chicago price on steel exceeded the Pittsburgh price. An organization known as the Western Association of Rolled Steel Consumers, composed of steel users who utilized steel in the manufacture of their products, protested to the Steel Corporation. This resulted in a conference between the representatives of the association, repre-

sentatives of the United States Steel Corporation and its subsidiaries, and the commission to discuss the question as to whether or not the commission should assume jurisdiction over the controversy. The commission suggested that the Western Association file a formal application for complaint against the Pittsburgh plus practice. The application was accordingly filed and a hearing had thereon, beginning December 2 and ending December 6, 1919. A large number of steel manufacturers, steel users, and public and civic organizations were represented at the hearing. The commission, after duly considering the matter, voted against the issuance of such complaint. Thereafter, during the summer of 1920, the commission received a number of petitions asking for a rehearing in the matter, the same Western Association of Rolled Steel Consumers which had filed the original application being one of the petitioners.

On September 18, 1920, the commission granted the petitions, and thereafter, on November 15, 1920, hearings lasting four days were again had on the original application of the Western Association of Rolled Steel Consumers. The commission, after having again taken the matter under advisement, decided to issue its complaint against the United States Steel Corporation and its subsidiaries, and accordingly on April 26, 1921, such complaint was issued. Between January 30, 1922, and March 7, 1924, hearings were in progress almost continuously before an examiner of the commission, and evidence was introduced by the attorneys for the commission and respondents, respectively, at Pittsburgh, Detroit, Chicago, Milwaukee, Minneapolis, Duluth, Birmingham, Chattanooga, Washington, and New York. A large number of witnesses were drawn from a great many outside points to testify at such hearings. Over 18,000 pages of testimony were taken, and over 7,500 exhibits were filed in the case. The examiner's findings in general supported the allegations of the commission's complaint and the contentions of the attorneys for the commission. Briefs were filed by the attorneys for the commission and the respondents, respectively, and by an attorney retained by the States of Illinois, Iowa, Minnesota, and Wisconsin, acting on behalf of themselves and 26 other States of the Union which had formed an organization known as "The Associated States Opposing Pittsburgh Plus."

A brief was also filed by the joint committee of the civic organizations of Duluth, Minn. On June 16 and 17 oral arguments by attorneys for the commission and respondents, respectively, and by the attorney representing the States above mentioned were made before the commission. Thereafter and on July 21, 1924, the commission ordered the United States Steel Corporation and certain of its subsidiaries to cease and desist from thereafter, first, quoting or selling certain steel products at Pittsburgh plus prices as above defined ;

second, quoting or selling such steel products upon any other basing point than that where the products are manufactured or from which they are shipped; third, selling or contracting to sell or invoicing such products without clearly indicating in such sales or upon such contracts or invoices how much is charged for such steel products f. o. b the producing mill or shipping point and how much is charged for actual freight, if any, from the producing or shipping point to destination; and, fourth, from discriminating in the price of their products between different purchasers thereof in violation of law. The order further recited that the use by the respondents of the Pittsburgh plus system was considered by the commission as a violation of its order.

On September 16, 1924, the United States Steel Corporation and its said subsidiaries filed with the commission a report stating among other things that they would conform to the commission's order as far as practicable and that they had, throughout their various organizations, abandoned the Pittsburgh plus system as defined in the commission's order and would not thereafter make use of the same.

The effects of them discriminatory prices under the Pittsburgh plus system were shown to have restricted very materially the territory in which certain western and southern steel users could compete with their Pittsburgh district competitors and to have permitted the Pittsburgh district steel users to compete to equal advantage in all parts of the United States as in Pittsburgh. It gave such subsidiaries of the Steel Corporation as the American Bridge Co., with its plants at Chicago and elsewhere, a great advantage over its competitors which had to pay Pittsburgh plus. At Chicago, for instance, the American Bridge Co. could bid on a job at cost in competition with an independent competitor, and still the Steel Corporation would get a profit over three times as great as the ordinary profit in a large structural steel job. This was due to the fact that the steel furnished the American Bridge Co. came from the Illinois Steel Co., another subsidiary of the Steel Corporation at Chicago. Assuming the American Bridge Co. paid Pittsburgh plus prices for its steel from its sister subsidiary, it could still bid on a job in competition with an independent structural steel company in Chicago at the latter's cost. and the Steel Corporation through the Illinois Steel Co. would not only get the normal profit on the steel, but would also get the Pittsburgh plus profit on the steel, amounting to \$7.60 per ton. This advantage to the American Bridge Co. was reflected in the proportions to which the Chicago plants alone of that company had attained. They aggregated in capacity 20 times that of their nearest independent competitor and nearly 30 times that of their next nearest independent competitors.

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The evidence in the case, supported by the testimony of three eminent economists, showed that if the steel mills sold their steel under the free operation of supply and demand, prices would be made f. o. b the different mills, and such prices to all the customers from any one mill would be the same f. o. b that mill. This was not the situation under the Pittsburgh plus system, where the delivered prices to the different customers of each mill varied according to the amount of the freight rate from Pittsburgh to such customers instead of according to the actual freight rate from the producing mill to such customers.

A compliance with the order of the commission should tend to decentralize the steel industry and to avoid the great amount of cross freights in shipping steel from one steel center into the territory of another, which has proved so costly to the public. it should Also produce other effects beneficial to the public interest among which may be mentioned : First, the sale of steel at low-cost-producing centers at prices commensurate with the cost of production. The reverse of this was the condition under the Pittsburgh plus system. Second, the placing of the competitors of the American Bridge Co. and other like subsidiaries of the Steel Corporation who must buy their steel from others, more nearly on an equal basis with such subsidiaries. Third, the saving to western and southern steel users of the extra prices charged for steel under the Pittsburgh plus system. Fourth, the saving to the consuming public of much more than Pittsburgh plus, such as notably in the case of the farmers; in such case the Pittsburgh plus paid by the agricultural implement makers was reflected in the ultimate selling price of such implements to the farms by an increase of more than double the amount of Pittsburgh plus. Fifth, the material cutting down of the overhead expense of the western and southern steel users which had been occasioned by the extra prices paid by them for steel under the Pittsburgh plus system. Sixth, the use of waterways in shipping steel in order that eastern steel producers may enlarge their markets by cheaper transportation. Under the Pittsburgh plus system the Pittsburgh district steel producers were not interested in cutting down transportation charges from Pittsburgh which would have enabled them to effect a saving to the public. Seventh, the enlargement of the territory in which the western and southern steel users can compete with their Pittsburgh district competitors, a territory which had been un naturally and materially restricted under the Pittsburgh plus system. Eighth, the natural growth of

steel-producing centers at points of low-cost production and increasing demand. Under the Pittsburgh plus system the growth of the Pittsburgh district steel center had been continuously, unnaturally, and materially encouraged, while that of the western and southern steel centers had been like-

wise discouraged. Ninth, a compliance with the commission's order, while not of itself a preventative of restraint in price competition, should measurably encourage such competition. At the same time it should have the effect of eliminating the burdensome discriminations in steel prices which existed under the Pittsburgh plus system.

*Minneapolis Chamber of Commerce.*--During the fiscal year the commission issued its order against the Chamber of Commerce of Minneapolis, its officers, directors, and members, and the Managers' Publishing Co., John H. Adams and John F. Fleming, requiring them to cease and desist from the use of the methods of unfair competition charged in the complaint. An appeal was taken from the commission's order, and the case is now before the circuit court of appeals for review.

The complaint charged respondents with engaging in a confederation or conspiracy to maintain a monopoly of the grain trade at Minneapolis and the immediate surrounding territory, carried out in an effort to destroy the business of competitors, the chamber and its organization being used as a medium through which the unfair methods of competition alleged were accomplished by its members in violation of section 5 of the Federal Trade Commission act.

The order issued by the commission requires all respondents to cease and desist from combining and conspiring among themselves or with others to interfere with or injure or destroy the business of competitors by--

Publishing false or misleading statements concerning the financial standing or business methods of competitors, and from--

Instituting vexatious or unfounded suits at law or in equity with the purpose of obstructing the business or injuring the credit and reputation of competitors.

The order further requires certain respondents to cease and desist from--

Combining and conspiring among themselves or with others to induce or compel any member of said chamber, their agents or employees, to refuse to buy from, sell to, or otherwise deal with certain competitors because of the patronage dividend plan of doing business.

Hindering, obstructing, or preventing any telegraph company or other distributing agent from furnishing continuous or periodical price quotations of grain to the St. Paul Grain Exchange or its members.

Passing or enforcing any rule or regulation, custom, or usage that prevents members of respondent chamber from conducting their business according to the cooperative method of marketing grain or according to the patronage dividend plan.

Denying to any duly accredited representatives of any organization or association of farmers, grain growers, or shippers admission to membership in said respondent chamber because of the plan or purpose on the part of such organization or association to pay or propose to pay patronage dividends or to operate according to the cooperative plan of marketing grain.

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Passing or enforcing any rule or regulation, usage, or custom to compel shippers of grain to Minneapolis, Minn., from country points or from St. Paul, Minn., to pay commission or other charges unless and until like commissions and charges are paid by shippers of grain to Minneapolis from Omaha, Nebr., or from Kansas City, Mo., or other such favored markets.

Passing or enforcing any rule or regulation, custom, or usage that prohibits members of respondent chamber when buying grain or track at country points from paying therefor more than the market price of similar grain prevailing at that time in the exchange room of the respondent chamber less freight commissions and other charges.

Promulgating, interpreting, or enforcing any rule, custom, regulation, or usage in such a manner as to require any member of respondent chamber to pay to the farmer or country shipper or other person a price for grain limited for 11 price equal to or identical with the Minneapolis market price or otherwise limit the exercise of free will and individual, independent judgment of any such member as to the price which he shall pay to farmers, country shippers, or others for grain on track at country points.

The importance of this decision was immediately recognized, and in the United States Senate the findings and order of the commission were ordered printed as a Senate document.

*Eastman Kodak Co., et al.*--The respondents were ordered to cease and desist from conspiring and combining, agreeing, and cooperating among themselves to hinder and restrain competition in the manufacture and sale of positive raw cinematography film stock by the methods complained of, and it was ordered, for the purpose of preventing the maintenance and extension of the monopoly of the Eastman Kodak Co. in the manufacture and sale of such film stock, that company should sell and convey with all due diligence the three laboratories (the Paragon, G. M., and San Jacq) to disinterested parties. The order was appealed and this case is pending before the Circuit Court of Appeals.

It was found as a fact by the commission that these three laboratories have a combined capacity for manufacturing prints of motion picture films greater than the combined capacity of all other laboratories engaged in a similar business east of Chicago.

As a result of a proposal made to them by the Eastman Kodak Co., the respondent members of the Allied Laboratories' Association entered into an agreement among themselves to use in their laboratories "American made raw film stock exclusively,"



and agreed to an inspection of their books and laboratories by the Eastman Kodak Co. for the purpose of ascertaining if there had been any violation of the agreement.

The agreement of the other respondents to use "American made raw film stock exclusively" practically meant to use the raw film stock produced by the Eastman Kodak Co., as from 1915 to 1919 it manufactured and sold about 90 per cent of the positive raw cinematograph film stock used in the United States; from 1919 to about

March, 1920, it manufactured and sold approximately 94 per cent of all the positive raw cinematograph film stock used in the United States and manufactured and sold approximately 96 per cent of all the positive raw cinematograph film stock produced in the United States. Between about March, 1920, and September, 1921, however due to competition chiefly by importers of film made in foreign countries, the sales of such film by the Eastman Kodak Co. decreased to approximately 81 per cent of the total of such film consumed in the United States, although it still sold approximately 96 per cent of the total sales of American manufactured film.

The agreement entered into by the members of the Allied Laboratories' Association on September 9, 1921, at the proposal of the Eastman Kodak Co. tended to stop the purchase and importation of foreign-made film and divert the same to the Eastman Kodak Co., and on September 14, 1921, that company wrote to the respondent members of the association that it would not operate the three laboratories (the Paragon, G. M., and San Jacq) commercially so long as the members adhered to their agreement of September 9, 1921.

The commission found that the ownership by the Eastman Kodak Co. of the above three laboratories and the maintenance of the laboratories in condition for immediate use for the manufacture of such films in competition with the respondent members of the association constitute a threat, and had, and continued to have, the effect of inducing and coercing manufacturers of positive prints of motion-picture films to produce and use only the positive film stock manufactured by the Eastman Kodak Co., and of obstructing and eliminating competition in the manufacture and sale of such film in interstate and foreign commerce and of maintaining a monopoly already obtained by the Eastman Kodak Co.

*United Typothetoe of America.*--On September 25, 1919, the commission directed a complaint against the United Typothetoe of America et al., charging unfair methods of competition by reason of the campaign known as the "Three year plan," the object of which was to collect assessments from manufacturers and merchants selling paper, printing presses, type, ink, and other supplies purchased by employing printers, this money to be applied to alleged educational purposes, but mostly to induce employing printers to use a uniform system of cost accounting and a standard price list calculated to establish a uniform scale of prices throughout the printing industry.

The order to cease and desist reads as follows :

That the respondents cease and desist, directly or indirectly,-

1. From conducting its system of education in principles and methods of cost accounting in such way as to suggest any uniform percentage to be included

in selling price as profit or otherwise by members or others using such system of cost accounting.

2. From requiring or receiving members and others using respondent's uniform cost accounting system, identified and itemized statements of production costs for the purpose of calculating average, normal or standard costs of production and from publishing them to members and the trade generally as a "Standard price list" or "Standard guide" or association cost or price list under any other name.

3. From compiling and publishing for use by members and others in the same trade, average, normal or standard production costs with instructions or suggestions for the translation of such standard costs into selling prices under the name of "Standard price list" or "Standard guide" or any other name.

*It is further ordered*, That the respondents shall within 60 days after the service upon them of a copy of this order, file with the commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist hereinbefore set forth.

*Roofing-material cases.*--Seventeen manufacturers of felt-base roofing materials were ordered to discontinue the use of misleading designations in connection with the advertisement and sale of their products. The same methods of misrepresentation were found to have been practiced by all of the companies. The commission took exception to employing or using the words in connection with the sale of roofing material not composed of rubber, and employing or using in connection with the sale of roofing material not composed of two or more plies, layers, or thicknesses the words "two ply" or "three ply" alone or in combination with other words or terms.

*Pacific States Paper Trade Association.*--Findings of the commission on which is based its order to cease and desist directed to the Pacific States Paper Trade Association and various local associations of wholesale dealers in paper and paper products, located in the Pacific coast territory, contain eight conclusions of unfair practices on the part of those associations. The order to cease and desist is confined to those eight conclusions. Briefly, these methods are that the respondents sought to control the distribution of paper in the Pacific coast territory and control prices therein. Again, it is found that the boycott, coercion, etc., were resorted to. This case is pending before the Circuit Court of Appeals upon petition of the association for a review of the order.

*Encyclopedia.*--The "Standard Reference Work" and loose-leaf service designated as "The Standard Blue Sheet Extension Service," an output of the Standard Education Society of Chicago, were the grounds for an order directing the society to cease and desist from representing to customers or prospective customers that the usual prices which it receives or has received for any book, set

of books, or any publication are greater than the prices at which they are offered to such customers or prospective customers, when such is not the fact ; representing that any book offered for sale by it is bound in "rich maroon levant" or other leather when such is not the fact ; offering to its prospective customers honorary membership in the Standard Education Society; advertising a publication designated as "Standard Reference Work" as being officially adopted by 24 States or any State.

*Underwear.*--An attempt to maintain the resale prices of underwear is disapproved by the commission in its order to cease and desist directed to Oppenheim, Obendorf & Co. (Inc.), manufacturers of Sealpax underwear. The commission charged the respondents with maintaining resale prices of its goods and entered its order to cease and desist from the practices complained of. The respondent appealed and the matter is still pending.

*Process engraving.*--"Process engraving," "Engraved by our process," or the word "Engraving" in connection with any printed material in which engraved plates or die have not been used is prohibited by the commission in its order to cease and desist directed to the Process Engraving Co. of Chicago. The complaint against the Process Engraving Co. is a key complaint in numerous such case of printing designated as engraving. The Process Engraving Co. is engaged in the business of printing and selling stationery for social and business purposes. The commission found that its advertised and designated process engraving was not produced in the manner generally understood by the trade and public as engraving ; that is, from engraved plates. The respondent's product is manufactured by being printed upon an ordinary press, similar to the Gordon press, and while the ink is still wet there is applied thereto a powdered chemical substance which is subjected to heat so that the ink and powder will fuse and produce upon the surface of the paper raised letter see closely resembling, to the nonexpert eye, the effects produced by true engraving.

## COURT CASES

The pages immediately following set forth a brief description of each case in the courts during the year. It will be noted that in all there were 29 court cases, 5 in the Supreme Court, 22 in the circuit courts, and two in the courts of the District of Columbia.

### Supreme Court Cases

Juvenile Shoe Co.--certiorari.

Claire Furnace Co. et al.--injunction.

Tobacco cases-mandamus :

American Tobacco Co.

P. Lorillard Co.

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Grain cases--mandamus.

Baltimore Grain Co.

H. C. Jones Co. (Inc.).

Hammond Snyder Co. (Inc.)

Raymond Bros.-Clarke Co.--certiorari.

Details respecting each of the foregoing cases follow.

*Juvenile Shoe Co.---Simulation of name and trade-mark.---*In the complaint issued by the commission in this case it was charged that the Juvenile Shoe Co. had simulated the name, trade-mark labels, tags, and stamping of the Juvenile Shoe Corporation, a previously incorporated manufacturer of children's shoes of superior quality and selling for higher prices than the product of the Juvenile Shoe Co.

The commission found that this was a violation of section 5 of its organic act, and in due course entered its order to cease and desist. The company appealed to the Circuit Court of Appeals for the Ninth Circuit it, and that couldn't affirmed the commission's order in every particular.

The following excerpt from its opinion is of interest :

The record fully justifies the order of the Federal Trade Commission enjoining the use of the petitioner's corporate name. The petitioner went into the business of manufacturing and selling children's shoes and took a name so similar to a senior corporation that was engaged in precisely the same business and in the same field that confusion of the two corporations in the public mind was inevitable.

The Juvenile Shoe Co. applied to the Supreme Court of the United States for a writ of certiorari to review the decision of the Court of Appeals, but this was denied, the denial having the effect of affirming the decision of the lower court.

*The Claire Furnace Co. case--Investigation instituted by the commission upon its own motion, but after suggestions and conference with the committee on*

*Appropriations of the House of Representatives.*--The facts relative to this case are as follows : The commission sent questionnaires to practically all corporations engaged in the manufacture and in the sale in interstate commerce of finished and semifinished steel products, requiring them to make monthly reports showing the quantities of products manufactured, plant capacity, orders booked during the month, the cost of manufacturing, the prices at which sold in domestic and foreign commerce, and general income statement and balance sheet. The declared purpose of the inquiry was to publish the information acquired in totals, so as to show existing conditions in the production and sale of steel products. Certain of the corporations declined to make the reports, and joined in a suit in equity to restrain the commission from proceeding in any manner to compel the production of the information or to impose any penalties for failure to produce it.

The Supreme Court of the District of Columbia in which the suit was instituted, issued a permanent injunction enjoining the commission, the ground being that the information sought was not information respecting interstate commerce, nor information with respect to matters so directly affecting such commerce that it could be required under the commerce clause of the Constitution.

The commission appealed the case to the Court of Appeals of the District of Columbia, which affirmed the decree of the lower court. The commission then took the case to the Supreme Court of the United States, where it was argued on December 6, 1923. It was awaiting decision at the close of the fiscal year.

*Tobacco cases-- American Tobacco Co. and P. Lorillard Co.( Inc.)*--The commission's cases against the American Tobacco Co. (Inc.) and the P. Lorillard Co. during this fiscal year were productive of much interest and information. The commission had pending hearings arising from seven complaints against the two tobacco companies. In the course of preparing these cases the commission made formal demand on the two tobacco companies to produce "all letters and telegrams received by the American Tobacco Co. from all of its jobber customers located at different points throughout the United States, and also copies of all letters and telegrams sent by the American Tobacco Co. to such jobbers during the period of January 1, 1921, to December 31, 1921, inclusive." The two tobacco companies refused to obey the commission's notice and demand to inspect records, and the commission petitioned the district court; through the Attorney General of the United States, to issue a writ of mandamus directing that immediately the accounts, books, records, documents, memoranda, papers, and correspondence of the respondent be delivered into the possession of the commission for inspection and examination and for the purpose of making copies.

In denying the writ prayed for by the commission, the court said :

To grant the relief prayed for by the petitioner would be to permit of an unreasonable search and seizure of papers in violation of the fourth amendment. It was not the intention of Congress to grant such unlimited examination and inspection by the legislation in question nor, indeed, did Congress have authority to do so under the commerce clause of the Constitution. It would be unreasonable and unjust to accede to the demands of the petitioner, and the application for the peremptory writ of mandamus \* \* \* is denied. (283 Fed 999.)

The commission, believing the question one of importance, took an appeal from the decision of the United States District Court for the Southern District of New York to the Supreme Court of the United States. Here, also, the judgments of the district court were affirmed.

The decision of the Supreme Court throws an interesting light on the subpoena duces tecum :

The right of access given by the statute is to documentary evidence--not to all



documents, but to such documents as are evidence. The analogies of the

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law do not allow the party wanting evidence to call for all documents in order to see if they do not contain it. Some ground must be shown for supposing that the documents called for do contain it.

The commission's petition for rehearing was also denied by the Supreme Court.

*The Grain cases--Investigations under authority conferred by Senate resolution.--* The companies involved in these cases were Hammond, Snyder & Co., the Baltimore Grain Co., and the H. C. Jones Co. The commission sought, in the District Court of the United States for the District of Maryland, writs of mandamus to compel the corporations, each of which was engaged in foreign and interstate as well as intrastate trade in grain, to permit the authorized agents of the commission to examine, inspect, and copy their books of account, records, documents, correspondence, and papers relating to or bearing on their business in interstate commerce.

In taking this action the commission was acting in compliance with a resolution of the Senate of the United States directing it to investigate the margins between farm and export prices, the freight and other costs of handling, the profits and losses of the principal exporting firms and corporations, the facts concerning market manipulations, if any, in connection with large export transactions or otherwise, as well as the organization, ownership, control, interrelationship, foreign subsidiaries, etc.

The district court denied the petitions for writs of mandamus. Judge Rose, who delivered the opinion, said during the course thereof :

If it--the Federal Trade Commission act--really means that whenever the commission thinks best to make an inquiry into the way in which some great department of commerce is carried on, it may send its employees into the office of every private corporation which does an interstate business in that line and empower them to go through the company's books, correspondence, and other papers, I am satisfied it goes beyond any power which Congress can confer, in this way at least.

As in the tobacco cases, the commission regarded the principle involved in this group of cases too important not to be passed upon by the Supreme Court of the United States, and it therefore prosecuted an appeal to that tribunal, where the cases are not awaiting argument.

*Raymond Bros.-Clark Con.--Chain store buying.--* A jobber's individual refusal merely to purchase from a wholesaler dealing with a chain store operator is not an unfair method of competition, whatever may be the incidental result, is the gist of an opinion of the Supreme Court of the United States affirming an order of the Circuit Court of Appeals, Eighth Circuit, reversing an order of the commission directed to Raymond Bros.-Clark Co., charging

unfair methods of competition in that the respondent, engaged in the wholesale grocery business, sought to coerce the T. A. Snider Preserve Co. to refuse to recognize its competitor, the Basket Stores Co., as jobbers entitled to jobber prices and so cut off this company's supplies. Under date of February 23, 1921, the commission directed the respondent to cease and desist from using such practices. Raymond Bros.-Clark Co. appealed, and in May, 1922, the United States Circuit Court of Appeals set aside the order. The case was then taken to the Supreme Court of the United States on writ of certiorari, and on January 7, 1924, the Supreme Court affirmed the Circuit Court of Appeal's decision, saying in part :

A different case would of course be presented if the Raymond Co. had combined and agreed with other wholesale dealers that none would trade with any manufacturer who sold to other wholesale dealers competing with themselves, or to retail dealers, competing with their customers. An act lawful when done by one may become wrongful when done by many acting in concert taking on the form of a conspiracy which may be prohibited if the result be hurtful to the public or to the individual against whom the concerted action is directed.

\* \* \* \* \*

We conclude that the Raymond Co. in threatening to withdraw its trade from the Snider Co. exercised its lawful right, and that its conduct did not constitute an unfair method of competition within the meaning of the act.

#### UNITED STATES CIRCUIT COURT OF APPEALS

Fox Film Corporation.  
 United Typothetae of America et al.  
 S. E. J. Cox et al.  
 Aluminum Co. of America.  
 Thatcher Manufacturing Co.  
 Swift & Co.  
 Armour & Co.  
 Chicago Portrait Co.  
 Western Meat Co.  
 Chamber of Commerce of Minneapolis et al.  
 The Butterick Co. et al.  
 Occidental Oil Corporation.  
 Pacific States Paper Trade Association et al.  
 American Tobacco Co. et al.  
 Utah-Idaho Sugar Co. et al.  
 Q R S Music Co.  
 Sealpax Co.  
 Dr. Herman Heuser.  
 Pearsall Butter Co.  
 John Bene & Sons (Inc.).  
 National Biscuit Co. and Loose-Wiles Biscuit Co.

A brief description of the foregoing cases follows.

*The Fox Film Corporation* case.--During 1916 and 1917 the Fox Film Corporation,

hereinafter referred to as the respondent, re-

leased, among others, three motion pictures, entitled, respectively, "The Love Thief," "The Silent Lie," and "The Yankee Way," these pictures being extensively exploited and distributed throughout the United States. They were known at the time as feature pictures, with five reels, and were designed for the principal parts of regular motion-picture programs.

During the season 1919-20 the respondent reissued the old picture of "The Love Thief" as "The She Tiger," "The Silent Lie" as "Camille of the Yukon," and "The Yankee Way" as "Sink or Swim." These old pictures with the new titles were furnished to exhibitors throughout the country in connection with leases providing for the respondent's so-called program series of pictures. All other pictures furnished under such program contracts to exhibitors were new pictures. The respondent furnished the exhibitors with bill posters and other advertising matter, and did not in any way disclose that these pictures were reissues. The exhibitors believed the pictures to be new ones, and their patrons attended the exhibitions under the same mistaken belief.

The commission's order to cease and desist, which was issued June 6, 1923, commanded the respondent to cease and desist from directly or indirectly advertising, selling or leasing, or offering to sell or lease, reissued motion-picture photoplays under titles other than those under which such photoplays were originally issued and exhibited, unless the former titles of such photoplays and the fact that they theretofore had been exhibited under such former titles be clearly, definitely, distinctly, and unmistakably stated and set forth, both in the photoplay itself and in any and all advertising matter used in connection therewith, in letters and type equal in size and prominence to those used in displaying the new titles.

The Fox Film Corporation took exception to the commission's order, and on August 16, 1923, filed, in the United States Circuit Court of Appeals for the Second Circuit, its petition asking that the order in question be reversed and set aside. The Court of Appeals, however, upheld the contentions of the commission in every particular.

During the course of its opinion the court made the following significant comments:

While the findings of the commission embraced but three pictures where the unfair methods were practiced, that is sufficient to support the order to desist. It is now well recognized that the act refers specifically to unfair methods of competition. This does not mean the general practice of the offender must be fair in competition. General practice may involve many methods, each conceived and to be applied for its particular desired result. One act that constitutes an unfair practice may of itself be offensive to the act. \* \* \* To violate the Sherman Act it is necessary to find that the

practice has grown to such proportions and strength that the business and practice is obnoxious as a trust or monopoly and restrains trade.

\* \* \* \* \*

The Federal trade act was intended to reach such unfair business methods when the antitrust law could not do so. \* \* \* It is by stopping its use before it becomes a general practice that the effect of an unfair method in sup-pressing competition is destroyed and competitors protected.

*Case against the United Typothetae of America and others.*--The complaint in this proceeding charged unfair competition in violation of section 5 of the Federal Trade Commission act. See also page 42.

The commission after extensive issued its order to cease and desist in August, 1923; and the United Typothetae in the following October filed its petition for review in the Circuit Court of Appeals sitting at Chicago. The petition was later withdrawn, leaving the order outstanding against the respondents.

*Misrepresentation in the sale of oil securities -- he proceeding against S E. J. Cox et al.*--This case presents another instance of false, misleading, and unfair statements circulated and other facts suppressed relating to the Prudential Trust & Securities Co., the Prudential Oil & Refining Co., and the General Oil Co., all of Houston, Tex., with the intention of misleading and deceiving the public.

As indicated in a prior annual report, the commission entered its order to cease and desist in this proceeding on June 24, 1922 There being evidence of flagrant violations of the order, the commission. under the authority conferred by section 5 of its organic act, applied to the Circuit Court of Appeals for the Fifth Circuit for enforcement thereof. That court under date of June 18, 1923, granted a motion for a preliminary order for enforcement of the commission's order. By the terms of this order S E. J. Cox, his agents, servants, and employees, were ordered to forthwith cease and desist from directly or indirectly, individually or through his wife, Mrs. N. E. C o x , o r otherwise :

Publishing, circulating, or distributing, or causing to be published, circulated, or distributed, any magazine, newspaper, pamphlet, circular, letter, advertisement, or any other printed or written matter whatsoever in connection with the sale or offering for sale ill interstate commerce of stock or securities wherein' is printed or set forth any false or misleading statements or representations to the effect that the property or operation of any corporation, association, or partnership is in proven oil territory, or any other false or misleading statements or representations concerning the promotion, organization, character, history, resources, assets, oil production, earnings, income, dividends, progress. or prospect of any corporation, association, or partnership.

Under date of October 6, 1923, the court granted the commissions motion to strike the answer of the respondents from the files of the case. Further proceedings are being held in abeyance, due to the

fact that the respondent Cox is serving a penitentiary sentence for fraudulent use of the mails.

*The aluminum case.*--Reference to this proceeding has been made in previous annual reports of the commission, but inasmuch as it was still in course of litigation during the fiscal year 1924, a brief resume of its salient features will be given in this report, with particular reference to the developments since the previous annual report.

The commission's order, which was issued March 9, 1921, directed the Aluminum Co. of America to divest itself of all its stockholding in the Aluminum Rolling Mills Co., another corporation. A violation of section 7 of the Clayton Act was charged. The Aluminum Co. appealed to the Circuit Court of Appeals for the Third Circuit to have the commission's order reversed and set aside. That court, however, affirmed the order in question in these words :

We have to do only with the "effect" of the transaction, and with its effect only as it may "substantially lessen competition \* \* \* or restrain commerce, \* \* \* or tend to create a monopoly." As we are not called upon to determine whether the Aluminum Co. is a monopoly within the definition of the antitrust law, we limit our decision to the question whether, within the policy of the Clayton Act, the transaction comes within the definition of the section. In this we are of opinion that it does, and that its effect upon actual competition as well as in destroying potential competition in a way later to make actual competition impossible was substantially to lessen competition between the corporation whose stock was acquired and the corporation making the acquisition; and second, that, without regard to whether its effect was substantially to lessen competition between these two corporations, the stock acquisition did, in effect, "tend to create a monopoly."

After this decision, the Aluminum Co. filed with the Court of Appeals a petition for a rehearing and modification of the decree. This was denied. It then attempted to carry the matter to the Supreme Court of the United States by certiorari; in this, too, it was unsuccessful.

All of the above happened prior to the beginning of the present fiscal year.

In September, 1923, the commission filed with the Court of Appeals a petition for modification of the order already entered. Briefly, the reason was this : The Aluminum Rolling Mills Co. was indebted to the Aluminum Co. of America in the sum of approximately \$600,000 upon four promissory notes, representing the unpaid balance due the Aluminum Co. for aluminum ingots and pig aluminum purchased during the operation of the plant. The Rolling Mills Co. was insolvent. The Aluminum Co. proposed to bring suit on the notes, and, after judgment, levy on the plant and bid at the sheriff's sale. As the indebtedness was greater than the value of the plant, the Aluminum Co. would inevitably acquire the plant for its indebtedness.

In the light of these facts, the commission, conceiving the proposed action of the Aluminum Co. to be violative in principle of all that had been done, filed its petition for modification of the order, as stated above. The commission contended that the decree should extend to and enjoin the Aluminum Co. from acquiring any of the physical assets of the Rolling Mills Co. The commission grounded its petition for modification upon the contention that the alleged indebtedness claimed by the Aluminum Co. as against the Rolling Mills Co. was created in violation of law, that it was entirely fictitious, and, in fact, nothing more than book indebtedness.

After further testimony and briefs and arguments, the Court of Appeals refused to modify the decree previously entered, saying, in these words :

Grounding our decision solely on the inability of the Federal Trade Commission to establish fraud in the indebtedness on which the Aluminum Co. proposes to seek recovery at law in another court, we are constrained to deny its petition to amend the decree previously entered.

*The Thatcher Manufacturing Co. case--Another instance Of an alleged violation of section 7 of the Clayton Act.--*The Thatcher Co. acquired from the Owens Bottle Machine Co. the exclusive right to manufacture and sell milk bottles produced by the first automatic bottle-making machine. Subsequently, another bottle-making machine was invented and licensed by the Hartford-Fairmont Co. It is charged that the respondent, by taking over the control of the Hartford-Fairmont Co. and its licensees, tended to eliminate competition and to create a monopoly in the manufacture and sale of milk bottles, in alleged violation of section 5 of the Federal Trade Commission act and section 7 of the Clayton Act.

The commission, after hearings, entered its order for the divestiture of stock. The Thatcher Co., having given notice of its intention not to abide by the decision of the commission, the latter, on March 31, 1924, filed, in the Court of Appeals for the Third Circuit (Philadelphia), its application for enforcement of its order.

The status at the close of the year was that the case was awaiting briefs and oral argument. The case will probably be reached comparatively early in the October term, 1924.

*The Swift case--Acquisition of stock in violation of section 7 of the Clayton Act.--*The commission, in instituting its proceeding against Swift & Co., charged that the respondent, by taking over the Moultrie Packing Co. and the Andalusia Packing Co. in the name of its employees, and acquiring a controlling interest in England, Walton & Co. (Inc.) had materially lessened competition and tended to create a monopoly in the interstate sale of meats and the products and by-products arising out of the slaughtering of livestock and



in the business of conducting tanneries and the production of various kinds of leather.

After consideration, the commission directed Swift & Co. to divest itself of the capital stock of the Moultrie and Andalusia companies, "including all the fruits of such acquisitions." The portion of the complaint relating to England, Walter & Co. was severed and formed the basis of another proceeding.

Swift & Co. took exception to the commission's order and appealed it to the United States Circuit Court of Appeals for the Seventh Circuit. Briefs were filed and the case argued, and at the close of the fiscal year it was awaiting decision by the court.

*The Armour case--A further instance of stock acquisition in violation of the Clayton Act.--*The commission's complaint in this case was of a similar nature to its proceeding against Swift & Co., in that it charged the respondent, Armour & Co., with violation of section 7 of the Clayton Act in acquiring a large part of the capital stock of the E. H. Stanton Co. of Spokane, Wash.

Prior to the acquisition of its stock by Armour & Co., the Stanton concern was engaged in a similar line of business in active competition with the acquiring company. As usual in such cases, the commission charged that the effect of the acquisition of stock was to substantially lessen competition between the two companies and to tend to create a monopoly in the purchase of cattle and livestock, and in the sale of meat and meat products.

In its order the commission directed the Armour Co. to divest itself of all the capital stock and properties of the Stanton Co.

The Armour Co. appealed from the order, and filed its petition for review with the Circuit Court of Appeals at Chicago. Subsequently, the case was reopened, by order of the court, for the taking of additional testimony; and at the close of the fiscal year it was awaiting argument before the commission on the additional evidence submitted.

*The Chicago Portrait Co. case--Misrepresentation in the sale of portraits made from photographs.--*The Chicago Portrait Co. was engaged in the business of enlarging photographs into portraits. During the course of this business it obtained orders for such portraits by means of drawings for so-called "lucky envelopes," or by giving trade checks for one-half the pretended purchase price thereby deceiving the prospective purchaser into believing that he was obtaining the portraits in question at prices substantially below their usual selling prices. Furthermore, the respondent misrepresented its portraits to be hand paintings. Another allegation of the complaint was that the company induced the purchasing public to

sign contracts for the reproduction of photographs, falsely representing the contracts to be receipts for the photographs obtained from the customers, whereas as a matter of fact, the contracts in question contained numerous provisions of a binding nature on the customer, which were neither explained to nor understood by the customers, and which served to nullify verbal agreements previously made.

The commission entered its order, and the Chicago Portrait Co., filed its petition for review with the Court of Appeals. The case has been argued, but not yet decided by the court.

*The Western Meat Co. case--Another instance of stock acquisition in violation of section 7 of the Clayton Act.--*As indicated by its name, this is another packing-house proceeding. The charge is similar to that in the Swift and Armour cases, referred to elsewhere in this report, namely, the alleged violation of section 7 of the Clayton Act the company acquired in this instance being the Nevada Packing Co. and the consequent lessening of competition and tendency to create a monopoly in the sale, in interstate commerce, of meats and the products and by-products arising out of the slaughtering of livestock.

The commission ordered the respondent to divest itself of the stock and properties of the Nevada Packing Co. and the respondent, in turn, filed its petition for review with the United States Circuit Court of Appeals for the Ninth Circuit (the concerns in question being engaged in business on the Pacific coast). The case was argued on May 15, 1924, and decided September 2, 1924, the commission's contentions being upheld in every particular. During the course of its opinion, which was in the main a discussion of the facts involved, the court said :

The findings of the commission are clear cut and if sustained by the evidence establish without doubt, in our opinion, that the acquisition and continued control and ownership of the capital stock of the Nevada Packing Co. by the petitioner constituted a very clear violation of section 7 of the act of October 15, 1914, generally known as the Clayton Act. \* \* \* That language is too plain, we think, to admit of any sort of doubt that three things are thereby expressly condemned and prohibited, namely, the acquiring by any corporation engaged in commerce, 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 was 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. \* \* \*

Surely nothing more is needed to show that the true purpose of the purchase by the Western Meat Co. of the stock of the Nevada Packing Co. was the elimination of the competition of the latter company and the expansion of that business by the Western Meat Co., hereby strengthening its hold. \* \* \* That the direct result of the transaction was the complete elimination of the

therefore competition existing on the part of the Nevada Packing Co. and the strengthening of the hold of the Western Meat Co. on the meat packing business of Nevada and adjoining States is, in our opinion, further shown by other evidence not necessary to detail.

*The proceeding against the Chamber of Commerce of Minneapolis and others.*--One of the most important of the commission's proceedings, and one of particular interest to the farming industry, is its case against the Chamber of Commerce of Minneapolis and affiliated interests. See also page 40.

The commission entered its order in December last, and the case is now pending, on the respondent's petition for review, in the Court of Appeals for the Eighth Circuit.

*The Butterick case--Exclusive dealing contracts in the sale of dress patterns.*--The companies proceeded against by the commission in this proceeding were the Butterick Co., the Federal Publishing Co., Standard Fashion Co., Butterick Publishing Co., New Idea Pattern Co., and the Designer Publishing Co. It was charged that these respondents a consolidation of paper dress-pattern manufacturers and publishers of periodicals advertising and illustrating such patterns, adopted unfair methods in competing with other producers of such patterns by entering into contracts with about 20,000 retail dry goods dealers, binding the said retailers to maintain fixed resale prices and prohibiting them from dealing in patterns manufactured competitors. Incidentally, the respondents refused to sell by their to dealers who declined to enter into such contracts or be bound thereby and threatened and instituted suits for damages if such contracts were broken. The contention of the commission was that such methods tended to lessen competition and to create a monopoly, all in alleged violation of section 5 of the Federal Trade Commission Act and section 3 of the Clayton Act.

The respondents first endeavored in the Supreme Court of the District of Columbia to obtain an order restraining the commission from proceeding with the trial of the case; this was refused. An appeal was then taken to the Court of Appeals of the District, with the same result.

The case then proceeded to trial, and after consideration an order to cease and desist was issued.

In October, 1923, the respondents appealed the case to the Circuit Court of Appeals for the Second Circuit, and at the close of the fiscal year the case was still pending in that court.

*The Occidental Oil Corporation case--Misrepresentation in the sale of oil stock.*--The respondent in this case was incorporated under the laws of the State of Delaware, with a capitalization of

some \$500,000.00, with the avowed purpose of drilling oil wells on various leases owned by the corporation in the State of Texas.

The commission issued its order commanding the Occidental Oil Corporation, its incorporators, and their agents--

to cease and desist from directly or indirectly making any false or misleading statements or representation concerning the resources, operations, production, profits, earnings, disbursements, dividends, progress, or prospects of the respondent Occidental Oil Corporation, or of any other corporation, association, or partnership, in connection with the sale or offering for sale in interstate commerce of the stock or other security of the respondent Occidental Oil Corporation, or of any other corporation, association, or partnerships.

The respondent filed its petition for review in the United States Circuit Court of Appeals for the Third Circuit (Philadelphia), and at the close of the fiscal year the case was in that court awaiting briefs and arguments.

Subsequently the petition to review was dismissed because of failure of the Oil Corporation to provide for costs of printing the record.

*The proceeding against the Pacific States Paper Trade association and others--Price fixing in paper products on the Pacific coast.*--The complaint by the commission in this case involved, besides the Pacific States Paper Trade Association, other associations operating in Pacific coast territory, as follows :

Seattle-Taconia Paper Trade Conference.

Spokane Paper Dealers.

Portland Paper Trade Association.

Paper Trade Conference of San Francisco.

Los Angeles Wholesale Paper Jobbers' Association.

The respondents named in this complaint embraced practically all the wholesale dealers in paper and paper products throughout the States of Oregon, Washington, and California. Other States affected in great part by the activities of the respondents were Idaho, Nevada, Arizona, Montana, New Mexico, and the Territory of Alaska.

The commission charged that, by concerted agreement, adherence of members of local associations to the maintenance of enforced scheduled prices was consummated, all of which had a dangerous tendency unduly to hinder competition and to create a monopoly.

The respondents appealed from the commission's order, as a result of which the case is now pending in the Court of Appeals for the Ninth Circuit.

*Resale price maintenance in tobacco products--The proceeding against The American Tobacco Co. and The Wholesale Tobacco & Cigar Dealers' Association of Philadelphia and others.*--The com-

mission's order in this case, which, as indicated by the name of the association involved, was directed against practically all of the wholesale tobacco dealers in and about Philadelphia, directed these dealers to--

cease and desist from fixing, enforcing, and maintaining and from enforcing and maintaining by combination, agreement, or understanding among themselves, or with or among any of them, or with ally other wholesaler of cigarettes or other tobacco products, resale prices for cigarettes or other tobacco products dealt in by such respondents, or any of them, or by any other wholesaler of cigarettes or other tobacco products.

The American Tobacco Co., which also appeared as one of the respondents in this proceeding, was commanded to cease and desist--

from assisting and from agreeing to assist any of its dealer-customers in maintaining and enforcing in the resale of cigarettes and other tobacco products manufactured by the said The American Tobacco Co., resale prices for such cigarettes and other tobacco products, fixed by any such dealer-customer by agreement, understanding, or combination with any other dealer-customer of said The American Tobacco Co.

The American Tobacco Co. was the only one of the respondents to appeal from the order, and it filed its petition for review in the Court of Appeals sitting at New York City (the Second Circuit).

The case was pending in that court at the conclusion of the fiscal year. Briefs are yet to be filed, and it is expected the matter will be reached for argument at the October term of court.

*The Utah-Idaho Sugar Co. case--Suppression of competition the manufacture and sale of beet sugar.*--The respondents in this case, namely, the Utah-Idaho Co., the Amalgamated Sugar Co., E. R Wooley, A. P. Cooper, and E. F. Culleim, were charged by the commission with stifling and suppressing competition in the purchase of sugar beets and in the manufacture and sale of refined beet sugar, by means of a combination or conspiracy involving, among others, the following unfair trade practices :

1. The circulation of false, misleading, and unfair reports as to competitors and prospective customers (a) concerning financial standing and responsibility; (b) that they would be unable to secure sugar-beet seed, or the beets, or to pay for those they did purchase; (c) that their contemplated factories would not be built, etc.

2. The circulation of false reports to the effect that respondents (a) occupied all the productive territory in which their competitors contemplated operating ; (b) had contracts for all the beets to be grown, etc.

The commission, after very extensive hearings, dismissed the complaint as to the respondent E. F. Cullen, and entered its order to cease and desist against the other

respondents. The respondents filed

their petitions for review in the Court of Appeals for the Eighth Circuit, where the case was pending at the close of the fiscal year.

*Resale price maintenance in the sale of music rolls--The Q. R. S. Music Co. case.--* After the commission had issued its complaint and testimony had been taken before a trial examiner, and after final argument, the commission issued its order in this proceeding directing the Q. R. S. Music Co., an Illinois corporation, with its principal place of business in the city of Chicago, to cease and desist from carrying into effect a policy of fixing and maintaining uniform prices at which the articles manufactured by it shall be resold by its distributors and dealers, by--

1. Entering into contracts, agreements, and understandings with distributors or dealers requiring or providing for the maintenance on specified resale prices on products manufactured by respondent.
2. Attaching any condition, express or implied, to purchase made by distributors or dealers to the effect that such distributors or dealers shall maintain resale prices specified by respondent.
3. Requesting dealers to report competitors who do not observe the resale price suggested by respondent, or acting on reports so obtained by refusing or threatening to refuse sales to dealers so reported.
4. Requesting or employing salesmen or agents to assist in such policy by reporting dealers who do not observe the suggested resale price, or acting on reports so obtained by refusing or threatening to refuse sales to dealers so reported.
5. Requiring from dealers previously cut off promises or assurances of the maintenance of respondent's resale prices as a condition of reinstatement.
6. Utilizing any other equivalent cooperative means of accomplishing the maintenance of uniform resale prices fixed by the respondent.

The respondent availed itself of its statutory right and filed in the United States Circuit Court of Appeals for the Seventh Circuit its petition for review of the commission's order.

At the close of the fiscal year the case was awaiting briefing and argument.

*Resale price maintenance in the sale of underwear--The Sealpax case.--The respondent in this case--Oppenheim, Oberndorf & Co. (Inc.), doing business under the trade name and style of the Sealpax Co., was charged by the commission's complaint, in the sale of its "Sealpax" underwear, with maintaining a schedule of uniform resale prices and refusing to sell underwear to wholesale dealers failing to observe and maintain such prices, and otherwise endeavoring to enforce its fixed prices for the resale of its products.*

The commission's order to cease was entered in April, 1924, and on June 11th the Sealpax Co. filed its petition for review within the Circuit Court of Appeals for the Fourth Circuit (Richmond, Va.).

At the close of the fiscal year, the cause was awaiting the filing of the transcript of testimony and pleadings by the commission, after

which it will be briefed and argued before the court. It will hardly be reached before late in the October term.

*The Doctor Herman Heuser case.*--The case involved letters of warning sent out in connection with a patented process for the manufacture of nonalcoholic beverages. The order issued by the commission was appealed and the matter is pending in the Circuit Court of Appeals for the Seventh Circuit.

*The Pearsall Butter Co. case-Exclusive dealing contracts--Oleomargarine.*--The B. S. Pearsall Butter Co., the respondent in the commission's action in this proceeding, complained of the commission's order directing it to cease and desist from directly or indirectly using formal or informal contracts or understandings to the effect that purchasers or dealers in respondent's margarine products should not deal in the goods, wares, merchandise, supplies, or other commodities of a competitor or competitors of respondent or in competing commodities. The commission charged that the Pearsall Co.'s practices were in violation of section 3 of the Clayton Act.

The company filed its petition for review of the commission's order with the Circuit Court of Appeals for the Seventh Circuit (Chicago), and that court reversed the order. The court, in its opinion, said:

The record in the case at bar discloses no facts or circumstances which would justify the conclusion that there was here shown more than "the mere possibility of the consequences described." We find nothing from which it might be deduced that the agreement here "would under the circumstances disclosed possibly lessen competition or create an actual tendency to monopoly."

This case was representative of a number of others involving the same general principle and as a result of the decision of the court of appeals, these other proceedings were dismissed by the commission

*The John Bene & Sons case--Disparagement of competitor's product-Public interest.*--John Bene & Sons (Inc.), the respondent in the commission's proceeding, was charged with unfair competitive methods in that it procured samples of a competitor's goods and caused the same to be analyzed by a chemist, thereafter circulating reports of the analysis, which reports, as well as letters written to the trade with respect thereto by the respondent, contained false and misleading statements and representations to the effect that the competitor's product contained lime and that its use on the human body would be attended by great danger; that it was a weak solution of bleaching powder known as a disinfectant and lost its effective-ness in about 72 hours.

The commission entered its order in due course, and the respondent took the case to the Circuit Court of Appeals sitting at New York



City. That court reversed the order, in the course of its decision using the following language :

As a conclusion of law we hold that there being no proof of a public interest herein, or of its being to the interest of the public that this proceeding should have been begun or the order complained of made, said order must be reversed; and it is reversed accordingly.

The commission subsequently filed a petition for rehearing ; this was denied.

*The National Biscuit Co.--The Loose-Wiles Biscuit Co.--Refusal to accord to pools of retailers same discounts allowed to the chain stores.--Both* of these nationally known companies, leaders in the manufacture and sale of biscuits, crackers, and other bakery products, in allowing discounts based on aggregate monthly orders, refused to grant as high a rate of discount on the pooled orders of two or more retail store owners as on the orders of owners of the so-called chain stores. This practice, of course, gave the owners of chains of retail stores an advantage in competing with the ordinary retailers, and the commission's complaint charged that this discrimination in price tended to lessen competition and to create a monopoly, in alleged violation of section 5 of the Federal Trade Commission act and section 2 of the Clayton Act.

After extensive hearings in all parts of the country, the commission entered its orders to cease and desist against both concerns in January, 1924. Both companies applied to the Circuit Court of Appeals sitting at New York City (the Second Circuit), which, after hearing the arguments of both sides, as well as those of interested associations allowed to intervene as amici curiae, reversed the commission's orders. Excerpts from the opinion of the court which are of interest and importance are the following :

We conclude that the sales policy of the petitioners as to their discount plan as well as the refusal to sell cooperative or pooling buyers, is fair in all respects as to all its competitors and Customers. This policy obviously does not affect the public interest nor deprive it of anything it desires. It is a practice which is recognized by manufacturers of bakery products and is inoffensive to good business morals. It was error to direct the petitioners to sell to individual grocers who pooled their orders of purchase or who bought on a cooperative basis \* \* \*. There is no discrimination between the large buyer, such as the owner of a chain store, and the grocer owning but one store.

The commission regarded the principle involved in these cases as of such importance that it decided to apply to the Supreme Court; of the United States for a writ of certiorari to review the decision of the Court of Appeals, and at the close of the fiscal year it was engaged in perfecting such appeal.

Shortly after the close of the year, in October, 1924, the Supreme Court refused a writ of certiorari applied for by the commission.

## COURTS OF THE DISTRICT OF COLUMBIA

Maynard Coal Co. et al.  
Shade Shop.

A brief description of the foregoing cases follows :

*The Maynard Coal Co. case.*--At about the same time that the steel companies were asked by the commission to file monthly reports (this is also discussed in the section relating to the Claire Furnace Co. case) substantially similar questionnaires were sent to practically all corporations all corporations engaged in the production and sale in interstate commerce of bituminous coal.

One of these companies, the Mannered Coal Co., declined to make the reports in question, and applied to the Supreme Court of the District of Columbia for an injunction. A permanent injunction practically identical with that issued in the Claire Furnace case was awarded.

The case was taken by the commission to the Court of Appeals for the District of Columbia, where it was argued on January 9 and 10, 1924.

On May 10 last the Court of Appeals directed a reargument. Up to the close of the fiscal year the case had not been reached. It will probably be argued again, however, in the early part of the October.

*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 this 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 all 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 given no indication of an intention 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 thereof. It was pending in that court at the close of the fiscal year and will be reached during the October term of court.



Net orders to cease and desist to end of year	0	0	3	75	149	259	375	466	548	635
Total net disposition to end of year	0	0	4	83	170	324	476	643	812	933
Pending at end of year	0	5	10	85	133	287	312	257	232	264

LEGAL DIVISION

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*Table showing court proceedings upon orders to cease and desist*

Orders to cease and desist	1919	1920	1921	1922	1923	1924	Total
<b>PETITIONS FOR REVIEW--LOWER COURTS</b>							
Pending at beginning of year	0	2	8	12	8	4	34
Appealed during year	4	0	17	5	5	15	55
Total for disposition	4	11	25	17	13	19	89
Decisions for commission	1	0	1	4	5	1	12
Decisions against commission	1	3	11	5	4	4	28
Petitions withdrawn by commission	0	0	0	0	0	0	0
Petitions Withdrawn by others	0	0	1	0	0	0	1
Total disposition during year	2	3	13	9	9	5	41
Pending at end of year	2	3	12	8	4	14	48
<b>PETITIONS FOR REVIEW--SUPREME COURT OF THE UNITED STATES</b>							
Pending at beginning of year		0	1	3	3	1	8
Appealed by commission		2	2	4	5	0	13
Appealed by others		0	0	0	2	1	3
Total for disposition		2	3	7	10	2	24
Decisions for commission		0	0	2	0	0	2
Decisions against commission		1	0	0	5	1	7
Petitions withdrawn by commission		0	0	0	1	0	1
Petitions withdrawn by others		0	0	0	0	0	0
Writ denied commission		0	0	2	1	0	3
Writ denied others		0	0	0	2	1	3
Total disposition during year		1	0	4	9	2	16
Pending at end of year		1	3	3	1	0	8
<b>PETITIONS FOR ENFORCEMENT--LOWER COURTS</b>							
Pending at beginning of year					0	1	1
Appealed during year					1	2	3
Total for disposition					1	3	4
Decisions for commission					0	0	0
Decisions against commission					0	0	0
Total disposition during year					0	0	0
Pending at end of year					1	3	4
<b>PETITIONS FOR MODIFICATION--LOWER COURTS.</b>							
Pending at beginning of year						0	0
Appealed during year						1	1
Total for disposition						0	1
Decisions for commission						0	0
Decisions against commission						1	1
Total disposition during year						1	1
Pending at end of year						0	0

*Miscellaneous court proceedings, mandamus, injunction, etc.*

	1920	1921	1922	1923	1924	Total
<b>APPEALS TO LOWER COURTS</b>						
Pending at beginning of year	0	2	3	4	1	10
Appealed by commission	1	0	3	4	0	8
Appealed by others	2	2	3	0	0	7
Total for disposition	3	4	9	8	1	25
Decisions for	0	1	3	0	0	4
Decisions against commission	1	0	1	7	0	9
Petitions withdrawn by commission	0	0	0	0	0	0
Petitions withdrawn by others	0	0	1	0	0	1
Total disposed of	1	1	5	7	0	14
Pending at end of year	2	3	4	1	1	11
<b>APPEALS TO SUPREME COURT OF THE UNITED STATES</b>						
Pending at beginning of year				0	6	6
Appealed by commission				6	0	6

Appealed by others	0	0	0
Total for disposition	6	6	12
Decisions for commission	0	0	0
Decisions against commission	0	2	2
Petitions withdrawn by commission	0	0	0
Petitions withdrawn by others	0	0	0
Total disposed of	0	2	2
Pending at end of year	6	4	10

*Table showing disposition by percentages, preliminary inquiries, applications for complaints, complaints and appeals taken for fiscal years 1914-1924*

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	Total
Preliminary inquiries disposed of	115	257	442	624	833	1,075	1,063	1,144	1,314	1,531	8,398
Dismissed on summary Review (per cent)	3	48	65	47	36	33	47	64	70	78	56
Docketed (per cent)	97	52	35	53	64	67	53	30	30	22	44
Applications for complaint disposed of	8	108	95	240	426	559	514	390	302	384	3,026
Dismissed (percent)	100	97	83	67	71	61	69	74	60	63	68
Formal complaints issued (percent)	0	3	17	33	29	19	31	26	40	37	32
Formal complaints disposed of		0	4	79	87	154	152	166	169	122	933
Dismissed (percent)		0	25	9	15	28	23	45	51	28	32
Orders to cease and desist issued (per cent)		0	75	91	85	72	77	55	49	72	68
Appeals taken from commission's orders (per cent)					5	8	15	5	6	17	

## NOTES

On the basis of the figures for 1924, the probabilities are :

*When a preliminary inquiry is received--*

That the matter will be docketed

22 out of 100.

That it will be filed without action

78 out of 100.

*When an application has been docketed--*

That a formal complaint will issue

37 out of 100.

That the proceeding will be dismissed without action

63 out of 100.

*When a formal complaint has issued--*

That an order to cease and desist will follow

72 out of 100.

That the proceeding will be dismissed

28 out of 100.

*When a preliminary inquiry is received--*

The chances that a formal complaint will issue are 37 per cent of 22 per cent of 100 or

8 out of 100.

That it will not

92 out of 100.

That an order to cease and desist will issue (72 per cent of 37 per cent of 22 per cent)

0.0586 per cent

## TRADE-PRACTICE SUBMITTALS

From time to time the commission is approached by groups of business men representing an entire industry and seeking assistance in the elimination from their industry of practices found to be unfair and harmful but which the industry is unable by itself to eliminate. Upon request of a substantial portion of a given industry, the commission has lent its assistance in these situations and has called the industry together in gatherings which have been termed "Trade practice submittals." Submittals have been held in the following industries: Ink, celluloid, knit goods, paper, oil, used typewriters, creamery, hosiery, guaranty against decline, macaroni, silverware, gold knives, watchcases, subscription book publishers and music publishers, and band instruments. A pamphlet on Submittals has been prepared.

At these submittals the objectionable practices are frankly discussed and resolutions usually adopted by the industry looking to their elimination. These resolutions are considered by an industry as binding upon it and are received by the commission as informative as to conditions 'in the particular industry and the views of the trade thereon in the event the commission is called upon to proceed to complaint upon any practice condemned by an industry.

During the year two trade-practice submittals were held, one before Vice Chairman Vernon W. Van Fleet at the request of the Music Publishers' Association of the United States, and the other before Commissioner John F. Nugent at the request of the Subscription Book Publishers' Association. The book publishers' meeting was represented by 31 concerns in the industry, and in the case of the music publishers 95 per cent of the industry was represented. Shortly after the close of the fiscal year manufacturers of band instruments conducted a submittal before Mr. Van Fleet.

The music publishers at their meeting passed a resolution having to do with the fictitious marking of prices on sheet music, one of those present expressing this practice to be "out of date and no longer serves any useful purpose, and no doubt opens up a way to the unscrupulous to charge a higher price to unsuspecting persons than is contemplated by the publisher."

Fourteen resolutions were approved at the meeting of the Book Publishers' Association trade-practice submittal by which the opinion

of the trade might be registered. These in the main were of the ethical conduct of the business.

Toward the close of the year the commission authorized Chairman Huston Thompson to conduct a submittal with furniture manufacturers, at their request, for the purpose of drawing up a set of resolutions involving (1) the wood content and finish to be advertised and designated ; (2) to clearly indicate the relation of jobbers, wholesalers, retailers or commission men to producers ; and (3) to advertise and indicate the true place of origin of all furniture. At this submittal it is expected that many of the furniture associations, including the National Furniture Association, will be represented. Lumbermen furnishing materials are also expected to attend.

Commissioner Nelson B. Gaskill was authorized at the request of manufacturers of mending cotton to hold a trade practice submittal for the purpose of considering the best method of labeling and marking mending cotton which is sold to the general purchasing public. This will involve the manner in which the number of yards and the ply of the cotton shall be stated on manufacturers' labels.

Commissioner Charles w. Hunt has also been authorized to conduct a submittal requested by members of the industry engaged in manufacturing engraved and embossed effects , to be held in the near future. At this meeting endeavor will be made to determine a proper designation for stationery and other printed matter which is produced by the use of a chemical in powdered form which is applied to type print while the ink is still wet. The chemical adheres to the wet ink, and in passing through a baking process the heat causes it to fuse and present a raised-letter effect which may be said to resemble in appearance the impression made from engraved plates or steel dies, known as "engraving."

*The Music Publishers Association of the United States.* submittal was held at New York on October 2, 1923, for the purpose of giving those engaged in the industry an opportunity to express their views regarding the practice of marking musical publications at fictitious prices. The submittal was attended by publishers representing 95 per cent of the total output of standard sheet music. There were also present a few publishers of popular music. The following attended the submittal :

Fred Kraft--Edward Schuberth & Co., New York City.  
Otto Jordan--Harms (Inc.) , New York City.  
W. M. Bacon--White-Smith Music Publishing Co., Boston.  
W. M. Gamble--Gamble Hinged Music Co., Chicago.  
John Hanna--Enoch & Sons, New York City.



M. Kean--Boosey & Co., New York City.  
 C. C. Church--C. C. Church & Co., Hartford, Conn.  
 M. E. Tompkins--G. Schirmer (Inc.) , New York City  
 H. W. Gray--H. W. Gray & Co, New York City.  
 E. F. Bitner--Leo Feist (Inc.) , New York City.  
 Harold W. Robinson--B. F. Wood Music Co., Boston.  
 C. A. Woodman--Oliver Ditson & Co.. Boston.  
 H. B. Crosby--Arthur P. Schmidt Co., Boston.  
 Clayton F. Summy--Clayton F. Summy Co., Chicago.  
 G. Fischer--J. Fischer & Bro., New York City.  
 W. Deane Preston, jr.--B. F. Wood Music Co., Boston.  
 W. H. Witt--W. H. Witt Music Co., Pittsburgh.  
 E. O. Mills--chairman Music Publishers' Protective Association.  
 W. L. Coghill--John Church Co., New York City.  
 H. Engel--Richmond-Robbins (Inc.) , New York City.  
 Ben Bornstein--Ager, Yellen & Bornstein, New York City.  
 J. M. Prlaux--Charles H. Ditson Co., New York City.  
 E. T. Paull--E. T Paull Music Co., New York City.  
 W. A. Walling--Evans Music Co., New York City and Boston.  
 R. L. Huntzinger--R. L. Huntzinger, New York City.  
 T. J. Donlan--National Association of Sheet Music Dealers, New York City.  
 Joseph M. Skilton--G. Schirmer (Inc.), New York City.  
 Alfred L. Smith--Music Publishers' Association of the United States.  
 Theodore Presser--Theodore Presser Co., Philadelphia.  
 W. Kretschner--Carl Fischer, New York City.

From the facts developed at the submittal its, appeared that for many years it has been the practice of the publishers to print sheet music at prices approximately one-third higher than the actual retail selling price.

The practice arose from the custom of granting to music teachers a discount, usually one-third, from the price printed on the publication, which was to compensate teachers for their the in selecting the music , etc . After a while teachers had their pupils request the discount; and in a few years the public was getting the same discount , so that to-day the actual retail price of much of the music sold is substantially less than the printed price on the publication. As one of the publishers present expressed it, “ the printing of a price on music from which to figure a discount is out of date and no longer serves any useful purpose, and no doubt opens up a way to the unscrupulous to charge a higher price to unsuspecting persons than is contemplated by the publisher. It appears that the elimination of this practice has been the subject of discussion by the industry for some time. The music dealers and popular music publishers present also favored the discontinuance of the practice.

After discussing the subject and the details incidental to making a change in the practice the publishers of standard sheet music unanimously adopted the following resolution :

We believe the proper way of marking prices on music is to use the price at which it is expected the music will sell for at retail under conditions of normal competition.

The Federal Trade Commission approves the resolution as set out above and believes that it expresses the views of the entire industry. The trade has been requested to fix a date at which the change shall be put in operation.

*The Subscription Book Publishers' Association* submittal was held by book publishers selling books by subscription in Washington on May 20 and 21, 1924. The following concerns were represented :

The Grolier Society, New York City.  
 University Society (Inc.), New York City.  
 The National Home and School Association, Chicago, Ill.  
 Bufton Publishing Co., Kansas City, Mo.  
 Subscription Book Publishers' Association, Chicago, Ill.  
 E. E. Compton & Co., Chicago, Ill.  
 P. E. Collier Son & Co., New York City.  
 Thomas Nelson & Sons, New York City.  
 Wm. H. Wise & Co., New York City.  
 Doubleday, Page & Co., Garden City, N. Y.  
 W. F. Quarrie & Co., Kansas City, Mo.  
 Williams & Wilkins Co., Baltimore, Md.  
 The Encyclopedia Britannica (Inc.), New York City.  
 National Association of Book Publishers, New York City.  
 The S. A. Mullikin Co., Cincinnati, Ohio.  
 Austin Jenkins Co., Washington, D. C.  
 Nelson Doubleday (Inc.), Garden City, N. Y.  
 The Midland Press, Chicago, Ill.  
 Parke, Austin & Lipscomb (Inc.), New York City.  
 The John C. Winston Co., Philadelphia, Pa.  
 Dodd, Mead & Co. (Inc.), New York City.  
 Historical Publishing Co., Philadelphia, Pa.  
 John Rudin & Co. (Inc.), Chicago, Ill.  
 The Western Distributing Co., Chicago, Ill.  
 Standard Education Society, Chicago, Ill.  
 Review of Reviews Corporation, New York City.  
 Rand McNally & Co., Chicago, Ill.  
 Educators' Association, New York City.,  
 The S. L. Weedon Co., Cleveland, Ohio.  
 The Bureau of National Literature (Inc.), New York City.  
 American Educational Society Publishers, St. Louis, Mo.

Thirty-one concerns were represented at the meeting and it was there stated that they do more than the majority of the volume of said business of the country. Many other concerns expressed an interest in the meeting but were unable to be represented.

After a preliminary discussion of various practices, the representatives of the concerns mentioned were requested to and did organize for the purpose of adopting resolutions by which the

opinion of the trade might be registered and the following resolutions, which have been certified by the chairman and secretary of the meeting, were adopted :

1. *Resolved*, That we disapprove any editorial policy whereby the listing of any name as editor or contributing editor tends to practice deception on the public.

2. *Resolved*, That as to all books, the use of only the last date of copyright, and eliminating all previous copyright dates, is condemned.

3. *Resolved*, That books bound in substitutes for leather should not be represented as being bound in levant or in any way which tends to carry the inference that leather bindings are used.

4. *Resolved*, That the same or essentially the same set of books should not be sold simultaneously under different titles ; that books should never be sold under a title that will mislead as to contents, or under a title which tends to confusion with some previously published work.

5. *Resolved*, That the marking up of the price of books and the use of the so-called " raised " contract be condemned ; that representing that the price asked is below the usual price, or that the price will soon be increased, when such is not the fact , be also condemned.

6. *Resolved*, That when so-called extension revision or continuation service is offered, the contract made with the purchaser shall state precisely what the service is, that such service is sold at a price distinct and apart from the books which it is designed to keep up to date, that the books shall be sold at a stipulated price, and the service shall be sold at a stipulated price ; that In case such service is sold to continue over a period of years the service shall actually be furnished as promised to such subscriber without the use of coupons or other form of request.

7. *Resolved*, That the practice of representing that a certain number of books have been set aside for advertising purposes, to be given free, when such is not the fact, is condemned; and that the practice of representing that a certain number of selected persons in each community have been designated to secure a book or a set of books or any form of service, free, when such is not the fact, is clearly misrepresentation, and is condemned.

8. *Resolved*, That the offering of membership in societies, clubs, and other organizations, which in fact do not exist, in connection with the sale of books be condemned ; that a service devoted to the answering of inquiries, if offered, be represented only as such and not as something offered by some organization, separate and apart from the concern selling the books when such organization does not exist, in fact, and actually renders no such service, and the names of well-known authors, editors, or authorities should not be used in connection with such offers unless they, in fact, actually are to answer or supervise the answering of the inquiries.

9. *Resolved*, That the practice of securing agents by misleading or dishonest promises or guarantees, and enticing away the agents of competitors by such means be condemned, but nothing in this resolution shall be construed in any way limiting the free choice of agents to select their own employers.

10. *Resolved*, That the practice of giving with services or sets premiums of books, service or other objects of value, shall not be abused by sales representations of which the effect is to deceive the purchasers as to the relative values of the set or service as compared with the premium accompanying it.

11. *Resolved*, That no publisher shall be a party to or assist in the organization of so-called independent agents or dealers to sell his books by methods here condemned, and which he as a publisher professes himself not to use ; nor shall a publisher sell his books to so-called independent agents or dealers or agents when he knows they are to use unfair or dishonest means to distribute the books to the public. No publisher shall be a party to doing indirectly what he professes not to do directly.

12. *Resolved*, That it shall be an unfair practice to take a name which so closely resembles the name of an already existing firm as to tend to cause confusion and mislead the public.

13. *Resolved*, That all testimonials should be genuine and apply to the book or books actually offered ; that generally the complete testimonial should be given ; and that in cases where only a part is used, such part should fairly state the name of the writer, and in no case shall words, phrases, or sentences be taken from a testimonial and be used for selling purposes which when taken from their context have a different meaning from that intended by the writer; that public bodies, libraries, or associations should not be advertised or represented as commending a set of books unless advised as to the use of such commendation, and unless the fact is that the public body, library, or association as such and not merely some individual has commended the work and that no testimonial from any source whatsoever which has been obtained by purchase, gift, or honorarium be used ; securing testimonials by such means, whether by more or less open or by subtle methods is condemned.

14. *Resolved*, That these resolutions, in so far as practicable, become effective at once; except that where any change in an existing edition of a book or set of books may be required, these resolutions apply to all future editions or printings.

With the exception of resolution No. 10, the resolutions as stated above were adopted by the members of the industry present unanimously. Attention is also directed to the fact that it is the intention of the industry to put these resolutions into effect immediately.

The above resolutions were reported to the commission and after consideration were received and approved.

Band instrument manufacturers.--This submittal was held at Chicago on July 15, 1924. Those present at the meeting were :

F. A. Buescher, representing the Buescher Band Instrument Co., Elkhart, Ind.

James A. Bell, representing the Buescher Band Instrument Co., Elkhart, Ind.

C. H. Taylor, representing Frank Holton & Co., Elkhorn, Wis.

J. C. Cox, representing Frank Holton & Co., Elkhorn, Wis.

A. P. Bassett, representing the Martin Band Instrument Co., Chicago, Ind.

C. H. Flint, representing the E. A. Couturier Band Instrument Co.; Lyon & Henly (Inc.); William Frank Co., Chicago, Ill.

Alfred L. Smith, representing the National Association of Band Instrument Manufacturers, New York City.

It appeared that the industry had theretofore agreed upon a code of ethics for the government of their business, which was announced on January 1, 1924, in a bulletin entitled "Announcement of Elimination of Secret Subsidies to Musicians," which bulletin is in words and figures as follows :

## ANNOUNCEMENT, JANUARY 1, 1924

The use, ownership, or recommendation of any make of band instrument by a professional musician, or by any other person who for some reason may be supposed to be specially well informed about or have an exceptional opportunity to judge the real merits of band instruments, is accepted by the buying public as indicating honest preference for that make of instrument based solely on merit. Thus a false and misleading impression is created when there has been a secret inducement of any kind.

The subsidizing secretly of prominent musicians and others by manufacturers and dealers in band instruments for the advertising value to be derived therefrom, has developed or tended to develop unfair competition, improper trade practices and unfair price discrimination to buyers, and has misled the public. Such a condition of affairs is detrimental to the best interest of both the industry and the buying public.

There are various methods of subsidizing professional musicians. It has been a more or less common practice to give to bands, orchestras, and individual musicians the instruments they require professionally. Sometimes the instruments have been merely loaned. Also in a few cases prominent professional musicians have been paid salaries to induce them to use certain instruments.

Not all subsidies, however, are direct. Preferential discounts, special instruments at regular prices, extra plating or engraving on instruments without charge, abnormal allowances for used instruments taken in exchange; i. e., traded in, special terms of credit, subscriptions to or payments of advertising or other expenses of musical enterprises or organizations are typical indirect subsidies.

The granting of subsidies has been by no means confined to prominent professional musicians. A secret special discount to an influential member of the village band is no different in effect from the payment of a large salary to an artist of international reputation. He may be any person whose ownership or advocacy of a particular make of band instrument for some special reasons adds to the reputation of that instrument in the community.

Even when no subsidy is involved, the granting of excessive allowances for used instruments taken in exchange is against public interest. It constitutes price discrimination and is unfair to customers who have no instruments to exchange or who trade in their instruments as a fair valuation. Overallowances are conducive to the development of misleading and improper trade practices, such as quoting fictitiously high prices and making false reductions on new instruments when no used instrument is taken in exchange. Furthermore, a consistent policy of granting overallowances on used instruments leads inevitably to either business failure or to a regular policy of overpricing of new instruments to the consequent detriment of the buying public. The evil of granting overallowances is frequently promoted by ignorance of the real value of the instrument taken in exchange and the difficulty of obtaining accurate information on that subject.

In view of these facts and in the public interest, the undersigned manufacturers and dealers in band instruments do hereby agree not to subsidize musicians or others in any manner whatsoever, and to this end they agree specifically :

1. That they will not give away instruments to prominent musicians or others.
2. That they will not loan instruments for the purpose of having them used by prominent musicians or others.

3. That they will not pay salaries, fees, or gratuities to induce prominent musicians or others to use or recommend their instruments.

4. That they will not grant to prominent musicians or others secret discounts or rebates or special terms not available to retail customers generally.

5. That they will not grant allowances in excess of the actual value of second hand instruments taken in exchange for new.

(Signed) C. Bruno & Sons, Buegeleisen & Jacobson, Buescher Band Instrument Co., C. G. Conn (Ltd.), E. A. Couturier Band Inst. Co., Cundy-Bettoney Co., W. J. Dyer & Bro., Carl Fischer William Frank Co., Fred Gretsch Mfg. Co., Frank Holton & Co., J. W. Jenkins' Sons Music Co., Leedy Mfg. Co., Ludwig & Ludwig, Lyon & Healy (Inc.), Martin Band Instrument Co., Pan-American Band Inst. & Case Co., Harry Pedler Co. (Inc.), H. & A Selmer (Inc.), The Vega Co., H. N. White Co., Rudolph Wurlitzer Co., J. W. York & Sons.

At said meeting of July 15, 1924, there was also presented a letter from C. G. Conn Co. (Ltd.), signed by C. D. Greenleaf, president of said company, and also president of the Association of Band Instrument Manufacturers which letter is in the words and figures following .

ELKHART, IND. *July 14, 1924.*

FEDERAL TRADE COMMISSION,

*14 West Washington Street, Chicago, Ill.*

GENTLEMEN : I regret very much that I am prevented by illness from appearing before the commission at this time. I wish to assure the commission that this company is in hearty accord with the so-called code of ethics as adopted by the heading manufacturers and jobbers of musical instruments, copy of which is inclosed.

I believe that this agreement marks the beginning of a very desirable reform, which will be entirely in the public interest in every way, and that if the Federal Trade Commission sees fit to give to this agreement its formal approval, this approval will be of great assistance in securing adherence to the provisions of this agreement by the retail trade. The signatories to this agreement may be depended upon to carry it out, but, of course, there is no way by which the manufacturers can prevent their dealers from continuing these very vicious practices if they so desire. The approval of these principles, however, by the Federal Trade Commission would have a very great effect in bringing about the compliance on the part of the retail trade in general, and if this can be done I believe that these practices, which have been so long an evil and a detriment to the public interest, can be finally stopped.

Yours very truly,

(Signed),

C. D. GREENLEAF, *President.*

It was represented to the commissioner that practically the entire industry was represented in the agreement set forth above. The parties undertaking to observe this code of ethics are composed of manufacturers and importers of band instruments, and they requested and petitioned the Federal Trade Commission to give its approval to the principles laid down in said bulletin and to announce the same to the industry and the public.

After consideration of the matter, it was concluded by the commission as follows :

1. That the commission accepts and approves the code of ethics so adopted by the manufacturers of band instruments so far as the same relates to the subsidizing of musicians, and will take cognizance of violations of the same; and
2. That as to other matters covered by said code of ethics the commission receives and takes note of the same as representing the views and opinions of the industry.

## ECONOMIC DIVISION

This division is under the supervision of the chief economist, the economic advisor of the commission. The general economic work during the fiscal year, as in previous years has formed a vital part of the commission's activities, and one that is fundamental for the proper presentation to the Congress, to the President, and to the public, facts relating to the organization, practices, and results of commercial enterprises. Such facts are fundamental not only with respect to the general problem of maintaining healthful competition in industry and restraining the encroachment of monopoly, but are also useful in the fields of industrial organization and marketing methods and for constructive legislation. Important acts of Congress have resulted from such inquiries while in other cases they have had significant relations to judicial proceedings or to administrative policies. This economic activity is the continuation and enlargement of the Bureau of Corporations, the predecessor of the Federal Trade Commission, and was, indeed, the purpose of the original Federal Trade Commission bill.

As illustrations the following facts may be mentioned : The Webb-Pomerene Act regarding export associations was passed in consequence of Report on Cooperation in American Export Trade ; the packers and stockyards act was the result of Report on the Meat Packing Industry. The reports of the commission frequently make recommendations for legislative action. Trust suits against the packers' combination and the newsprint manufacturers , association resulted, respectively, from the meat packing industry and newsprint paper reports. The decree in the Harvester case was reopened in consequence of Report on the Causes of the High Prices of Farm Implements, and for the handling of the packer decree the Department of Justice was furnished with special data and recommendations. In the decisions on the packers and stockyards act and on the grain futures act the Supreme Court relied on and quoted the reports of the commission relating to the meat packing industry and to the grain trade. During the war the commission's cost-finding work was the basis for governmental price fixing, and even after the war similar service was given to administrative authorities in the of coal strikes, and for the purchase of certain



supplies under agreements with the manufacturers. In response to requests for reports regarding economic conditions from the President reports were made to President Wilson on the fall of wheat prices in 1920, to President Harding on the general price dislocations in 1921, and to President Coolidge regarding the charges of manipulation of gasoline prices in 1924. The collection, currently of information on prices, costs, and profits of basic industries in 1920 was an administrative action of great significance, which was interrupted by certain judicial proceedings challenging the legislative powers of Congress. A somewhat similar activity was developed in 1923, as a result of a recent inquiry by the President into the high prices charged by anthracite coal dealers.

This branch of the work is carried forward primarily under section 6 of the act, which grants the commission power to gather information concerning any corporation engaged in interstate and foreign commerce (except banks and common carriers) and also authorizes the commission, upon the direction of the President or either House of Congress, to investigate and report the facts relating to any alleged violation of the antitrust acts by any corporation. The power of the commission to require annual or special reports under this section is now before the Supreme Court of the United States Other duties of the commission in this field are to investigate and report to the Attorney General the manner in which final decrees of the United States courts to prevent violations of the antitrust acts are being carried out ; upon 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 ; to classify corporations ; and to investigate trade conditions in foreign countries. As has been true from the beginning most of the inquiries have been initiated at the request of Congress or of the President.

Section 6 of the act reads :

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, arid 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 the 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 investigations, 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 make recommendations for the readjustment of the business of any corporation alleged to be violating the antitrust acts in order that the corporation may thereafter maintain its organization, management, and conduct of business in accordance with law.

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

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

(h) To investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufactures, mer chants, 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.

Inquiries were conducted during the year by the economic division in response to eight congressional resolutions. These are listed below :

House Furnishings, Senate Resolution 127, Sixty-seventh Congress, second session, adopted January 4, 1922.

Cotton Industry, Senate Resolution 262, Sixty-seventh Congress, second session, adopted March 29; 1922.

Cotton Industry, Senate Resolution 429, Sixty-seventh Congress, fourth session, adopted January 31, 1923.

Cotton Industry--Cotton Marketing Practices, Senate Resolution No. 252, Sixty-eighth Congress, first session, adopted June 7, 1924.

Flour Milling, Senate Resolution 212, Sixty-seventh Congress, second session, adopted January 18, 1922.

National Wealth, Senate Resolution 451, Sixty-seventh Congress, fourth session, adopted February 28, 1923.

Export Grain, Senate Resolution 133, Sixty-seventh Congress, second session, adopted December 22, 1921.

Bread, Senate Resolution 163, Sixty-eighth Congress, first session, adopted February 16, 1924.

The above list includes two resolutions passed by Congress during the period July 1, 1923, to June 30, 1924. These relate, respectively, to cotton-making practices and the flour and bread industry. Copies of the resolutions follow.

Cotton-marketing practices, Senate Resolution 252, Sixty-eighth Congress, first session, adopted June 7, 1924:

*Resolved*, That for the purpose of providing the Congress with information to serve as a basis for such legislation as may in its opinion be found necessary for the regulation of the shipment or sale of cotton in interstate and foreign commerce, and to investigate and report the facts relating to any alleged violations of the antitrust acts by any corporation, the Federal Trade Commission is authorized and directed to investigate (in pursuance of the powers conferred upon it by subdivision (d), of section 6 of the act entitled "An act to create---a Federal Trade Commission, to define its powers and duties, and for other purposes, approved September 20, 1914, as amended, and in pursuance of any other power conferred upon it by such act), the facts relating to alleged shipments and sales in interstate or foreign commerce by cotton factors or shippers of cotton held by them as security for advances, or otherwise, and to report to the Senate, not later than December 1, 1924, its findings thereon, together with such recommendations as it may deem advisable.

Flour and bread industry, Senate Resolution 163, Sixty-eighth Congress, first session, adopted 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.

A memorandum covering all inquiries made by the Commission since its organization, at the direction of the President or in response to congressional resolutions and requests of the General, has been prepared and is found on page 92.

The principal subjects of inquiry for the economic division during the fiscal year ended June 30, 1924, including presidential and congressional, were with respect to the prices of gasoline, cotton trade practices, taxation and tax-exempt income, grain trade costs and profits, conditions in the house-furnishing industries, prices and profits of flour millers, and premium prices and speculation in the anthracite trade.

The inquiry with regard to gasoline prices, which included also the general conditions in the petroleum industry, was made pursuant to a request of the President as a result of a complaint from the Governor of South Dakota. A comprehensive report was prepared

by the commission on this subject, which was referred by the President to the Attorney General. The report was prepared jointly by the chief economist and chief examiner.

In connection with certain Senate resolutions calling for investigation into the methods of trading in cotton and in future contracts for the delivery of cotton, the Commission concluded an extensive inquiry into the subject in the course of which a hearing was held to obtain the opinions of all those directly interested in cotton prices. The commission made in compliance with the mandate of the Senate several important recommendations for the improvement of the present law regulating the cotton trade, which are specifically mentioned below.

As the first part of a broad inquiry into national wealth, income, and taxation called for by a Senate resolution, the commission issued a report on taxation and tax-exempt income which showed the amount of taxation and debt of the Federal, State, and local governments, and the great increases therein, the amount of tax-exempt securities, with an estimate of the amounts held by corporations or persons of large incomes, and briefly, the relative burdens of taxation.

A general inquiry into the flour-milling industry resulted in a report setting forth the recent developments with respect to prices, costs, and profits, and made certain constructive proposals regarding the elimination by legislation of various odd sizes of flour packages, which cause useless expense to the miller and are confusing and disadvantageous to the consumer.

The full report on costs and profits of grain middlemen was issued during the year, setting forth not only the profits of country and terminal grain elevators but also measuring by statistical methods, for the years investigated, the average spread or difference between the prices received by the farmer and those paid by the grain converter or exporter.

In the further study of the house-furnishing industry, the commission completed and issued a report on household stoves, in which the activity of trade associations were found to have had a considerable influence on the course of prices.

Following a request of the President to examine certain alleged unfair practices in the sale of anthracite at abnormally high prices during the panic-market conditions in the autumn of 1923, this commission continued a plan of calling for current reports from anthracite wholesale dealers regarding their selling prices, which had been initiated shortly before by the United States Coal Commission, just then about to go out of existence. The information, so obtained, was published fortnightly, and the work was continued until the market had practically returned to its usual condition.

As in previous years, all the more important economic inquiries conducted by the commission were initiated directly at the request of the President or of Congress. The economic division was also called upon during the year to render extensive assistance to the United States Coal Commission, through the loan of employees who were expert in the problems of the coal industry. It also loaned three accountants to the Senate Committee investigating the so-called Teapot Dome lease, for the purpose of examining the books of stock-brokers and ascertaining whether there had been any speculation in oil stocks in that connection by persons in public office.

### GASOLINE

In compliance with a communication from the President of February 7, 1924, directing an immediate inquiry by the commission into conditions in the petroleum industry, concerning which complaints had been lodged by Gov. W. H. McMaster, of South Dakota, the commission submitted to the President on June 4, 1924, a report on the "Increase in Gasoline Prices in 1924." Governor McMaster's charges, which were embodied in a published telegram to the President under date of February 6, 1924, were (1) an accumulation of large stocks of crude petroleum at very low prices by the Standard Oil interests during the last half of 1923; (2) a "corner" of the crude-petroleum market by these interests in January, 1924; (3) a large increase in refinery prices of gasoline in the period from January 15 to February 6, 1924, brought about as a result of this "corner" and without regard to conditions of supply and demand; and (4) excessive profit-taking in the sale of gasoline.

A proper sifting of these charges involved an examination of the production, stocks, investment, and profits of producers, refiners, and marketers, and a study of competitive conditions in the industry as a whole, with particular reference to the position and activities of the so-called Standard group. The data contained in the report were secured by means of schedules, interviews, and direct examination of the books of the more important companies. Examination of correspondence files of a number of companies, with a view to securing evidence of any price-fixing activities, was made by the legal division.

Upon receipt of the report, on June 4, 1924, the President referred it to the Department of Justice for consideration in connection with an inquiry into related phases of the petroleum industry which was under conduct by that department. Pending action or suggestion by the President or the Attorney General, the commission's report has not been made public.

## COTTON TRADE

Under Senate Resolution No. 262, of March, 1922, and again under Senate Resolution No. 429, of January, 1923, the commission was directed to make inquiry into the causes of the depressed prices of cotton, the operations of the cotton exchanges and the trading thereon, and alleged corporate violations of the antitrust laws. In the event that the commission found remedial legislation necessary, it was directed to inform the Senate thereof and to submit such recommendations as it deemed appropriate.

In February, 1923, a preliminary report under Senate Resolution No. 262 was made to the Senate dealing chiefly with the causes of the decline in cotton prices. Following this report the inquiry under the two resolutions was combined.

During the fiscal year closing June 30, 1924, field work at the cotton exchanges was continued for a time, and the marketing of cotton by the grower was also investigated. In view of the wide differences of opinion expressed by various members of the cotton trade and by other persons interested therein, particularly in regard to proposed changes in the system of future trading in cotton, the commission called a conference in November, 1923, at which the exchanges, cotton growers cooperative associations, merchants, spinners, and others were invited to state their opinions. In April, 1924, the Report On the Cotton Trade was submitted to the Senate.

This report shows that, on the whole, competition for the growers cotton has been greater in recent years than formerly, two important contributing factors being the increase in the number of southern cotton mills and the increase in cotton growers' cooperative associations. Of the latter, there are over a dozen, nine of which, in 1923, handled in the aggregate about 700,000 bales. In selling cotton competition was also found generally active, but certain letters are presented in the report which strongly indicate that an attempt was made by at least two leading merchants to bring about an agreement or understanding with regard to "selling basis" (the number of points "on" or "off" futures) in quoting prices of cotton to southern mills. One trade criticism of the three largest merchants was to the effect that, by virtue of their large volume of future trading, they could individually manipulate or affect future prices to the disadvantage of the other traders.

A comparison of the operating margins of three nonstaple cooperative associations with those of the merchants reporting for the year 1922-23 is favorable in several respects to the former. This result is not conclusive, however, except for 1922-23, since the comparison is for one year only.

The report discusses in detail the various proposals which have been made for the revision of the grades deliverable on contract. The commission considered that the only one which promised desirable results was the three contiguous grades contract, providing that the delivery on each contract be composed of not more than three adjacent or contiguous grades, which may be any of those now deliverable. The commission did not, however, recommend that this form of contract should be employed unless southern warehouse delivery was also adopted. The commission was of the opinion that the contiguous grade contract would prove to be a valuable adjunct of southern deliveries (1) by offsetting in part the decreased value of the contract arising from the additional option given to the seller of contracts as to place of delivery ; (2) by counteracting in part the depressing effect on future prices of deliveries of varying grades on each contract, which tends to be emphasized by the number of delivery points; (3) by making it more practicable for the smaller merchant to take delivery of cotton on future contracts, thus reducing the tendency to run from delivery notices; and (4) by improving, through the increased merchantability of the delivery, the relationship of spots and futures and licence the serviceability of the future market for hedging.

To establish more accurate spot quotations and differences, therefore, the commission recommended (1) that there be substantial uniformity of procedure in determining quotations and differences; (2) that all pertinent price information, such as quantity, price, grade, and staple, be reported for every spot sale and be made the basis of spot quotations and differences by mathematical computations ; (3) that this information be verified by a committee of competent classers, preferably not engaged in the trade; and (4) that, in view of the disparity in volume of sales among the several markets, the feasibility of taking a “weighted” average of their differences, instead of a “ simple “average, for use in the settlement of the future contract should be considered.

The commission thought that some form of southern delivery on New York contracts should be adopted and recommended, therefore, that Congress enact legislation to that end. The strongest argument for a futures market is that it furnishes a safe hedge for cotton merchants but the New York futures market does not always do this ; in fact, it is frequently manipulated, its prices being forced out of line, so that in recent years the New York futures market has failed to perform satisfactorily its chief function.

The commission expressed the opinion that the better features of the New York futures market could be maintained, and much of the ground for criticism eliminated, by the adoption of some system of southern warehouse deliveries on New York contracts. It was

recommended (1) that the number of southern delivery points selected for New York deliveries be few and that, at least for the present, they be only Atlantic and Gulf ports ; (2) that the delivery, inspection, and certification of cotton at southern ports be under rigid Government supervision and that deliveries be only from warehouses licensed under the Federal warehouse act ; (3) that the tender of cotton on futures at New York be no longer permitted.

The public, the commission believes, is entitled to prompt information regarding the volume of trading in cotton futures and the total open interests, by options, namely, the open trades on the books of members. Such figures should be published currently.

The commission also recommended that consideration be given to a reduction in the size of the contract delivery (100 bales) , because a reduction in the size of the delivery would render the contract more merchantable and at the same the would permit closer hedging.

Subsequent to the submittal of this report, namely, on June 6, 1924, another resolution was passed by the Senate calling for a further inquiry into certain alleged practices in the merchandising of cotton, but active work on this inquiry was not initiated during the fiscal year here under report.

#### TAXATION AND TAX-EXEMPT INCOME

Senate Resolution No.451, adopted February 28, 1923, directed the commission to make an inquiry into and to compile data concerning the total amount of the chief kinds of wealth in the United States, to ascertain the ownership thereof and the encumbrances thereon, including both public and private indebtedness, to determine for recent years the amount of the annual increase in the wealth of this country in the various lines of economic activity and by different classes of the population ; and also to obtain information respecting the amount and ownership of income exempt from Federal taxation and to report upon the various phases of the inquiry as soon as practicable. An amendment to the resolution instructed the commission to ascertain the aggregate taxes levied by States , counties, municipalities, and other taxing bodies for the last fiscal year and for the corresponding period of five years previous.

On account of the comprehensiveness of the subject matter, and in order to expedite the inquiry and to enable the commission to report on certain phases of immediate public interest at an early date, the work was confined at first to the preparation of a report on Taxation and Tax-Exempt Income, which was submitted to Congress on June 6, 1924.



This report shows the amount of tax-exempt securities outstanding in 1922, presents estimates of the amounts of such securities held by corporations, by wealthy individuals, and by all others; gives estimates of the amount of Federal taxes which might be collected, if these securities were taxable shows the amount of the National, State, and local public debt in 1917 and 1922, together with the purposes for which incurred; gives the aggregate tax burden for Federal, State, and local purposes, and points out where the heaviest tax burdens lie. The salient facts set forth in this report are as follows:

The total amount of tax-free securities outstanding on December 31, 1922, amounted to 32 billion dollars, of which 12 billions were wholly tax free and over 20 billions subject only to surtaxes. Of the 12 billions wholly tax free, about \$2,294,000,000 were Federal bonds and \$8,797,000,000 were State and local securities. It is estimated that business corporations owned \$10,700,000,000 of tax-exempt securities, a small group of wealthy individuals \$4,450,000,000, and all other owners \$16,770,000,000. It is estimated that the tax-exempt interest received during 1922 by individuals whose taxable incomes exceeded \$10,000 amounted to \$176,000,000, of which \$97,000,000 was wholly tax free and over \$78,000,000 conditionally subject to surtax. The maximum possible addition to the Federal income under the 1922 tax rates through the taxation of securities now exempt by law would have been about \$100,000,000.

Between 1912 and 1922 the aggregate debt of the National, State, and local governments increased more than sixfold, and was about 32 billion dollars in 1922. The enormous increase in the national debt was due, almost wholly, to the World War and its immediate consequences. The major portion of the increase in the debts of the State governments was due to highway construction and soldiers' bonus bonds; two-fifths of the total in 1922 being for highways and more than one-eighth for soldiers' bonus bonds. The bonded debt of the cities increased 32 per cent between 1917 and 1922, the chief purposes being to provide facilities for public health, transportation and education.

The aggregate tax burden for National, State, and local purposes was over seven and three-fourths billion dollars in 1922, which was an increase of 127 per cent over 1917. Federal taxes were over \$3,600,000,000 in 1922, and constituted over one-half of the total tax burden, while State taxes were one-ninth of the total.

The aggregate of National, State, and local taxes was heaviest per capita of population among the North Atlantic, Rocky Mountain, and Pacific States, but was most burdensome to agricultural communities, particularly in the large wheat-raising States, which suffered from an unprecedented price decline for their products.

while the general price level remained high. Reflecting the economic distress of the agricultural population, the mercantile and bank failures in Idaho, Montana, the Dakotas, Nebraska, Iowa, and Kansas increased from 1919 to 1924 in much greater proportion than in the country as a whole. Nearly one-fourth of all farmers in Kansas and Iowa, nearly 3 out of every 10 farmers in Nebraska, nearly 4 out of every 10 in South Dakota, over half those in North Dakota, and 5 farmers out of every 8 in Montana have either lost their farms in bankruptcy or' foreclosure proceedings, or otherwise, or retained them only through the leniency of their creditors. Plans for a reduction of the present great burdens of taxation should be adjusted especially with a view to this depressed condition of agriculture

The work on the remaining phases of the inquiry, relating to' the total amount of the chief kinds of wealth in the United States, the ownership thereof and the encumbrances thereon, and the amount and distribution of the annual income of the people, is being carried on as rapidly as the limited funds and personnel available will permit.

#### FLOUR MILLING

Senate Resolution No . 212, adopted January 18, 1922, directed the commission to extend a report on commercial wheat-flour milling. This was submitted to the Senate on May 16, 1924.

Although an effort was made to hamper the inquiry by the Millers' National Federation, the leading association of the flour industry, through the publication of an opinion of its attorneys advising the millers regarding their alleged rights to refuse information and by the recommendation that under no circumstances should representatives of the commission be given access to their books, papers or documents, or be permitted to take any information or copies, this advice was generally disregarded and practically every company requested, including members of the federation, cooperated heartily in sending in the necessary data, or in granting access to their books and in assisting the commission's accountants in the preparation of reports.

This report shows a marked decline in flour costs, resulting from the unprecedented decline in wheat prices since 1920. From January, 1919, to September 1922, the monthly average quoted prices of flour declined 33 per cent in the Minneapolis market and 43 per cent in the Kansas City market ; wheat prices declined 50 per cent in Minneapolis and 55 per cent in Kansas City, while bread prices declined about 2 per cent in Minneapolis, about 15 per cent in Kansas City (due to a price war) , 6.6 per cent in Boston, and 2 per cent in New York City. This comparison indicated that the decline

in wheat prices, so disastrous to the farmer, benefited the purchaser of bread very little.

Concentration in the industry is shown by a decrease in the number of merchant wheat-flour mills from 6,900 in 1914 to 4,800 mills in 1921, while the average mill production increased from about 16,900 barrels to 23,000 barrels per annum. In 1921 five large flour-milling companies, operating 49 mills and each producing in excess of 2,000,000 barrels, had an aggregate production of over 25,000,000 barrels, or nearly 23 per cent of the country's total. This concentration was largely the result of the expansion of business on the part of some of the largest flour-milling concerns, although it was partly the result of the merging of different interests.

Extensive data on flour-milling investment and income for the four-year period 1919-1922, were secured from 108 companies, which produced over 40 per cent of the total wheat-flour output of the country, and also for the 10-year period 1913-1922 from 28 identical companies, producing about 29 per cent of the production.

The average rate of net profit on the milling investment for all companies combined for the four-year period 1919-1922 was 10.6 per cent. The annual average rates were as follows : 1919, 13.9 per cent; 1920, 14.9 per cent; 1921, 1.6 per cent, and 1922, 10.9 per cent. The average rate of profit of these companies varied considerably according to the sections of the country in which they were located. The average rate of milling profit for individual companies showed a wide range. Thus in 1920, when the average for all companies was 14.9 per cent, the rate for individual companies ranged from a loss of 51.4 per cent to a profit of 49.2 per cent. On the other hand, in 1921, when the average rate of profit for all companies was only 1.6 per cent, the range was from a loss of 72.6 per cent to a profit of 44.1 per cent.

The milling profit per barrel in the four-year period 1919-1922 showed a wide range for different years and for different milling districts. The average annual milling profit per barrel, on all flour sold for all companies covered, ranged from 6 cents in 1921 to 58 cents in 1920, with an average for the period 1919-1922 of 36 cents per barrel.

The average cost of wheat flour for the 108 companies was \$8.85 per barrel for the four years 1919-1922, the annual average cost ranging from \$10.98 per barrel in 1920 to \$5.97 per barrel in 1922. For the 10-year period the annual average cost of producing a barrel of wheat flour increased rapidly from 1913 to 1920, after which there was a sharp decline. Thus the annual average cost for the 28 identical companies increased from \$3.84 per barrel in 1913 to \$11.09 per barrel in 1920, and then decreased to \$6.03 per barrel in 1922. There was a wide range in the total cost per barrel for mid-

vidual companies. This was largely due to the wide differences in the price of: the wheat ground in different sections of the country, depending upon the kind and quality of wheat as well as the locality of growth.

The average cost of the wheat ground in the four-year period was \$9.01 per barrel of flour produced, or 89.1 per cent of the total cost, while in the 10-year period the average for the 28 companies was \$7.25 per barrel, or about 90 per cent. Labor and also general expenses, including depreciation, were each \$0.25 per barrel, or 2.5 per cent of the total cost in the four-year period. Packages constituted the second largest item of cost, being \$0.40 per barrel, or 4 per cent, in 1919-1922.

The absence of Federal laws regulating the sizes of flour and feed packages and the widely varying State laws and customs have resulted in an unnecessary diversity and multiplicity of packages, thus increasing cost of production and distribution. The need of standardizing the sizes of packages by law has long been recognized. The laws of various States requiring that the weight contents shall be marked on each package do not satisfy this need. Forty-one States have such laws for flour packages, and 46 States for commercial feeding stuffs. Weight marking laws afford no relief from the waste involved in a multiplicity of packages, nor do they give full protection against deception of the consumer.

Not less than 34 different sizes of flour packages are now in use in the domestic trade. Reports from 80 representative milling companies show that more than 97 per cent of their combined sales in 1922 were in 12 different sizes of packages, which, in fact, really represented only 6 substantially different sizes of packages, namely, the barrel, half barrel, quarter barrel, eighth barrel, and sixteenth barrel, and the special 140-pound export sack. The close resemblance between 48 and 49 pound sacks, 24 and 24 ½ pound sacks, and 12 and 12 ¼ pound sacks, respectively, affords an easy opportunity for deceiving the uninformed or unobservant purchaser.

Aside from the 140-pound sack, which is the customary size for bulk sales and export business, the entire list of flour packages might well be limited to a few standard sizes, each one of which would be so distinctly different in weight as to leave no room for mistake by the purchaser. The proposed "decimal weight law" would accomplish this purpose. It aims at a simplicity and economy, and its adoption would remove the unsatisfactory conditions arising from the present multiplicity of packages. This proposed law appears to have practically the unanimous and unqualified approval of all the factors engaged in the different branches of business which have to do with the production and distribution of flour and feed.

## GRAIN TRADE

During the fiscal year there was completed and sent to the printer Volume IV of the commission's report on the grain trade, dealing with the costs, profits, and margins involved in the handling of grain.

Comparisons of the results of the cooperative, independent, and line elevators were found to be favorable to the cooperative type in a number of particulars. The cooperative obtained on the average the largest gross revenue from the sale of grain, while the independent secured the next largest and the line the smallest. The cooperative, in five out of six years compared, handled grain on a narrower margin of gross profit than did the independent, while both the cooperative and independent types averaged lower gross profits per bushel than the line elevators in every one of the five years for which comparisons could be made. Before deducting any patronage dividends paid, and disregarding hedging results, the cooperative gross profit per bushel ranged from about 2 to 7 cents per bushel, whereas that of the line elevators ranged from about 4 1/4 to 13 3/4 cents per bushel. The explanation of the narrower gross profit of the cooperatives, as compared with the other types of elevators, lies apparently in the very much larger volume of grain sold per elevator.

Of the gross spread per bushel between the producer, on the one hand, and the converter, exporter, and feed dealer, on the other hand, transportation cost frequently exceeded the amount received by grain middlemen in the years compared. For the period 1912-13 to 1916-17 the spread between the producer and the converter averaged about 24.71 cents on wheat, 17.22 cents on corn, and 14.38 cents on oats. In 1919-20 the wheat spread averaged 33.20 cents, the oats spread 17.14, and the corn spread 17.80 cents. During the period 1912-13 to 1916-17 the average transportation cost of wheat was 11.08 cents, as compared with 13.63 cents obtained by country and terminal grain middlemen. In 1919-20 the transportation of a bushel of wheat cost, on an average, 14.31 cents, as compared with the middlemen's spread of 18.89 cents.

For the period 1912-13 to 1916-17 average spreads of country elevators were lower than terminal middlemen spreads on wheat, corn, and oats, but in 1919-20 the reverse obtained. The spread for terminal middlemen practically always involves more than one handling of the grain, and for certain small portions may involve as high as five or six. On the average a bushel of grain is handled more than one and one-half times by terminal middlemen.

The commission recommended a wider and more general development of the patronage dividend or truly cooperative principle, by

country elevators, as a means of narrowing the country elevator spread. It was also pointed out in the report that some direct saving to the producer in the spread of terminal middlemen might be obtained through the development of cooperative commission houses and terminal elevators, provided that a sufficient volume of business could be assured them. It suggested, further, that cooperation in the terminal market branches of the grain trade should make it possible to effect savings in the number of middlemen handlings, and also in the transportation cost, by shipping grain to its ultimate destination by the shortest routes and the most direct channels.

### HOUSE FURNISHINGS

During the fiscal year the commission continued its inquiry into the house-furnishings industries, which was undertaken pursuant to Senate Resolution No. 127, adopted January 4, 1922, directing the commission to inquire into factory, wholesale, and retail price conditions in the principal branches of the house-furnishings goods industries, and particularly to ascertain the organization and inter relation of corporations and firms engaged therein and whether there were unfair practices or methods of competition or restraints of trade, and to report as the various phases of the inquiry should be completed.

The first report, which was published January 17, 1923, and covered ordinary wooden household furniture, was referred to in the last annual report.

The second report, on household stoves, was published October 1, 1923, as Volume 11 of the report on House Furnishings Industries. It deals with investment, costs, prices and profits of the stove industry, competitive conditions, and trade association activities.

Financial reports for 1920 and 1921 were secured from 78 stove-manufacturers and price data for 1920, 1921, and 1922 were obtained from 75 manufacturers. Selling price and purchase cost quotations from 15 wholesalers and 260 retailers were dealt with in the report. The report shows that manufacturers' prices of stoves increased about 176 per cent above pre-war level, declined in 1921 and the first half of 1922, but after a slight recovery in the latter part of 1922 were, in December of that year, still 120 per cent above pre-war level. The report further states that--

Retailers' selling prices of stoves during 1920 to 1922 generally followed their reported purchase prices, but did not rise in as great proportion as manufacturers' prices in 1920 nor fall so much subsequently. In October, 1922, they were about 11 per cent below the peak price of 1920.

The profits of the 78 stove manufacturers covered by this inquiry averaged 16.9 per cent of the investment, including borrowed funds, in 1920, but only 1.1 per cent in 1921 their sales having been reduced two-fifths in volume without a

corresponding decline in costs. There was, however, a very wide variation in the profits of individual companies, which during 1920 ranged from a loss of 14.7 per cent to a profit of 67 per cent, and in 1921 from a loss of 32.4 per cent to a profit of 45.8 per cent. Within these extremes the Individual rates of profit were rather evenly scattered.

The mark-up in the cash selling prices of stoves for 260 retail dealers from whom information was received ranged from 30 to 54 per cent, based on cost, and averaged 42.8 per cent and 39.6 per cent in 1920 and 1921, respectively.

For the study of competitive conditions, schedule returns were obtained showing the organization and ownership of 183 manufacturers and a considerable mass of letters, minutes of meetings, bulletins, and other documents were secured by agents of the commission through interviews and examination of the records and files of trade associations. The industry is organized into various local associations which coordinate their activities through a national association. These associations perform various useful and lawful services, but some of their activities are evidently in restraint of trade. The report points out that--

Prices are frequently discussed at association meetings, and thereby informal understandings appear to be arrived at among competitor's regarding a common price policy. Such price discussions are made apparent by the correspondence among the officers and members ; but references thereto were either omitted from the minutes of proceedings or camouflaged by the use of such substitute terms as "cost comparison," "conditions in the industry," and the like.

Uniformity of price policy is sought also by exchanging price lists and by notification of price changes, sometimes directly, but often through the agency of association secretaries. Stove manufacturers who make prices lower than those regarded as acceptable by the associations are criticized therefor and often urged to increase their prices.

The price advances during 1920 came in distinct general movements that immediately followed association meetings. Although price reductions during 1921 and 1922 could not be entirely prevented, that they were delayed and minimized by association activities is evidenced by the fact that these reductions also came in distinct general movements that followed immediately after association meetings and closely agreed in amount with the consensus of opinion there expressed. Notwithstanding these activities, the depressed conditions of business in 1921 prevented many manufacturers from making any profit in that year.

Of the consumer's dollar spent for stoves in 1920, 23.8 cents went for raw materials, 35.8 cents for other manufacturing costs, 7.5 cents for manufacturers' profit, 2.9 cents for freight , and 30 cents for retailers' expenses and profit; in 1921, 23.4 cents went for raw materials, 43.8 cents, for other manufacturing costs, 1 cent for manufacturers' profit, 3.4 cents for freight, and 28.4 cents for retailers' expenses and profit.

The third volume under the resolution covering conditions in a number of industries making household labor-saving devices and kitchen equipment was nearly completed during the fiscal year.

This volume will include data on vacuum cleaners, washing machines, sewing machines, refrigerators, cooking utensils, and various other articles, and consideration will also be given to the problems of wholesale and retail distribution .

### ANTHRACITE

Early in August, 1923, it was apparent that the threat of a strike of the anthracite miners, at the expiration of their contract on August 31, was creating a buyers' panic throughout the country, and it was also apparent that some operators and wholesalers were taking advantage of this panic to increase their prices unduly. In view of this condition the United States Coal Commission adopted a plan of requiring wholesalers to report, weekly, their purchases and sales of anthracite similar to the plan used by the Federal Trade Commission in the spring of 1917. Shortly before the Coal Commission ceased to function, on September 22, 1923, the President requested the Federal Trade Commission to examine the findings of fact of the Coal Commission, in order to ascertain whether the passing of anthracite through numerous hands before it reaches the consumer was really a device by which the price was unduly raised, and, perhaps, constituted an unfair trade practice.

In complying with this request the Federal Trade Commission decided also to continue the collection of the price data begun by the Coal Commission and to issue bulletins thereon, believing that publicity would tend to counteract the consumers' panic caused by dread of a shortage in production which did not in fact exist. These data were promptly compiled and published every fortnight , and the reports were continued until the market situation settled down in the latter part of January, when "premium anthracite" became a comparatively unimportant factor in the wholesale markets. The commission also requested the anthracite operators to report monthly, for the months of October, November, and December, 1923, the mine prices at which sales in interstate commerce were made, and the quantity sold at each price. A report summarizing the results of this work was prepared, but it was not issued until after the close of the fiscal year.

### BREAD

By Senate Resolution No.163 the commission was directed to investigate the production, distribution, transportation, and sale of flour and bread ; to ascertain costs, prices, and profits at each stage of the process of production and distribution from time to time the wheat leaves the farm until the bread is delivered to the consumer; and to inquire into developments in the direction of monopoly and



concentration of control in the milling and baking industries, together with evidences indicating violation of antitrust laws. On March 7, 1924, the commission advised the Senate that it was then without the funds necessary to comply with the resolution and could not do so without incurring a deficiency. For this reason but little was done on the inquiry until the funds of the new fiscal year were available.

#### COOPERATION WITH THE LEGAL DIVISION

As in previous years, the services of the specially trained personnel of the economic division was frequently in request from the legal division. Among the cases in which important assistance of a professional economic or accounting character was called for were those relating to the Pittsburgh basing point for steel prices, the Bethlehem-Midvale-Lackawanna steel merger, the "premium prices" for anthracite, and the costs of corn products. In certain other cases considerable amounts of clerical service were rendered.

#### AID TO OTHER BRANCHES OF THE GOVERNMENT

The most important instances of formal aid rendered to other branches of the Government were as follows :

*Senate Committee on Public Lands.*--In connection with an inquiry into the leasing of certain petroleum reserves, especially the so-called Teapot Dome, the Senate Committee on Public Lands called upon the commission for accounting assistance in order to discover whether there had been any speculation in the shares of certain petroleum companies by officials of the United States Government. For this purpose the Commission detailed three accountants for a period of several weeks, who examined the books of a large number of stock brokers, and reported their findings directly to the Senate Committee.

*United States Coal Commission.*--As mentioned in the last annual report, a large number of experts and clerks, familiar with the problems of the coal industry, were loaned to the United States Coal Commission to assist in its investigations. The Coal Commission utilized their experience to conduct an inquiry into costs, prices, and profits of coal mine operators in which the information called for was substantially the same as that called for by the inquiry of the Federal Trade Commission in 1920, but which was opposed by the National Coal Association as beyond the power of Congress to authorize. Further experience and consideration, however, led the National Coal Association to change its attitude, and it not only freely responded to the inquiry of the Coal Commission, but also recommended what the Federal Trade Commission has consistently advocated and attempted to put into practice, namely, current re-

ports to a governmental agency, for prompt publication, of basic data regarding prices, costs, and profits in the coal industry. The Coal Commission also made this proposition the basic feature of its recommendations.

INQUIRIES MADE BY THE FEDERAL TRADE COMMISSION AT THE REQUEST OF  
THE CONGRESS, THE PRESIDENT, OR THE ATTORNEY GENERAL, 1915-  
1924, INCLUSIVE

*Fertilizer--S. Res. 487, 62d Cong., 3d sess.*--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.

*Pipe lines--S. Res. 109, 63d Cong., 1st sess.*--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.

*Gasoline--S. Res. 457, 63d Cong., 2d sess.*--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.

*Sisal hemp--S. Res. 170, 64th Cong., 1st sess.*--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.

*Anthracite--S. Res. 217, 64th Cong., 1st sess.*--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 this inquiry and a system of current reports called for regarding selling prices which substantially checked further exploitation of the consumer.

*Bituminous coal--H. Res. 352, 64th Cong., 1st sess.*--While this resolution aimed originally at the investigation of the alleged depressed condition of the bituminous coal industry, the inquiry had not been long under way before there was a great advance in prices;

and the commission in its report made in June, 1917, suggested various measures for insuring a more adequate supply at reasonable prices. War-time price control was soon after established.

*Newsprint paper--S. Res. 177, 64th Cong., 1st sess.--*The newsprint-paper inquiry resulted from an unexpected advance in prices. The report of the commission showed that these prices were very profitable, and that they had been partly the result of certain newsprint 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.

*Book paper--S. Res. 269, 64th Cong., 1st sess.--*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.

*Flags--S. Res. 35, 65th Cong., 1st sess.--*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.

*Meat-packing profit limitations--S. Res. 177, 66th Cong., 1st sess.--*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.

*Farm implements--S. Res. 223, 65th Cong., 2d sess.--*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 is now proceeding against the company to that end.

*Milk--S. Res. 431, 65th Cong., 3d sess.--*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.

*Cotton yarn--H. Res. 451, 66th Cong., 2d sess.*--The House called on the commission in 1920 to investigate the very high prices of combed cotton yarn, and the inquiry disclosed that there had been an extraordinary advance in prices and that the profits in the industry had been extraordinarily large for several years.

*Pacific coast petroleum--S. Res. 138, 66th Cong., 1st sess.*--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.

*Petroleum prices--H. Res. 501, 66th Cong., 2d sess.*--This was 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.

*Commercial feeds--S. Res. 140, 66th Cong., 1st sess.*--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.

*Sugar supply--H. Res. 150, 66th Cong., 1st sess.*--The extraordinary advance in the price of sugar in 1919 led to this inquiry, and the price advance found to be due chiefly to speculation and hoarding in sugar. Certain recommendations were made for legislative action to cure these abuses.

*Southern livestock prices--S. Res. 133, 66th Cong., 1st sess.*--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.

*Shoe costs and prices--H. Res. 217, 66th Cong., 1st sess.*--The high prices 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.

*Tobacco prices--H. Res. 533, 66th Cong., 2d sess.*--The House called upon the commission to make 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.

*Tobacco prices--S. Res. 129, 67th Cong., 1st sess.--*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.

*Export grain--S. Res. 133, 67th Cong., 2d sess.--*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.

*House furnishings--S. Res. 127, 67th Cong., 2d sess.--*The alleged failure of house furnishings 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, and two reports were issued up to June 30, 1924. The first report dealt with wooden household furniture and the second with household stoves. These reports showed that extensive conspiracies existed, under the form of cost accounting devices and meetings, to inflate the prices of such goods. The commission announced at the close of the fiscal year that a report on Kitchen Utensils and Household Appliances was approaching completion, and this report has since then been sent to the Senate.

*Flour milling--S. Res. 212, 67th Cong., 2d sess.--*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.

*Cotton trade--S. Res. 262, 67th Cong., 2d sess.--*The inquiry into the cotton trade originated by this resolution was covered in part by a preliminary 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.

*Fertilizer--S. Res. 307, 67th Cong., 2d Sess.--*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.

*Foreign ownership in petroleum industry--S. Res. 311, 67th Cong., 2d sess.--*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.

*Cotton trade--S. Res. 429, 67th Cong., 4th sess.--*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 on 28, adopted the recommendations of the Exchange June 1924 commission with reference to the southern delivery on New York contracts, including the contiguous grade contract.

*National wealth--S. Res. 451, 67th Cong., 4th sess.--*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. As a first report on this general subject the commission in June, 1924, sent to the Senate 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.

*Calcium arsenate--S. Res. 417, 67th Cong., 4th sess.--*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.

*Radio--H. Res. 548, 67th Cong., 4th sess.--*The patents in the radio industry, which the commission was called upon to investigate by this resolution, were found to be controlled by a combination of a few great companies, as also commercial communications

by radio. The commission since issuing the report has instituted proceedings against these companies. These facts are of vital importance in considering what legislation shall be now provided for the regulation of the radio industry.

*Bread--S. Res. 163, 68th Cong., 1st sess.--*The bread inquiry was begun just at the close of the fiscal year, insufficient funds delaying its initiation for several months.

*Cotton merchandising practices--S. Res. 252, 68th Cong., 1st sess.--*Certain objectionable practices prevailed among cotton factors or shippers, a concrete illustration of which would be the delivery of consigned cotton by a factor or owner on his future contract where the consignees had not given permission to use it in that manner. This inquiry was initiated just before the close of the fiscal year 1923-24.

*Food inquiry--Direction of the President, February 7, 1917.--*The President's food inquiry, 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--Direction of the President, 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 coal, copper, lumber, and canned foods.

*Wheat prices--Direction of the President, 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.

*Gasoline--Direction of the President, 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.

*Raisin combination--September 30, 1919--Request of the Attorney General.--*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.

*Lumber industry--Request of the Attorney General, September 4, 1919.--*At the request of the Attorney General the commission examined certain alleged trade combinations in the lumber industry. Violations of the antitrust acts were disclosed with respect to the Southern Pine Association, West Coast Lumbermen's Association, Western Pine Manufacturers' Association, Northern Hemlock & Hardwood Manufacturers' Association, Western Red Cedar Association, Lifetime Post Association, and Western Red Cedarmen's Information Bureau. The Department of Justice has already initiated proceedings, in consequence of the commission's recommendations, with respect to the Southern Pine Association and the Western Pine Manufacturers' Association.

*Other inquiries by the commission.--*Under its organic act the commission is also authorized to initiate inquiries, but these are not listed herein. Because of its special importance as leading to legislation by Congress, mention may be made of the inquiry into Cooperation in American Export Trade, on which a report was made in 1916. The Webb-Pomerene Act regarding export associations was a direct result of this inquiry.



## EXPORT TRADE DIVISION

The export trade division handles work of the commission along the lines of foreign trade, under the export trade act (Webb-Pomerene law) and under section 6 (h) of the Federal Trade Commission act. These acts are reproduced herein as exhibits.

### ASSOCIATIONS UNDER THE EXPORT TRADE ACT

During the past year 50 associations have filed documents and reports with the Federal Trade Commission in connection with the export trade act. Among these were two newly organized associations, the American Spring Manufacturers Export Association, of Pittsburgh, Pa., and the Producers Linter Export Co., of New Orleans, La. The complete list follows :

American Corn Products Export Association, 17 Battery Place, New York City.  
American Locomotive Sales Corporation, 30 Church Street, New York City.  
American Milk Products Corporation, 71 Hudson Street, New York City.  
American Paper Exports (Inc.), 136 Liberty Street, New York City.  
American Pitch Pine Export Co., 522 Audubon Building, New Orleans, La.  
American Provisions Export Co., 112 West Adams Street, Chicago, Ill.  
American Soda Pulp Export Association, 200 Fifth Avenue, New York City.  
American Spring Manufacturers' Export Association, 921 Farmers Bank Building, Pittsburgh, Pa.  
American Surface Abrasives Export Corporation, 82 Beaver Street, New York City.  
American Textile Machinery Corporation, 24 Federal Street, Boston, Mass.  
American Tire Manufacturers' Export Association, 7 Dey Street, New York City.  
American Webbing Manufacturers' Export Corporation, 395 Broadway, New York City.  
Associated Button Exporters of America (Inc.), 1182 Broadway, New York City.  
Automatic Pearl Button Export Co. (Inc.) 301 Mulberry Avenue, Muscatine, Iowa.  
Cement Export Co. (Inc.), c/o Charles F. Conn, president, 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.  
Davenport Pearl Button Export Co., 1231 West Fifth Street, Davenport, Iowa.

Delta Export Lumber Corporation, 1339 Bank of Commerce Building, Memphis, Tenn.  
Douglas Fir Exploitation & Export Co., 244 California Street, San Francisco, Calif.  
Export Clothes Pin Association of America (Inc.), 280 Madison Avenue, New York City.  
Export Trade Association (Inc.), 99 John Street, New York City.  
Florida Hard Rock Phosphate Export Association, Savannah Bank & Trust Building, Savannah, Ga.  
Florida Pebble Phosphate Export Association, Produce Exchange Building, New York City.  
General Alcohol Export Corporation, 60 Wall Street, New York City.  
Goodyear Tire & Rubber Export Co., The, 1144 East Market Street, Akron, Ohio.  
Grain Products Export Association, The, 17 Battery Place, New York City.  
Grand Rapids Furniture Export Association, 213 Lyon Street, NW., Grand Rapids, Mich.  
Gulf Pitch Pine Export Association, 1212 Whitney Central Building, New Orleans, La.  
Hawkeye Pearl Button Export Co., 601 East Second Street, Muscatine, Iowa.  
Locomotive Export Association, 30 Church Street, New York City.  
McKee Button Export Co., 1000 Hershey Avenue, Muscatine, Iowa.  
Naval Stores Export Corporation, The, 1425 Whitney Central Annex Building, New Orleans, La.  
Pan American Trading Co., 89 Broad Street, New York City.  
Phosphate Export Association, Produce Exchange Building, New York City.  
Pioneer Pearl Button Export Corporation, 257 Mansion Street, Poughkeepsie, N. Y.  
Pipe Fittings & Valve Export Association, Branford, Conn.  
Producers Linter Export Co., The, 316 Baronne Street, New Orleans, La.  
Redwood Export Co., 260 California Street, San Francisco, Calif.  
Rubber Export Association, The, 1790 Broadway, New York City.  
Sugar Export Corporation, 113 Wall Street, New York City.  
Sulphur Export Corporation, 33 Rector Street, New York City.  
United Paint & Varnish Export Co., 601 Canal Road, Cleveland, Ohio.  
United States Alkali Export Association (Inc.), 25 Pine Street, New York City.  
United States Button Export Co., 701 East Third Street, Muscatine, Iowa.  
United States Handle Export Co., The, Piqua, Ohio.  
United States Maize Products Export Association, 332 South La Salle, Street, Chicago, Ill.  
Walnut Export Sales Co. (Inc.), 616 South Michigan Avenue, Chicago, Ill.  
Walworth International Co., 88 Pearl Street, Boston, Mass.  
Wisconsin Cannery Export Association, Manitowoc, Wis.

These organizations represent more than 500 producers, scattered throughout the United States, exporting both raw materials and manufactured goods to all parts of the world.

Sales for 1923 showed an appreciable increase over the previous year, especially in trade to the Orient and South America. Exporters of foodstuffs report an increase of 60 per cent and in lumber about 55 per cent. Even business with European buyers shows improvement, although the chief obstacles reported as to operation

during the past year were low rates on foreign exchange and the depressed financial conditions in Europe. One association states that "The market has been slow to recover, but business is now increasing appreciably each year." Aggressive effort of foreign competitors was one of the features of the past year's work.

Exports during 1923 by export trade associations totaled about \$153,500,000. Approximately 823,000 tons of copper, cement, and phosphate rock, valued at \$68,500,000, were exported. Lumber (about 680,000,000 feet hard and soft woods) naval stores, and wood products to the amount of about \$26,000,000 were exported. Soda pulp, alkali, and sulphur totaled 385,000 tons, valued at \$9,660,000. Locomotives, textile machinery, steel tires and wheels, pipe fittings, and valves totaled \$3,200,000. Foodstuffs, including milk, meat, sugar, and grain products, totaled 590,000,000 pounds, to the value of \$32,400,000. Manufactured products such as paper, abrasives, rubber goods, webbing, furniture, alcohol, paint and varnish, buttons, clothespins, and general merchandise amounted to \$13 800,000.

#### PROVISIONS OF THE EXPORT TRADE ACT

This act, commonly known as the Webb-Pomerene law, is entitled "An act to promote export trade," and was approved in April, 1918. Under its terms exemption from the antitrust laws is granted to an association composed of two or more persons, partnerships, or corporations entered into for the sole purpose of and solely engaged in export trade. Export trade is further defined in the act as "trade of 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," and does not include the production, manufacture, or selling for consumption or resale within the United States. Such exemption is granted provided the association is not in restraint of trade within the United States, is not in restraint of the export trade of any domestic competitor of the association, and does not enter into any agreement or conspiracy or do any act which artificially or intentionally enhances or depresses prices or substantially lessens competition within the United States.

The act also extends the jurisdiction of the Commission under the Federal Trade Commission act to unfair methods of competition used in export trade against competitors engaged in export trade, even though the acts constituting such methods are done without the territorial jurisdiction of the United States.

Associations organized under the act are required to file papers with the Federal Trade Commission. Forms used for reports may be obtained upon application to the commission.<sup>1</sup>

<sup>1</sup> See Exhibits 3 and 4.

## PROVISIONS OF SECTION 6 (H) OF THE FEDERAL TRADE COMMISSION ACT

Under this portion of the law the Commission is directed to investigate 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. A recent study was made of cooperative marketing systems in Great Britain and European countries, which have shown marked development since the World War.

Unfair competition and antitrust laws were passed in Argentina, Austria and Germany during the past year. Combinations in foreign countries have shown considerable activity, especially along the line of foreign trade.

At a recent general meeting of the French Committee of Action for Export Trade emphasis was placed on the necessity for forming associations of industrials for common action abroad, and for the formation of syndicates to quote uniform prices, delivery and terms of payment to foreign buyers. There are now five export groups representing the principal French iron and steel producers; and during the past year a *comptoir* was organized by industrials engaged in the machinery, metal, and construction industry for the purpose of centralizing export dealings, creating and developing foreign trade.

In September, 1923, chinaware manufacturers of Czechoslovakia organized for the purpose of establishing uniform prices, especially in export trade. The organization is expected to follow the lines of the steel and coal combines organized in 1921 and 1922, respectively, for the purpose of establishing foreign markets and fixing export prices.

Within the last few months an important combine of tin plate makers has been formed in Wales, representing more than half of the industry. The object of the movement is said to be to eliminate to a degree the cost of middlemen, to bring the trade under more severe control as regards export prices and the handling of orders, and especially to give solidarity to the trade through more thorough organization of the selling agency side and the cultivation of foreign markets. In the same country three combines of collieries have recently been formed, and it is expected that these will exploit the coal industry by expansion of export trade.

In New Zealand a bill called the "dairy produce control act" has been introduced in Parliament, which provides for a central council composed of 30 representatives selected annually by the dairy companies and proprietary factory owners. The council in turn shall appoint a dairy producers' board for the handling, pooling, storage, shipment, sale, and disposal of New Zealand dairy

produce, all such produce exported from the country to be sold and disposed of as the board may direct. The organization of the board would be similar to the meat producers' board which has been in operation for nearly three years.

#### FOREIGN TRADE COMPLAINTS INVESTIGATED

In the interest of the foreign trade of the United States, investigation is made of complaints filed by foreign concerns against American exporters and importers. Such inquiries fall generally under section 6 (h) of the Federal Trade Commission act, but occasionally features of unfair competition develop and the case is turned over to the legal division for proceedings under section 5 of the act or section 4 of the export trade act.

A total of 95 foreign trade complaints have been handled during the past year, some of which are still pending. Ordinarily such cases are reported by the complainant to the American consulate in the foreign district. Many of them are later transmitted to the commission by other governmental departments such as the Department of State and the Department of Commerce, and occasionally directly by the complainant.

The commission's investigations along this line serve to bring out the facts of the cases reported, and these facts are transmitted to the foreign complainant via the Government department through which the complaint was received. Although complaints are filed against a very small percentage of the exporters of this country, the need of such inquiries is urged by the American consular officers "from the standpoint of the promotion of American trade and the maintenance of American reputation in local business circles." If the inquiry results in a better understanding between the parties in dispute, it is, in the words of one consul, "a real benefit to the prestige of American commerce and an effective and desirable proof of this consulate's contribution to business."

The most common complaint is that of shipment of defective or inferior products, goods not up to sample or not in accordance with specifications of the order. To illustrate : Leather shipped to Spain and to Greece, and found to be defective; flour shipped to Egypt, found to be below sample and not suitable for the purpose for which it was ordered; radio equipment and hardware to South Africa, found to be of inferior quality; batteries and mirrors to India, of poor quality and arriving in broken condition due to bad packing; defective tires and tubes shipped to Java; unsatisfactory coal shipped to Italy and to the Argentine; shoes exported to Denmark and found to be below sample. In some cases, complaint was made that orders had been placed and part payment made by the foreign buyer, but

the goods had not been shipped, or money returned. Small "fly by night" concerns go out of business without completing their orders or refunding remittances. Occasionally goods are damaged in route and insurance difficulties arise. Sometimes there is delay in transmitting documents and demurrage results in loss. Rescinded contracts and delays in filling orders, taken in connection with market fluctuations, may be of very serious import to the foreign buyer. Short weight, overcharge, balance due on sales commissions, and in complete delivery are among the complaints received. Almost all of these cases involve sales by American exporters, although occasionally an inquiry is made concerning an important transaction; i. e., hemp shipped from India, lambskins from Persia, or prism glasses from Germany, for which payment was not made by the American purchaser.

In some cases investigation shows that the complaint is not justified. If this is true, the facts established by the commission's inquiry may serve to clarify the situation and to forestall unjustified criticism and propaganda adverse to American business in foreign countries. Declining market in the foreign district may lead the consignee to refuse to accept the goods or to make allegations of unsatisfactory delivery, in the hope of recovering on his loss. Machinery misused by unaccustomed workmen (such as steel pile drivers shipped to China and operated by unskilled employees) proves unsatisfactory sometimes through no fault of the manufacturer or exporter. In one case motor cars shipped to Switzerland were transported in open box cars from Antwerp to Berne, and no attempt was made to have the machines inspected by Lloyd's agents until five months after the consignment arrived in Berne. It was therefore unfair to place the responsibility of damage upon the consignor, who was able to prove that the machines were in good condition when they left the factory, and under the terms of the sales contract the seller was not liable for any loss or damage after the cars left the factory.

#### REPRESENTATION ON THE LIAISON COMMITTEE

A representative of the commission attends the weekly conference of the Interdepartmental Liaison Committee. Members of this committee represent all offices and departments of the Government that are concerned with foreign trade. Weekly discussion and reports serve to keep each office informed, to promote cooperation, and to prevent duplication of effort in the Government's foreign-trade activities.

## TRADING WITH THE ENEMY ACT

The work delegated to the commission under Executive order of October 12, 1917, based on section 10 of the act of October 6, 1917, which was an act to “define, regulate, and punish trading with the enemy, and for other purposes,” was completed during the fiscal year, and under date of January 28, 1924, the commission’s final report in connection therewith was submitted to the President.

The commission maintains its supervision over the outstanding licenses which have been issued, and it is anticipated that there will be more or less frequent demands for data during the prosecution of numerous suits now pending in the various courts. Correspondence from licensees and other interested parties continues to be received but the amount of active work remaining to be done is negligible.

All of which is respectfully submitted.

HUSTON Thompson, *Chairman.*  
VERNON W. VAN FLEET,  
NELSON B GASKILL,  
JOHN F. NUGENT,  
CHARLES W. HUNT,

*Commissioners.*

# **EXHIBITS**

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## EXHIBITS

### EXHIBIT 1.

#### FEDERAL TRADE COMMISSION ACT.

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

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

The commission shall 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 a 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.

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 Territories 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 profit and has shares of capital or capital stock, and any company or association, incorporated or unincorporated, without shares of capital or capital stock, 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.

“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 the sections seventy-three to seventy-seven, inclusive, of an act entitled “An act to reduce taxation, to provide revenue for the Government, and for other purposes,” approved August twenty-seventh, eighteen hundred and ninety-four; and also the act entitled “An act to amend sections seventy-three and seventy-six of the act of August twenty-seventh, eighteen hundred and ninety-four, entitled ‘An act to reduce taxation, to provide revenue for the Government, and for other purposes,’” approved February twelfth, nineteen hundred and thirteen.

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

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

(c) Whenever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust acts, to make investigation, upon its own initiative, of the manner in which the decree has been or is being carried out, and upon the application of the Attorney General it shall be its duty to make such investigation. It shall transmit to the Attorney General a report embodying its findings and recommendations as a result of any such investigation, and the report shall be made public in the discretion of the commission.

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

(e) Upon the application of the Attorney General to investigate and make recommendation for the readjustment of the business of any corporation alleged to be violating the antitrust acts in order that the corporation may thereafter maintain its Organization, management, and conduct of business in accordance with law.

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

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

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

SEC. 7. That in any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust acts, the court may, upon the conclusion of the testimony therein, if it shall be then of opinion that the complainant is entitled to relief, refer said suit to the commission, as a master in chancery, to ascertain and report an appropriate form of decree therein. The commission shall proceed upon such notice to the parties and under such rules of procedure as the court may prescribe, and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto as upon the report of a master in other equity causes, but the court may adopt or reject such report, in whole or in part, and enter such decree as the nature of the case may in its judgment require.

SEC. 8. That the several departments and bureaus of the Government when directed by the President shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of this act, and shall detail from time to time

such officials and employees to the commission as he may direct.

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



members and examiners of the commission may administer oaths and affirmations, examine witnesses, and receive evidence.

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

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

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

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

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

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

SEC. 10. That any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than \$1,000 nor more than \$5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this act, or who shall willfully neglect or fail to make, or to 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 future shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

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

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

Approved, September 26, 1914.

## EXHIBIT 2.

### PROVISIONS OF THE CLAYTON ACT WHICH CONCERN 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 therefore or discount front, or rebate upon, such price, on the condition, agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement or understanding may be to substantially lessen competition or tend to, create a monopoly in any line of commerce.

SEC. 7. That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition maybe 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 crime 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, in the Federal Reserve Board where applicable to banks, banking associates 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 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 or board requiring such person to cease and desist from the violation of the law so charged in said complaint. Any person may make application, and upon good cause spoken may be allowed by the commission or board, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the commission or board. If upon such hearing the commission 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 notice shall have been filed in a circuit court of appeals of the United States, as hereinafter provided, the commission 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 or board while the same is in effect, the commission 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 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 pleading's, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission or board. The findings of the commission 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 or board, the court may order such additional evidence to be taken before the commission 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 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 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 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 or board be set aside. A copy of such petition shall be forthwith served upon the commission or board, and thereupon the commission 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 or board as in the case of an application by the commission or board for the enforcement of its order, and the finding of the commission 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 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 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 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.

Approved, October 15, 1914.

## EXHIBIT 3

### 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 into any agreement, understanding, or conspiracy, or do any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein.

SEC. 3. That nothing contained in section seven of the act entitled “An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,” approved October fifteenth, nineteen hundred and fourteen, shall be construed to forbid the acquisition or ownership by any corporation of the whole or any part of the stock or other capital of any corporation organized solely for the purpose of engaging in export trade, and actually engaged solely in such export trade, unless the effect of such acquisition or ownership may be to restrain trade or substantially lessen competition within the United States.

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

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



creation, shall file with the Federal Trade Commission a verified written statement setting forth the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members, and if a corporation, a copy of its certificate or articles of incorporation and by-laws, and if unincorporated a copy of its articles or contract of association, and on the first day of January of each year thereafter it shall make a like statement of the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members and of all amendments to and changes in its articles or certificate of incorporation or in its articles or contract of association. It shall also furnish to the commission such information as the commission may require as to its organization, business, conduct, practices, management, and relation to other associations, corporations, partnerships, and individuals. Any association which shall fail so to do shall not have the benefit of the provisions of section two and section three of this act, and it shall also forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the association has its principal office, or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of the forfeiture. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Whenever the Federal Trade Commission shall have reason to believe that an association or any agreement made or act done by such association is in restraint of trade within the United States or in restraint of the export trade of any domestic competitor of such association, or that an association either in the United States or elsewhere has entered into any agreement, understanding, or conspiracy, or done any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein it shall summon such association, its officers, and agents to appear. Therefore 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 4.

### **RULES OF PRACTICE BEFORE THE FEDERAL TRADE COMMISSION**

#### I. SESSIONS.

The principal office of the commission at Washington, D. C., is open each business day from 9 a.m. to 4:30 p.m. The commission may meet and exercise all its powers at any other place, and may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

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

Sessions of the commission for the purpose of making orders 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, 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.

Within 30 days from the service of the complaint, unless such time be extended by order of the commission, the defendant shall 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. It shall specifically admit or deny or explain each of the facts alleged in the complaint, unless the defendant is without knowledge, in which case he shall so state, such statement operating as a denial. Answers in typewriting must be on one side of the paper only, on paper not more then 8 ½ inches wide and not more than 11 inches long, and weighing not less then 16 pounds to the ream, folio base, 17 by 22 inches, with left-hand margins 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.

#### 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 waived 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 the 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.

#### 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 5 nor more than 10 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 no 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 helpers 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 INVESTIGATIONS.

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 proposed finding as to the facts and his proposed order thereon, 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, to such proposed findings and order, and said exceptions shall specify the particular part or parts of the proposed findings of fact or proposed order to which exception is made, and said exceptions shall include any additional findings and any change In or addition to the proposed order which either party may think proper. 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 to the proposed findings and order, if exceptions be filed, shall be had at the final argument on the merits.

XIII. DEPOSITIONS IN CONTESTED PROCEEDINGS.

The commission may order testimony to be taken by deposition in a contest 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 depositions 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 1/2 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.

Unless otherwise ordered, briefs may be filed at the close of the testimony in each contested proceeding. The presiding commissioner or examiner shall fix the time within which brief shall be filed and service thereof shall be made upon the adverse parties.

All briefs must be filed with the secretary and be accompanied by proof of service upon the adverse parties. Twenty copies of each brief shall be furnished for the use of the commission, unless otherwise ordered.

Application for extension of time in which to file any brief shall be by petition in writing, stating the facts upon which the application rests, which must be filed with the commission at least 5 days before the time for filing the brief.

Every brief 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 1/2 inches, with inside margins not less than 1 inch wide and with double-leaded text and single-leaded citations.

Oral arguments will be had only as ordered by the commission.

#### XVI. ADDRESS OF THE COMMISSION.

All communications to the commission must be addressed to Federal Trade Commission, Washington D. C., unless otherwise specially directed

## EXHIBIT 5

### NATIONAL BISCUIT CASE

United States Circuit Court of Appeals for the Second Circuit

National Biscuit Company and Loose-Wiles Biscuit Company, petitioners,  
Against Federal Trade Commission, Respondent

Before Hough, Manton, and Mayer, Circuit Judges.

#### *Petitions to revise orders of the Federal Trade Commission*

Separate petitions by the National Biscuit Co. and the Loose-Wiles Biscuit Co. against the Federal Trade Commission to have set aside orders of the commission separately entered against both petitioners.

William C. Breed, Esq., Charles A Vilas, Esq., George E. Shaw, Esq., Dava T. Ackerly, Esq., counsel for National Biscuit Co.

J. Frederick Eagle, Esq., Carroll G. Walter, Esq., counsel for Loose-Wile Biscuit Co.

W. H. Fuller, Esq., I. E. Lambert, Esq., counsel for Federal Trade Commission.

MANTON, Circuit Judge.

These proceedings to review orders of the respondent were heard together and will be disposed of in one opinion.

The complaints against the petitioners charge (a) violation of section 5 of the Federal Trade Commission act (38 Stat. 717) (b) violation of section 2 of the Clayton Act (38 Stat. 730). The petitioners manufacture and sell to retail grocers crackers, biscuits, cakes, and other bakery products. They are perishable and therefore sold in small quantities at frequent intervals to insure freshness and quality. The petitioners have a business policy of allowing the following discounts: (a) Customers whose purchases from the company in a calendar month are less than \$15 pay list prices with no discounts (b) customers whose purchases from the company in a calendar month aggregate \$15 or more receive a quantity discount of 5 per cent; (c) customers whose purchases from the company in a calendar month aggregate \$50 or more receive a quantity discount of 10 per cent; (d) customers whose purchases from the company in a calendar month aggregate \$200 or more receive a quantity discount of 15 per cent. For payment in cash a 1 per cent discount is given to all customers, and no customer under any circumstances receives any greater quantity discount than 15 per cent.

The orders entered against the petitioners were the same in form and directs them to cease and desist--

"1. From discriminating in price between purchasers operating separate units or retail grocery stores of chain systems and purchasers operating independent retail grocery stores of similar kind and character purchasing similar qualities of respondent's products, where such discrimination is not made on account of difference in the grade or quality of the commodity sold, nor for a due allowance in the difference in the cost of selling or transporting, nor in good faith to meet competition in the same or different communities,

"2. From giving to purchasers operating two or more separate units or retail grocery stores of chain systems a discount on the gross purchases of in the separate units or retail stores of such chain system, where the same or a similar discount on gross purchases is in of allowed or given to associations or combinations of independent grocers operating retail grocery stores similar to the separate units or stores of such chain system."

A chain store referred to in this proceeding is regarded as a series of two or more retail stores owned by one person or corporation. The quantity discounts allowed to owners of chain stores are computed upon the purchase of



the owner of the chain for all his stores and quantity discounts computed at the same rates are allowed to the owner of a single store. In practice, the retailer owning one store must meet the competition of the branches of the chain stores whose owner because of the volume of his purchases for all his units or stores in the chain, obtains a greater discount than does the owner of the one store who does not use the same volume, and therefore does not buy in such quantities. The disadvantage is sought to be corrected by respondent, by requiring the petitioners to the base chain store discounts upon the quantity delivered to each store, treating each branch of the chain as a separate purchaser or owner, or (2) to allow separate and individual purchasers or owners to pool their purchases for the purpose of computing discounts. It is found as a fact.

“That the respondent (National Biscuit Co.) is the largest single producer of such bakery products in the United States; that the total value of respondent’s products for the year 1914 was approximately \$46,143,210; whereas the total value of production in the biscuit and cracker industry in the United States for the same year was approximately \$89,484,000. Figuring the same in percentages, the National Biscuit Co., for the year 1914, had approximately 51.6 per cent of the biscuit and cracker business in this country; that the value of respondent’s products for the year 1919 was approximately \$101,707,597; whereas the total value of production in the biscuit and cracker industry in the United States for the same year was approximately \$204,020,000. Figuring the same in percentages, the National Biscuit Co., for the year 1919, had approximately 49.9 per cent of the biscuit and cracker business in this country; that the total value of respondent’s products for the year 1921 was approximately \$104,836,255; whereas the total value of production in the biscuit and cracker industry in the United States for the same year was approximately \$187,509,000. Figuring the same in percentages, the National Biscuit Co., for the year 1921, had approximately 55.7 per cent of the biscuit and cracker business in this country; that east of the Mississippi River, for the year 1921, the National Biscuit Co. had approximately 64.1 per cent of the biscuit and cracker business.

“The respondent has, in the various States of the United States, 28 cracker bakeries and 8 bread bakeries and has sales agents established in more than 192 different cities. Quoting from the testimony of Albert B. Bixler, respondent’s general sales manager, ‘They are from Portland, Me., to Portland, Oreg., and from Duluth to New Orleans, scattered over all the country.’ In 1921 the respondent had approximately 248,487 customers. Nearly every grocer in Greater New York handles respondent’s products, and in the District of Columbia and the vicinity thereof, out of 2,000 grocers, every one of them carried National Biscuit Co.’s products. Similar conditions exist in many cities of the United States. ‘Uneeda biscuit’ is a cracker manufactured and sold by respondent, and is the fastest selling cracker in the world.”

The Loose-Wiles Biscuit Co. does about 15 per cent of the cracker and biscuit business in the United States. It is also found that the cracker and biscuit sales represent from 1 to 3 per cent of the grocers’ total business.

Error is assigned in the finding that the petitioners are engaged in interstate commerce. It is argued that the transactions affected by the order of the commission are solely between agencies of the petitioners and retail merchants located adjacent to other branches within a State and therefore the respondent was without jurisdiction. The petitioners admitted in the answer filed, that they were engaged in interstate commerce, as charged in paragraph 1 of the complaint. There is some evidence that biscuits and crackers which are manufactured in one State are shipped without that State and to another with the United States in competition with other firms and corporations similarly engaged. Since this conclusion of fact has some support in the evidence, we must regard it as binding upon us. (*Curtis Put. Co. v. Federal Trade Commission*, 260 U.S. 568.) We do not, however, regard the existence of this interstate commerce as material to the present litigation.

Section 5 of the Federal Trade Commission act (38 Stat. 724) provides that unfair methods of competition in commerce are declared unlawful and the commission is empowered to order a person, partnership, or corporation to cease and desist from using such unfair methods in commerce. The finding of the commission as to the facts, if supported by testimony, is conclusive on the review in this court. The Supreme Court said as to the conclusiveness of the findings of the commission in the *Curtis Publishing*

Co. case, supra:



“Manifestly, the court must inquire whether the commission’s findings of fact are supported by evidence. If so supported, they are conclusive. But as the statute grants jurisdiction to make and enter upon the pleadings, testimony and proceedings, a decree affirming, modifying, or setting aside an order, the court must also have power to examine the whole record and ascertain for itself the issues presented and whether there are material facts not reported by the commission.”

Section 2 of the Clayton Act, which is declared to be an act to supplement existing laws against unlawful restraints and monopolies and for other purposes (38 Stat. 730), provides :

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 difference 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.”

The gravamen of the offense or the unfair method is the granting of discounts to purchasers of quantities as above referred to. The commission does not find that the respondents have a monopoly nor that they intend by unlawful means to obtain one. It is not charged or found that the petitioners have an agreement or understanding of any kind as to the creation of a monopoly or, indeed, the maintenance of a sales policy for such a purpose. The law does not make mere size of business an offense or the existence of unexercised power an offense. It requires overt acts and trusts to its prohibition of there and its power to repress or punish them. It does not compel competition nor require all that is possible. (United States v. U.S. Steel Corp., 251 U. S. 417; United States v. United Shoe Machinery Co., 247 U. S. 32.) In the first case It was held to be lawful for a single corporation to control 50 per cent of the steel industry, and in the latter it was said to be lawful for a single corporation to control substantially all the shoe machinery industry. Size alone does not create a monopoly.

In many instances each branch of the chain stores is a distinct and separate purchaser; petitioners solicit and take orders and make deliveries to each unit of the chain, and it is found that in some instances the owner of but one store is in competition with a branch of a chain that handles no more of the companies’ goods in a month than does the owner of but one store, and the unit of the one store receives a discount. It is found that the cost of selling and delivery is the same. This is said to be the disadvantage in competing with chain stores, and the various owners have pooled their orders because they do not carry on a large enough business to obtain the discounts. But the petitioners refuse to grant the discounts for such pooled or combined orders, and it is found that “an undue advantage in competing with the owners operating but one retail store in the handling of respondent’s (petitioner’s) said products, which practices have the capacity to and do tend to substantially lessen competition and create a monopoly in the retail distribution of respondent’s (petitioner’s) products.” And the commission says that (1) they “are all to the prejudice of the public”; and (2) they “are all to the prejudice” “of said respondent’s competitors.” This court announced in *Standard Oil Co. v. Federal Trade Commission* (273 Fed. 478) that :

It may be admitted that one function of the Trade Commission is to discern and suppress such practices in their beginning; but a thing exists from its beginning, and it is not a conclusion of law from any facts here found that a system which at present is keenly competitive, extremely advantageous to the public, and, in the opinion of a majority of the competent witnesses, economical, is at present unfair to any one or unfair because tending to monopoly. A tendency is an inference from proven facts and an inference from the facts as found by the commission is a question of law for the court.”

In *Mennen Co. v. Federal Trade Commission* (288 Fed. 774; certiorari denied, 262 U. S. 759) a charge was made against the petitioner, which sold its products to wholesalers, retailers, and cooperative corporations of retailers who practiced unfair methods of competition in violation of the Trade Commission Act and of section 2 of the Clayton Act. in that they refused to grant to co-operative corporations of retailers or to retailers therein discounts as large as those granted wholesalers. One of the charges against the petitioner there was that the practice of varying discounts irrespective of the quantity and quality tended unduly to hinder competition between distributors of the respondent's products to retailers or directly to the consuming public. This court set aside the commission's order and announced:

"In this case as in the *Grata* case, the complaint contains no intimation that the *Mennen Co.* has any monopoly of the business of manufacturing and selling toilet articles or that it has the ability or intent to acquire one. So far as appears, the *Mennen Co.*, acting independently, has undertaken to sell its own products in the ordinary course, without deception, misrepresentation, or oppression, and at fair prices, to purchasers willing to take them upon terms openly announced.

"In this case, as in the *Grata* case. nothing is alleged which would justify the conclusion that the public suffered injury or that competitors had reasonable ground for complaint. The allegation that its practice of varying discounts tended unduly to hinder competition between distributors of respondent's products to retailers or directly to the consuming public is a pleader's conclusion. The acts complained of in this case are not those which have heretofore been regarded as 'opposed to good morals because characterized by deception, had faith, fraud, or oppression, or as against public policy because of their dangerous tendency unduly to hinder competition or create monopoly.' And as said in the *Cratz* case : 'If real competition is to continue, the right of the individual to exercise reasonable discretion in respect of his own business methods must be preserved.'"

Whatever may be the exact meaning of the phrase "unfair methods of competition," it is now settled that it is for the courts and not the commission to determine as a matter of law what is and what is not included in the phrase. This rule is not voided by stating as a finding of fact what is a mere conclusion of law. (*Federal Trade Commission v. Grata*, 253 U. S. 421; *Standard Oil Co. v. Federal Trade Commission*, 273 Fed. 478; *N. J. Asbestos Co. v. Federal Trade Commission*, 264 Fed. 509.) It is very apparent that no cracker manufacturer could be prejudiced by the refusal of his largest rival to satisfy customers or prospective customers by granting the discounts desired. Such a refusal could only have the effect upon a competitor of driving the dissatisfied customer to it. In this regard, there is nothing to indicate that the public was in any way prejudiced by the discounts. There is no claim that the owners of chain stores are not competing one with the other or with other retail grocers, including those who have pooled or combined for ordering purposes, and there being no allegation or suggestion of any agreement or understanding among manufacturers, it is evident that the public purchases its bakery products in an open competitive market as respects both manufacturer and distributor. The only pools or combinations are among the grocers who seek to combine for ordering purposes. The practice of giving discount is permitted under section 2 of the Clayton Act where it is 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."

The holding below does not say that the size of the petitioner's business was attained or contributed to by unfair or unlawful methods or that it had any monopoly or control of the biscuit or cracker business, nor that it does injure its competitors or restrain trade among them. No conspiracy is alleged or proven. In deed the petitioner, the *Loose-Wiles Co.*, has but 15 per cent of the business. And there are many smaller cracker and biscuit manufacturers throughout the country. It is the exclusion of others from the opportunity of doing business that is regarded as monopolizing. (*Patterson v. United States*, 222 Fed 599.) It has been said that size may increase trade and may benefit the consumer. (*United States v. Keystone Watch Case Co.*, 218 Fed. 502.) There is a finding that the petitioners have extensively advertised and have created a great demand for their products throughout the United States,

and now the commission concludes that “in many localities the demand for such products is so great that it is impossible for a retail grocer to successfully conduct his business if he does not handle respondent’s products.”

Even though the manager of the branch store of a chain exercises the fullest discretion in determining what and how he will purchase from the company and that the salesmen and deliverymen of the company spend as much the and effort in the branch store of the retail grocer as in the store of the so-called independent or individual grocer, it can not be said that the branch store of the chain retailer is a separate or different purchaser as intended by section 2. It is undeniable that the manager of a branch of a chain-store system, who may have the fullest individual authority In dealing with the salesmen or deliverymen of the petitioner, is nevertheless an employee or agent of the owner of the chain system and can not be regarded as a different purchaser; the indebtedness is incurred by the company, the payment is made by it, and the goods are delivered to it. It may be that the cost of selling the chain is the same as the cost of selling to the owner of but one store, but that does not sustain the charge of price discrimination. for there is no provision in the Clayton Act on elsewhere that the price to two different purchasers must be the same if It cost the seller as much to sell one as it does to the other. The provision of section 2 of the act as to the difference in the cost of selling is merely one of many separate and distinct permissive exemptions in that section expressly declaring price determination to be lawful if within the particular exception. Equal opportunity is given to all, in the discount system of petitioners’ business. The determining factor is the quantity consumed there is no discrimination among purchasers. All are supplied on equal terms according to the quantity purchased. While the chain stores have grown in numbers, this record demonstrates that there are thousands of retail grocers who are carrying on their business in one stone. The discount plan was designed for the individual dealer as well as for the large chain-store owner. It is the right of a merchant engaged in private business freely to exercise his own independent discretion as to the parties with whom he will deal. (Federal Trade Commission v. Raymond Bros.-Clark Co., 280 Fed. 529. 64 L Ed. 175; *Great Atlantic & Pacific Tea Co. v. Cream of Wheat Co.* 22<sub>4</sub> Fed 566.) The only injury claimed as a result of the petitioners’ acts comes after the retailer has the biscuits or crackers and is disposing of them at retail. Then it is said, one retailer has aim undue advantage over another of the same competing class. But we said in the Mennen case :

“This substitution in the final stages of the Clayton bill of the clause to which we have referred plainly indicates the intent of Congress to exclude from the operation of the section (sec. 2) mere competition among ‘purchasers’ from the ‘seller’ or ‘person’ who allowed or withheld the discount and to include therein only competition between such ‘seller’ or ‘person’ and the latter’s own competitors.”

This section can have no application unless the unfair act substantially lessens competition or tends to create a monopoly in any line of commerce. It was never intended by Congress that the Trade Commission would have the duty and power to judge what is too fast a pace for merchants to proceed in business and to compel them to slow up. To do so, would be to destroy all competition except that which is easy. Congress intended to eliminate all varieties of fraudulent practices from business in interstate commerce. (*Sinclair Refining Co. v. Federal Trade Comm.*, 276 Fed. 686.) “The great purpose of both statutes was to advance the public interest by securing fair opportunity for the play of the contending forces ordinarily engendered by an honest desire for gain. And to this end it is essential that those who adventure their the, skill, and capital should have large freedom of action in the conduct of their own affairs,” said the Supreme Court in *Federal Trade Commission v. Sinclair Refining Co.* (261. U. S. 463.) Effective competition requires that merchants have freedom of action in conducting their own affairs. To be successful may increase or render insuperable the difficulties that rivals must face, but it does not constitute reprehensible or fraudulent methods. (*Federal Trade Commission v. Curtis Pub. Co.*, 260 U. S. 568.) The method of competition to be condemned as unfair should be characterized by fraud, deception, or oppression. (*Federal Trade Comm., v. Curtis*, supra; *Federal Trade Comm. v. Grata*, 253 U. S. 421; *N. J. Asbestos Co. v. Federal Trade Comm.*, 264 Fed. 511; *Silver Co. v. Federal Trade Comm.*, 289 Fed. 983.)

In its complaint the commission charged that the practices were all to the prejudice of the public. It does not make any specific finding as to this. The practice of discounts is not an unfair method of competition under the statute unless it is prejudicial to the public. The Intent of the act Is the prevention of injury to the general public and what forms the basis of the proceeding is that it deceives the public or that it was unfair alike to the public and to the competitors. (Royal Baking Powder Co. v. Federal Trade Comm., 281 Fed. 744; N. J. Asbestos Co. v. Federal Trade Comm., 264 Fed. 510.)

We conclude that the sales policy of the petitioners as to their discount plan as well as the refusal to sell cooperative or pooling buyers, is fair in all respects as to all its competitors and customers. This policy obviously does not affect the public interest nor deprive it of anything it desires. It is a practice which is recognized by manufacturers of bakery products and is Inoffensive to good business morals. It was error to direct the petitioners to sell to individual grocers who pooled there orders of purchase or who bought on a cooperative basis. While a chain-store owner may handle more crackers because of his ownership of more than one store, this is but the result of healthy competition. A manufacturer of biscuits can not be expected to adopt a uniform policy that is appropriate to meet the small buyer and the large buyer. There is no discrimination between the large buyer, such as the owner of a chain store, and the grocer owning but one store, There is evidence in the record that many individual grocers do a large enough business to win the discount provided for under the petitioners' policies. A pool is organized merely to buy and not for selling purposes. The manager of the pool, when it has a manager, merely buys as an agent or employee of the pool. He has no control over any of the various grocers in the pool. He incurs no financial liability. Each member of the pool controls his own business and is liable for his own indebtedness. The case is different where the scale is made direct to the manager of a chain unit. By pooling purchases, the retail, customers of the petitioners would afford no service in the sale of the petitioners' product to the consumers beyond that which each furnishes individually, and It may be noted that the advertising of the large chain stores inures to the benefit of the petitioners' products by creating a wide-spread and uniform demand for their products and consequently larger sales.

For these reasons, we regard the orders below entered against each of the petitioners as improvidently granted and the orders complained of are reversed.

EXHIBIT 6

**B. S. PEARSALL CASE**

United States Circuit Court of Appeals for the Seventh Circuit

No 3190. October Term, 1922, April Session, 1923

B. S. Pearsall Butter Company, Petitioner, v. Federal Trade Commission,  
Respondent

*Petition to review order of Federal Trade Commission*

Before Alschuler, Evans, and Page, Circuit Judges.

ALSCHULER, Circuit Judge.

The petitioner complains of an order of the Federal Trade Commission directing petitioner to desist from "directly or indirectly using formal or informal contracts or understandings to the effect that purchasers or dealers in respondent's products shall not deal in the goods, wares, merchandise, supplies, or other commodities of a competitor or competitors of respondent or in competing commodities." The complaint originally charged petitioner with violating section 5 of the Federal Trade Commission act in the use of unfair methods of competition, and section 3 of the Clayton Act in making contracts as hereinafter stated. By amendment the first charge was eliminated. Section 3 of the Clayton Act is as follows :

"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, \* \* \* 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."

The contract alleged to be violative of this section is :

"That the said party of the first part does hereby give to the said party of the second part the exclusive sale of its brands of oleomargarine and nut margarine in the city of ----- and vicinity for the period beginning on the first day of March, A. D. 1920, and ending on the last day of Feb., A. D. 1921.

"And the party of the second part agrees to wholesale party of the first part's brands of oleomargarine and nut margarine exclusively in the above territory during the period of this contract; second party also agreeing to actively and vigorously press to the best of their ability the sale of said products of first party, and to in every way promote a demand for them in the aforesaid territory.

"It is further agreed by the said party of the first part to refund one-half of the amount of the Federal wholesale license (\$100.00) when the party of the second part has sold 40,000# of party of the first part's oleomargarine and nut margarine and the full amount of (\$200.00) when they have sold 75,000# of said party's oleomargarine and nut margarine during the period of this contract; also furnish specialty man for a couple of weeks, circularize the trade, furnish advertising literature, and do a reasonable amount of news-paper advertising."

It appears that there were in this country 65 manufacturers of margarine products, and that the total product for the year preceding the complaint



against petitioner was 350,000,000 pounds, of which petitioner produced about 4,000,000, or slightly over 1 per cent. The largest producer, the Jelke Co. of Chicago, 55,000,000 pounds, are extensive advertisers and do not make exclusive agreements for the handling of their product. The five big Chicago packers who, with Jelke, manufacture the large bulk of this product, distribute to the trade largely through their own local branches. About 20 of the other manufacturers used contracts more or less similar, and most of the rest of them have some kind of understanding for exclusive representation with the various jobbers who handle their product. There was no evidence of any improper practices on the part of petitioner or of harmful result of its contract either to other manufacturers, dealers, or the public, save only as might be gathered from the contract itself.

It is contended for petitioner that its contract does not constitute "a sale or contract for sale of goods" and therefore does not fall within the provisions of section 3; and that under this record the effect of the contract, if of sale, may not "be to substantially lessen competition or tend to create a monopoly."

The agreement may be lacking in elements which would technically make it a contract for sale of goods, such as price and quantity, but it provides a basis for sales under which the parties acted and sales between them were being made, and for the purposes hereof they should not be heard to deny that it was in fact a contract for sale of goods within the purview of section 3 of the Clayton Act. In this respect we think it falls fairly within the recent decision of the Supreme Court in *Standard Fashion Co. v. Magrane-Houston Co.*, 258 U.S. 346. The contract in that case held to be violative of section 3 of the Clayton Act has much similarity to the one here under consideration.

But the circumstances there appearing, and which were manifestly influential in the result there reached, when compared with those here disclosed, require a different disposition hereof. In commenting on the effect of the phrase in Section 3, "may be to substantially lessen competition," the court said :

"Section 3 condemns sales or agreements where the effect of such sale or contract of sale 'may' be to substantially lessen competition or tend to create monopoly. It thus deals with consequences to follow the making of the restrictive covenant limiting the right of the purchaser to deal in the goods of the seller only. But we do not think that the purpose in using the word 'may' was to prohibit the mere possibility of the consequences described. It was intended to prevent such agreements as would, under the circumstances disclosed, probably lessen competition, or create an actual tendency to monopoly. That is was not intended to reach every remote lessening of competition is shown in the requirement that such lessening must be substantial.

"Both courts below found that the contract interpreted in the light of the circumstances surrounding the making of it was within the provisions of the Clayton Act as one which substantially lessened competition and tended to create monopoly. These courts put special stress upon the fact found that, of 52,000 so-called pattern agencies in the entire country, the petitioner, or a holding company controlling it and two other pattern companies, approximately controlled two-fifths of such agencies. As the Circuit Court of Appeals summarizing the matter pertinently observed : 'The restriction of each merchant to one pattern manufacturer must in hundreds, perhaps in thousands, of small communities amount to giving such single pattern manufacturer a monopoly of the business in such community. Even in the larger cities, to limit to a single pattern maker the pattern business of dealers most resorted to by customers whose purchases tend to give fashions their vogue, may tend to facilitate further combinations ; so that the plaintiff, or some other aggressive concern, instead of controlling two-fifths, will shortly have almost, if not quite, all the pattern business.'"

The record in the case at bar discloses no facts or circumstances which would justify the conclusion that there was here shown more than "the mere possibility of the consequences described." We find nothing from which it might be deduced that the agreement here, "would, under the circumstances disclosed, possibly lessen competition or create an actual tendency to monopoly." Petitioner is comparatively, and in fact, a small factor in the margarine business of the country--about 1 per cent of the entire production. There does not appear to be anything distinctive about its product--nothing which could not readily be supplied by many other makers of this apparently standardized product. Petitioner does not occupy "a dominant position" in that line of commerce, as was the case in *United Shoe Mach. Co. v. United*





States, 258 U.S. 451. And it can not be here said, as in the last named case, that to its customer its particular product "may be absolutely essential to the prosecution and success of his business."

It is interesting here to note that it was only five years previous that petitioner entered into this doubtless then well-standardized business in competition with many others, most of whom have arrangements with their jobbers more or less similar, and that in the face of this competition in such brief the built up a business of about 4,000,000 pounds for its last year. From this it may well appear that the similar practice by others in the same class did not result in stifling of competition and monopolizing the trade to the substantial or serious detriment of this recent entrant therein. Nothing here appears to indicate that the ultimate distributor of the product, the retailer, is in any way bound or restricted. he is generally familiar with the market and with the ways and means of transportation of commodities, and if he desires in his business to handle the product of other makers he is at liberty to produce it--from he make himself or from those who handle it.

Most of the witnesses unite in saying that in the handling of this product there is advantage to manufacturer, jobber, retailer, and the public in having a particular brand handled exclusively by one jobber in a given locality where in he handles no other similar product ; and while one or two did say, on being examined as to the result of such contract, that it might restrict competition, it is evident that they meant no more than that the employment of such contracts might in some circumstances so result.

Under the particular facts which this record discloses it is our view that the contract in question as employed by this petitioner does not fall under the condemnation of section 3 of the Clayton Act.

The order herein of the Federal Trade Commission is reversed, and it is directed that the complaint herein against petitioner be dismissed.

## EXHIBIT 7

### JOHN BENE & SONS

United States Circuit Court of Appeals for the Second Circuit

John Bene & Sons, Inc., Petitioner, v. Federal Trade Commission, Respondent.

Before Hon. Charles M. Hough, Hon. Martin T. Manton, Hon. Julius M. Mayer, Circuit Judges.

*Petition to review an order of the Federal Trade Commission made and entered December 27, 1922.*

Petitioner (hereinafter called Bene) is and was in 1918 engaged among other things in the manufacture and sale of hydrogen peroxide.

At the same time the one Proper was making and selling a compound to which he gave the trade name of Daxol.

Among the customers of Bene were certain store systems commonly known as chain stores, and the same chain stores or some of them had purchased some Daxol.

In the autumn of 1918 Bene obtained a bottle purporting to contain Daxol, and submitted it for analysis to a well known independent laboratory in New York City. The result was not favorable to Daxol, and Bene communicated the same (in language of the findings) "to the principal officers of \* \* \* four large chain stores." In the month of December, petitioner submitted Daxol to another and different Independent laboratory, and again the result of the analysis was not, to say the least, a favorable advertisement for Proper's compound. This analysis Bene sent (according to findings) to one chain-store manager, accompanied by a letter substantially advising the recipient to confirm the result of the analysis, and the comment of the letter "by asking a chemist or doctor."

In April, 1920, the Commission issued a complaint alleging that the analyses aforesaid and Bene's comment upon them "contained certain false and mis-leading statements and representations concerning (Daxol) ; that among such false and misleading statements \* \* \* (is the representation that Daxol contained lime, and that the use of (Daxol) on the human body would be attended with great danger."

Bene answered promptly, averting inter alia that the analysis was correct and that the label upon Daxol was "absolutely false, fraudulent, and misleading."

Testimony on this issue was taken in September, 1921, and on December 27, 1922, findings were made to the effect:

First. As the result of the analyses circulated by Bene, the chain store systems known as Kresge, McCrory, Kress, and Woolworth withdrew from sale in their stores the preparation known as Daxol, and shortly thereafter ceased to purchase the same.

Second. The analyses aforesaid and petitioner's comment thereon misled the customers of Proper into the belief that Daxol contained lime ; that the use of the same on the human body would be attended with great danger, that Daxol was a weak solution and lost its effectiveness in about 72 hours.

Third. The truth of the matter is that Daxol contains either no lime, or lime in such small quantities as to be entirely innocuous, and its use on the human body would not be attended with great danger, and that Daxol is not a weak solution of bleaching powder and does not lose its effectiveness in 72 hours.

Fourth. That the statement of Bene concerning a competitive product, to wit, Daxol, that its use on the human body would be attended with great



danger is false and that the statement of the analyses to the effect that Daxol is a solution of calcium hypochlorite, commonly known as bleaching powder, is misleading deceptive, and constitutes a misrepresentation.

Immediately on making these findings the order under review was entered. The order is as follows :

“It is ordered that the respondent, John Bene & Sons (Inc.) its officers, agents, representatives, and employees, do cease and desist, from directly or indirectly, publishing, circulating, or causing to be published or circulated, any false, deceptive, or misleading statements of or concerning the product of a competitor, and particularly from publishing, circulating, or causing to be published or circulated, directly or indirectly, such statements concerning the product Daxol manufactured by the Proper Antiseptic Laboratories of Cincinnati, Ohio, to wit :

“That this is a solution of calcium hypochlorite or, as it is usually known, bleaching powder. It is our opinion that its use on the human body would be attended with great danger.”

That “Daxol is a very weak solution of bleaching powder and loses its effect in about 72 hours.”

Petition for review followed.

Frederick N. Van Zandt for petitioner.

W. A. Sweet and W. H. Fuller for Federal Trade Commission.

HOUGH, Circuit Judge.

Under the Curtis Publishing Co. case (260 U. S. 568) we “ must inquire whether the commission’s findings of fact are supported by evidence;” and this inquiry includes an ascertainment of what kind of evidence, or evidence so-called, the fact-findings rest upon.

If by evidence is meant testimonial matter legally competent, relevant, pertinent, and material, this record contains very little of that kind.

It was plainly desirable, as Bene manufactured hydrogen peroxide, to compare Daxol with the other preparation, and on this point one Irene Kuhlman replied in answer to the question, “ What are Daxol and peroxide used for? thus : “ Well, not a serious wound of any kind ; it is very injurious to a serious wound; for cuts, very small cuts, or bruises, or sore throat, it was very helpful, the same as could be considered as to peroxide.” How competent this witness was to answer this question over due objection is perhaps suggested by the fact that her usual and regular occupation was that of running a “ beauty parlor.”

It also seemed appropriate to show that the business of the proprietors of Daxol had been Injured by what Bene had done, and how such injury had arisen, and Miss Kuhlman testified fully on this point. Her qualifications for giving such testimony were that on the 6th of January, 1920, she became connected with the corporation that succeeded Proper in the manufacture of Daxol. At this she became a stockholder to the extent of one share, and a director, and she also, In her own language, “ operated the books of the company.” After thus qualifying she testified at length concerning events that had occurred long before her connection with the concern. The scheme of her evidence may be judged from this quest on and answer :

“Q. Do you remember when thus trouble arose about this analysis?--A. I was not connected with the company, but at the time they incorporated the whole case was explained and I have all the papers concerning the case.”

She was permitted to testify not only as to correspondence antedating her connection with Proper’s successor, but as to the contents of books which were never produced. This evidence related to sales made by Proper Individually prior to the time when (again in the witnesses’s language) he “sold out as an individual and changed it to a corporation.”

It was further necessary under the issue as framed, to prove the inaccuracy or falsity of the analyses made at Bene’s request; and this was sought to be done by introducing the investigation of other chemists. Accordingly there was offered in evidence a report on Daxol made in February, 1919, by the chemist of the dairy and food department of the State of Ohio, one made by the Bureau of Chemistry of the United States Department of Agriculture in November, 1919, and one made in September, 1921, by Pitkin (Inc.), of New York City.

Apparently no effort was made to identify or ascertain the origin of the substance submitted for analysis

further than that it was contained in a bottle labeled Daxol. The inference is necessarily that the commission regarded

the content of any bottle labeled Daxol as material to this issue, and it must also have been assumed that everything in a bottle labeled Daxol came from Proper. But there was no identification of what was analyzed as being Proper's product.

On the assumption made and without any evidence as to the age of the preparation as analyzed, the inferences are irresistible either that the preparation known as Daxol was not stable or that its composition varied.

The taking of opinion evidence extends over a field hitherto we think un-known in legal investigation. One of the chemists who had analyzed the contents of a Daxol bottle at the request of Bene had said that its use "on the human body would be attended with great danger." Whereupon another chemist was asked by the commission's attorney whether he thought Daxol would be injurious when applied to the human body. Over objection he was permitted to testify on the ground that "Well, it was a chemist that made the statement, that's the reason I think that he (the witness) is qualified." And examples of similar procedure might be multiplied.

The questions suggested by the foregoing references are whether the commission, in its investigations, is restricted to the taking of legally competent and relevant testimony. We incline to think that it is not by the statute, and having regard to the exigencies of administrative law, that it should not be so restricted.

We are of opinion that evidence or testimony, even though legally incompetent, if of the kind that usually affects fair-minded men in the conduct of their daily and more important affairs, should be received and considered ; but it should be fairly done. The Trade Commission, like many other modern administrative legal experiments, is called upon simultaneously to enact the roles of complainant, jury, judge, and counsel. This multiple impersonation is difficult, and the maintenance of fairness perhaps not easy, but we regard the methods pursued in showing Proper's diminution in sales as hacking in every evidential or testimonial element of value ; and opposed to that sense of fairness which is almost instinctive.

We note that no finding of fact was made by the commission to the effect that Proper's sales of Daxol in the aggregate diminished. But a finding was made *ut supra* that four chain store systems excluded Daxol from their counters.

As to this finding the record contains no evidence whatever justifying any reference to the Woolworth Co. The agent of Kresge testified plainly that Daxol did not sell and that was the reason "we discontinued carrying it." The buyer for McCrory declared that the chemical analysis would have had no effect on him if there had been a large trade in Daxol, and averred that the reason why he did not continue buying it was because the demand slackened. The witness produced from the Kress Co. was the only support of the commission's substantial averment, namely, that these particular four chain stores dropped Daxol as the result of Bene's activities.

We can not think that such testimony as this affords a foundation either legal or reasonable for the finding first above summarized.

Having pointed out the infirmity of what was introduced as evidence, we shall not pause to inquire as to whether the order could be justified on all that is left of any probative value, to wit, the statement on behalf of the Kress Co., the various analyses, and the admissions of the petitioner herein. For . there is a much more important question presented by this record;

This proceeding has nothing to do with the various antitrust acts ; the only statute invoked is section 5 of the act creating the commission (38 Stat. 717, 724).

Under this statute there are two points that must be made to appear before any complaint can issue :

First. That the person complained of "is using any unfair method of competition in commerce"; and

Second. That a proceeding by the commission in respect thereof would be "to the interest of the public."<sup>1</sup>

It would seem elementary that whatever is necessary to justify a proceeding by the commission must be proved in that proceeding by said commission. Both these points are duly alleged in the complaint herein, but no finding has been made to the effect that the proceeding has been justified as being in the interest of the public.

<sup>1</sup> See a discussion of this point by Denison, J., in *Silver v. F. T. C.*, 289 Fed., 985.

That the public interest is to be considered in proceedings of this kind is manifest from all the reports, but it is sufficient to cite the *Winsted Hosiery* case, 258 U. S. 483. The court said (p.493): "The facts show that it is to the interest of the public that a proceeding to stop the practice be brought \* \* \*. When misbranded goods attract customers by means of the fraud which they perpetrate, trade is diverted from the producer of truthfully marked goods." The decision cited rests flatly on the proposition that the goods there complained of were misbranded, and therefore afforded an unfair method of competition with goods properly branded. But what the court said concerning the goods advertised under a name deemed to contain Improper, and indeed fraudulent, Implications is just as applicable to goods sought to be protected and the sale thereof advanced through a proceeding by the Federal Trade Commission, but for the benefit and advantage primarily of a complaint ; in this case a single person, the manufacturer of Daxol.

The real meaning of this litigation is perfectly shown by the witness Kuhlman, who after testifying that sales of Daxol had practically ceased at the time she testified, volunteered the statement that "the concerns to whom we have been selling this product have had no faith up to this the because of the analysis that has been forwarded to the different companies. If the decision is in our favor, we may be able to reinstate their faith in the product." An objection by petitioner to this declaration was overruled, and the statement stands as a peculiarly frank exposition of the nature and purpose of the proceeding. We shall therefore consider, in the absence . of any finding on the subject, whether it is true, as alleged in the answer, that what is imparted to the public by the label on the Daxol container is " false, fraudulent, and misleading."

The label on a Daxol bottle declares that it is a " new American antiseptic, stronger than peroxide." It is said to represent " the highest chemical skill in producing a most potent antiseptic similar to the one in use at hospitals at the European fronts and recognized to be the greatest medical discovery of the age." In a special note the public is recommended " To obtain the best results, use Daxol as often as possible."

The directions for using this " potent antiseptic "" are in part as follows : "For cuts, open wounds and ulcers, moisten thoroughly on lint or cotton and apply freely. For sore throat gargle every half hour. For abscesses and boils apply freely by moistening cotton. For sore and inflamed eyes mix one teaspoonful to two tablespoons warm water and bathe eye." And there are other directions of a similar nature too long to quote.

Of the five analyses offered in evidence all but one report lime as present in varying proportions, and the one that does not mention lime does not pretend to be fully quantitative. This analysis put In evidence by the commission concludes thus : " Product is principally chlorine water of a strength of 0.06 per cent. As a disinfectant free chlorine is only equal to hydrogen peroxide, so to be as strong, this solution should be 3 per cent. Misbranded. Statement on label is false."

So far as chlorine is concerned, the proportions of that chemical found in the samples submitted vary enormously, viz, from 0.11 per cent to 0.058 per cent, while as for calcium hypochlorite (bleaching powder) it is present In a majority of the specimens submitted. The record contains no attack upon the accuracy of the several analyses.

It follows necessarily that we have here a compound either chemically' unstable, which is a point no chemist testified upon, or varying in composition, which is a point any layman can ascertain and understand from the evidence herein.

Finally the record contains no contradiction of the evidence given from a highly qualified physician and surgeon who testified from all the analyses, and his own experience with disinfectants and antiseptics. This uncontradicted and unimpeached witness went through the label from which we have quoted above and pointed out that most of the purposes for which the proprietor so highly recommended Daxol meant the free application of this solution to mucous membrane both healthy and deceased. He gave it as his professional opinion that such applications of Daxol would invariably produce "an irritating caustic effect"; and he heartily agreed with the Ohio Food Department that Daxol was a misbranded article.

From this evidence we deduce as findings of fact :



First. Daxol is a product of varying composition and misbranded in that the public is by its label requested to use it for purposes for which it is medically unfit.

Second. The public has no interest in the protection of such an article.

As a conclusion of law we hold that there being no proof of a public interest herein, or of Its being to the interest of the public that this proceeding should have been begun or the order complained of made, said order must be reversed; and it is reversed accordingly.

EXHIBIT 8

**AMERICAN TOBACCO CASE**

Supreme Court of the United States, Nos. 206 and 207. October term, 1923

Federal Trade Commission, Plaintiff in Error, v. American Tobacco Company  
and P. Lorillard Company, Inc.

In Error to the District Court of the United States for the Southern District  
of New York

Mr. Justice HOLMES delivered the opinion of the court.

These are two petitions for writs of mandamus to the respective corporations respondent, manufacturers and sellers of tobacco, brought by the Federal Trade Commission under the act of September 26, 1914, c. 311, section 9, 38 Stat. 717, 722, and in alleged pursuance of a resolution of the Senate passed on August 9, 1921. The purpose of the petitions is to require production of records, contracts, memoranda, and correspondence for inspection and making copies. They were denied by the district court (283 Fed. Rep. 999). The resolution directs the Commission to Investigate the tobacco situation as to domestic and export trade, with particular reference to market price to producers, etc. The act directs the Commission to prevent the use of unfair methods of competition in commerce and provides for a complaint by the Commission, a hearing and a report, with an order to desist if It deems the use of a prohibited method proved. The Commission and the party concerned are both given a resort to the Circuit Court of Appeals (sec. 5). By section 6 the Commission shall have power (*a*) to gather information concerning, and to Investigate the business, conduct, practices, and management of any corporation engaged in commerce, except banks and common carriers, and Its relation to other corporations and individuals; (*b*) to require reports and answers under oath to specific questions, furnishing the Commission such Information as it may require on the above subjects ; (*d*) upon the direction of the President or either house of Congress to investigate and report the facts as to alleged violation of the antitrust acts. By section 9 for the purposes of this act the Commission shall at all reasonable times have access to, for the purposes of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against and 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. In case of disobedience an order may be obtained from a district court. Upon application of the Attorney General the district courts are given jurisdiction to issue writs of mandamus to require compliance with the act or any order of the Commission made In pursuance thereof. The petitions are filed under this clause and the question is whether orders of the Commission to allow inspection and copies of the documents and correspondence referred to were authorized by the act.

The petitions allege that complaints have been filed with the Commission charging the respondents severally with unfair competition by regulating the prices at which their commodities should be resold, set forth the Senate resolution, and the resolutions of the Commission to conduct an investigation under the authority of sections 5 and 6 (*a*), and in pursuance of the Senate resolution and for the further purpose of gathering and compiling information concerning the business, conduct and practices, etc., of each of the respondent companies. There are the necessary formal allegations and a prayer that unless the accounts, books, records, documents, memoranda, contracts, papers, and correspondence of the respondents are immediately submitted for inspection



and examination and for the purpose of making copies thereof, a mandamus issue requiring, in the case of the American Tobacco Co., the exhibition during business hours when the commission's agent requests it, of all letters and telegrams received by the company from or sent by it to all of its jobber customers between January 1, 1921, to December 31, 1921, inclusive. In the case of the P. Lorillard Co. the same requirement is made, and also all letters, telegrams, or reports from or to its salesmen, or from or to all tobacco jobbers ' or wholesale grocers' associations, all contracts or arrangements with such associations and correspondence and agreements with a list of corporations named.

The Senate resolution may be laid on one side, as it is not based on any alleged violation of the antitrust acts, within the requirement of section 6 (d) of the act. (*United States v. Louisville & Nashville R. R. Co.*, 236 U. S. 318, 329.) The complaints, as to which the commission refused definite information to the respondents, and one at least of which, we understand, has been dismissed, also may be disregarded for the moment, since the commission claims an unlimited right of access to the respondents' papers, with reference to the possible existence of practices in violation of section 5.

The mere facts of carrying on a commerce not confined within State lines and of being organized as a corporation do not make men's affairs public, as those of a railroad company now may be. (*Smith v. Interstate Commerce Commission*, 245 U. S. 33, 43.) Anyone who respects the spirit as well as the letter of the fourth amendment would be loath to believe that Congress intended to authorize one of its subordinate agencies to sweep all our traditions into the fire (*Interstate Commerce Commission v. Brimson*, 154 U. S. 447, 479) and to direct fishing expeditions into private papers on the possibility that they may disclose evidence of crime. We do not discuss the question whether it could do so if it tried, as nothing short of the most explicit language would induce us to attribute to Congress that intent. The interruption of business, the possible revelation of trade secrets, and the expense that compliance with the commission's wholesale demand would cause are the least considerations. It is contrary to the first principles of justice to allow a search through all the respondents' records, relevant or irrelevant, in the hope that something will turn up. The unwillingness of this court to sustain such a claim is shown in *Harriman v. Interstate Commerce Commission*, 215 U. S. 407, and as to correspondence, even in the case of a common carrier, in *United States v. Louisville & Nashville R. R. Co.*, 236 U. S. 318, 335. The question is a different one where the State granting the charter gives its commission power to inspect.

The right of access given by the statute is to documentary evidence--not to all documents, but to such documents as are evidence. The analogies of the law do not allow the party wanting evidence to call for all documents in order to see if they do not contain it. Some ground must be shown for supposing that the documents called for do contain it. Formerly in equity the ground must be found in admissions in the answer. (*Wigram, Discovery*, 2d ed., sec. 293.) We assume that the rule to be applied here is more liberal but still a ground must be laid and the ground and the demand must be reasonable. (*Essgee Co. v. United States*, 262 U. S., 147, 156, 157.) A general subpoena in the form of these petitions would be bad. Some evidence of the materiality of the papers demanded must be produced. (*Hale v. Henkel*, 201 U. S. 43, 77.) In the States case relied on by the Government the requirement was only to produce books and papers that were relevant to the inquiry. (*Consolidated Rendering Co. v. Vermont*, 207 U. S. 541.) The form of the subpoena was not the question in *Wheeler v. United States*, 226 U. S. 478, 488.

The demand was not only general, but extended to the records and correspondence concerning business (lone wholly within the State. This is made a distinct ground of objection. We assume for present purposes that even some part of the presumably large mass of papers relating only to intrastate business may be so connected with charges of unfair competition in interstate matters as to be relevant. (*Stafford v. Wallace*, 258 U. S. 405, 520, 521. But that possibility does not warrant a demand for the whole. For all that appears the corporations would have been willing to produce such papers as they conceived to be relevant to the matter in hand. (*Sec Terminal Taxicab Co. v. District of Columbia*, 241 U. S. 252, 256.) If their judgment upon that matter was not final, at least some evidence must be offered to show that it was wrong. No such evidence is shown.

We have considered this case on the general claim of authority put forward by the commission. The argument for the Government attaches some

force to the investigations and proceedings upon which the commission had entered. The investigations and complaints seem to have been only on hearsay or suspicion--but even if they were induced by substantial evidence under oath the rudimentary principles of justice that we have laid down would apply. We cannot attribute to Congress an intent to defy the Fourth Amendment or even to come so near to doing so as to raise a serious question of constitutional law. (United States v. Delaware & Hudson Co. 213 U. S. 366, 408 ; U.S. v. Jin Fuey Moy, 241 U.S. 394, 401.

Judgments affirmed.

March 17, 1924.

## EXHIBIT 9

### RAYMOND BROS.-CLARK CO. CASE

Supreme Court of the United States. No.102. October Term, 1923

Federal Trade Commission, Petitioner, v. Raymond Bros.-Clark Company

On writ of Certiorari to the United States Circuit Court of Appeals for the  
Eighth Circuit

(January 7, 1924)

Mr. Justice Sanford delivered the opinion of the court.

This writ brings up for review a decree of The Circuit Court of Appeals which set aside an order of the Federal Trade Commission requiring the Raymond Bros.-Clark Co. to desist from a method of competition held to be prohibited by the Trade Commission act of September 26, 1914, c. 311, 38 Stat. 717.

By section 5 of that act "unfair methods of competition" in interstate commerce are declared unlawful, and the commission is empowered and directed to prevent their use.

The commission, in January, 1920, issued a complaint charging the Raymond Co. with acts and practices the purpose and effect of which was to cut off the supplies purchased by the Basket Stores Co., a competitor, from the T. A. Snider Preserve Co., stifle and prevent competition by the Stores Co., and interfere with the right of the Stores Co. and the Snider Co. to deal freely with each other in interstate commerce. The Raymond Co. answered, and evidence was taken. The commission made a report, stating its findings of fact and conclusions.

The material facts shown by the findings are : The Raymond Co. and tie Stores Co. are dealers in groceries, with their principal places of business and warehouses in Nebraska. They buy groceries In wholesale quantities from manufacturers in other States, which are shipped to their warehouses and resold to customers within and outside of Nebraska. Each does an annual business of approximately \$2,500,000. The Raymond Co. sells exclusively at wholesale. The Stores Co. operates a chain of retail stores, but also sells at wholesale. In its wholesale trade, which constitutes about 10 per cent of its total business, it is a competitor of the Raymond Co. The Snider Co. is a manufacturer of groceries, with its office in Illinois. In September, 1918, it sold groceries to the Raymond Co., the Stores Co. and other neighboring dealers. These groceries were shipped in interstate commerce in a "pool" car to the Raymond Co., for distribution among the several purchasers.<sup>1</sup> The Raymond Co., upon thus learning of the sale to the Stores Co. delayed the delivery of its portion of the groceries to the hindrance and obstruction of its business, and wrote to the Snider Co., protesting against the sale direct to the Stores Co. and asking for the allowance of the jobber's profit on such sale.<sup>2</sup> Later, the Raymond Co. declined to pay the Smilder Co. Until this commission was allowed, and threatened to cease business with it and return all goods purchased from it then in stock, unless it allowed this commission and discontinued direct sales to the St ores Co.; and, thereafter, in attempted settlement of the controversy having failed the Raymond Co. ceased to purchase from the Snider Co.

<sup>1</sup> The facts that the Snider Co.'s office in Illinois that it shipped these groceries in interstate commerce, are not stated in the findings; but they otherwise appear in the record and are not disputed.

<sup>2</sup> It otherwise appears from the record that the ground of its protest and claim was its assertion that the Stores Co. was "nothing but a retail store."



The conclusions of the commission were : That the conduct of the Raymond Co. tended to, and did, unduly hinder competition between the Stores Co. and others similarly engaged in business ; that the purpose of the Raymond Co. was also to press the Snider Co. to a selection of customers, in restraint of its trade, and to restrict the Stores Co. in the purchase of commodities in competition with other buyers; and that the conduct of the Raymond Co. tended to the accomplishment of this purpose.

The commission thereupon adjudged that the method of competition in question was prohibited by the act, and ordered the Raymond Co. to desist from directly or indirectly--hindering or preventing any person, firm, or corporation in or from the purchase of groceries or like commodities direct from the manufacturers or producers, in interstate commerce, or attempting so to do ; hindering or preventing any manufacturer, producer, or dealer in groceries and like commodities in or from the selection of customers in interstate commerce, or attempting so to do ; and influencing or attempting to influence any such manufacturer, producer, or dealer not to accept as a customer any firm or corporation with which, in the exercise of a free judgment, he has, or may desire to have, such relationship.

Upon a petition of the Raymond Co. for review of this order, the circuit court of appeals held that the finding of fact did not show an unfair method of competition by the Raymond Co. as to the Stores Co. or others similarly engaged in business. The court said: "There is no finding that petitioner combined with any other person or corporation for the purpose of affecting the trade of the Basket Stores Co., or others similarly engaged in business. So far as petitioner itself is concerned, it had the positive and lawful right to select any particular merchandise which it wished to purchase, and to select any person or corporation from whom it might wish to make its purchase. The petitioner had the right to do this for many reason satisfactory to it, or for no reason at all. It had a right to announce its reason without fear of subjecting itself to liability of any kind. It also had the unquestioned right to discontinue dealing with any manufacturer, \* \* \* for any reason satisfactory to itself or for no reason at all. Any incidental result which might occur by reason of petitioner exercising a lawful right can not be charged against petitioner as an unfair method of competition." The decree setting aside the order of the commission was thereupon entered.

We pass, without determination, the preliminary contentions of the Raymond Co. that the findings of the commission are not supported by the testimony in many respects, 3 and that, as both the complaint and the findings of fact relate merely to a controversy between it and a single manufacturer, over a single to shipment of merchandise, the broad order of the commission, commanding it to desist from all acts of like character with "the entire commercial world" is improvident, and can not be sustained. 4

The gravamen of the contention in behalf of the commission is that the conduct of the Raymond Co., acting alone and not in combination with others, in threatening the withdrawal of patronage from the Snider Co. if it continued to sell goods to the Stores Co., constituted an unfair method of competition, oppressive in its character, unlawful when tested by common law criteria, and having a dangerous tendency unduly to hinder competition.

The words "unfair method of competition," as used in the act, "are clearly inapplicable to practices never heretofore regarded as opposed to good morals because characterized by deception, and faith, fraud, or oppression, or as against public policy because of their dangerous tendency unduly to hinder competition or create monopoly." Federal Trade Comm. v. Grata. 253 U. S. 421, 427; Federal Trade Comm. v. Beech-Nut Co., 257 U. S. 441, 453. If real

3 The Raymond Co. insists that the testimony shows, among other things, that it did not intentionally delay the delivery of the groceries to the Stores Co.; that the Stores Co. is not its competitor in the wholesale business, but engaged in the retail business, selling groceries to consumers in competition with other retail dealers to whom the Raymond Co. sells at wholesale ; and that it did not threaten the Snider Co. with the withdrawal of patronage of it continued to sell to the Stores Co., but merely expressed surprise at the change made by the Snider Co. From its former policy of selling only to wholesalers, and declared that it would not have made its own purchases had it known of this

4 The circuit court of appeals stated, in the out set of its opinion, that, in any event, as the proceeding related to the use of an unfair method of competition against the Stores Co., the order of the commission, being "as broad as the business world," would have to be modified, if sustained in any particular. See Federal Trade Comm. v. Grata. 253 U. S. 421, and Western Sugar Refining



Co. v. Trade Comm. (C. C. A.), 275 Fed. 725, 732

competition is to continue, the right of the individual to exercise reasonable discretion in respect of his own business methods must be preserved. *Federal Trade Comm. v. Grata*, supra, page 429.

The present case discloses no elements of monopoly or oppression. So far as appears the Raymond Co. has no dominant control of the grocery trade, and competition between it and the Stores Co. is on equal terms. Nor do we find that the threatened withdrawal of its trade from the Snider Co. was unlawful at the common law, or had any dangerous tendency unduly to hinder competition.

It is the right, "long recognized," of a trader engaged in an entirely private business, "freely to exercise his own independent discretion as to the parties with whom he will deal." *United State v. Colgate & Co.*, 250 U. S. 300, 307. See also *United States v. Freight Ass'n.*, 166 U. S. 290, 320; *Dueber Watch-Case Co. v. Howard Watch Co.* (C. C. A.), 66 Fed 637, 645; *Great Atlantic Tea Co. v. Cream of Wheat Co.* (C. C. A.), 227 Fed. 46, 48; *Wholesale Grocers' Ass'n. v. Trade Comm.* (C. C. A.), 277 Fed. 657, 664; *Mennen Co. v. Trade Comm.* (C. C. A ), 288 Fed. 774, 780 ; *Booth v. Burgess*, 72 N. J. Eq. 181, 190 ; and 2 *Cooley on Torts* (3d ed.), 587. Thus a retail dealer "has the unquestioned right to stop dealing with a wholesaler for reasons satisfactory to himself." *Eastern States Lumber Co. v. United States*, 234 U. S. 600, 614; *United States v. Colgate & Co.*, supra, p.307. He may lawfully make a fixed rule of conduct not to buy from a producer or manufacturer who sells to consumers in competition with himself. *Granada Lumber Co. v. Mississippi*, 217 U. S. 433, 440. Or he may stop dealing with a wholesaler who he thinks is acting unfairly in trying to undermine his trade. *Eastern States Lumber Co. v. United States*, supra, p.614; *United States v. Colgate & Co.*, supra, 307. Likewise a wholesale dealer has the right to stop dealing with a manufacturer "for reasons sufficient to himself." And he may do so because he thinks such manufacturer is undermining his trade by selling either to a competing wholesaler or to a retailer competing with his own customers. Such other wholesaler or retailer has the reciprocal right to stop dealing with the manufacturer. This each may do, in the exercise of free competition, leaving it to the manufacturer to determine which customer, in the exercise of his own judgment, he desires to retain.

A different case would, of course, be presented if the Raymond Co. had combined and agreed with other wholesale dealers that none would trade with any manufacturer who sold to other wholesale dealers competing with themselves, or to retail dealers competing with their customers. An act lawful when done by one may become wrongful when done by many acting in concert, taking on the form of a conspiracy which may be prohibited if the result be hurtful to the public or to the individual against whom the concerted action is directed. *Granada Lumber Co. v. Mississippi*, supra, p.440 ; *Eastern States Lumber Co. v. United States*, supra, p. 614. See also *Binderup v. Patlie Exchange*, -- U. S. -- (Nov.19, 1923).

We conclude that the Raymond Co., in threatening to withdraw its trade from the Snider Co., exercised its lawful right, and that its conduct did not constitute an unfair method of competition within the meaning of the act. The decree of the Circuit Court of Appeals is accordingly

Affirmed.

## EXHIBIT 10

### FOX FILM CORPORATION

United States Circuit Court of Appeals for the Second Circuit

FOX Film Corporation, Petitioner. Against Federal Trade Commission,  
respondent

Before Hough, Manton, and Mayer, Circuit Judges.

Petition to review the order of the Federal Trade Commission directing the petitioner to cease and desist from methods of unfair competition in trade. This petition is by the Fox Film Corporation to revise such order. Order affirmed.

Saul E. Roger, Esq., counsel for petitioner.

Adrien F. Busick, Esq., counsel for respondent.

MANTON, Circuit Judge.

Under the authority of the act of September 24, 1914 (38 Stat. L 717, Comp. Stat. 8836-a), the respondent filed a complaint against the petitioner, alleging that it was engaged in the production of photoplays and leased and sold its products to the owners and operators of moving-picture theaters throughout the United States, granting the right to exhibit said photoplays to the public. It is admitted that the petitioner, in leasing and selling to the exhibitors, maintains agencies at various cities in the several States of the United States. It makes positive photoplays produced by it and packs the same in such manner as to be adapted for use in motion-picture projecting machines. These are called films, and the photoplays are known in the trade as releases. It ships to its agencies in several States from New York City. The petitioner is therefore engaged in interstate commerce. (*Blindertip v. Pathe Exchange*, Supreme Court, Nov. 19, 1923, 68 L. Ed. 114.)

The parties stipulated the facts, and they had been embodied in the findings of the commission. It is stipulated that when a picture has been run and generally exploited in the United States or in a considerable portion of it, and it is again offered for exhibition at a later period, it is commonly known as a reissue or revival. That according to the accepted practice, usage, and custom of this industry, unless the original the of the picture is retained or the picturers so described in the contract between the producer and the and in the advertising matter as a reissue or revival of a photoplay previously released, it is understood by the exhibitor and the public that the photoplay to be furnished or screened is or will be an new picture--that is to say, a continuity not previously exhibited or exploited throughout any considerable portion of the United States. On December 18, 1916, the petitioner released a motion picture which was entitled "The Love Thief" and on May 28, 1917, it released a motion picture which was entitled "The Silent Lie," and on September 17, 1917, it released a motion picture entitled "The Yankee Way." These pictures were extensively exploited and exhibited throughout the United States. They were known at the as feature pictures, being ordinary five-reel pictures designed for the principal part of an ordinary motion-picture theater program. It is stipulated that in the course of the season of 1919-20 the petitioner reissued the old picture of "The Love Thef" as "The She Tiger"; reissued the old picture of "The Silent Lie" and entitled it "Camille of the Yukon" and reissued the old picture of "The Yankee Way" and entitled it "Sink or Swim." It furnished each of these three pictures so retitled to exhibitors in

various states of the United States in connection with leases providing for the petitioner's so-called program series of pictures. All other pictures furnished under such program contracts to exhibitors with bill posters and other matter for use in advertising the photoplays to the public. In no way did the petitioner disclose that the pictures so furnished or any of them were reissues. The advertising matters furnished exhibitors by petitioner in connection with the picture "Sink or Swim" conspicuously displayed the legend "William Fox presents George Walsh in 'Sink or Swim,'" and in connection with "The She Tiger" it conspicuously displayed the legend "'The She Tiger' from the famous novel, 'The Love Thief,' by N. P. Niessen." The advertising furnished exhibitors in connection with the picture "Camille of the Yukon" displayed the legend, "Based on Larry Evans's Alaskan novel, 'The Silent Lie.'" Various exhibitors who received these three photoplays from the petitioner used this advertising matter to advertise the exhibition of the pictures without further disclosing to the public that they were old pictures. It was, in effect, stipulated that without further information from the petitioner or its agents that any or either of the pictures were reissues the exhibitors believed them new pictures and advertised them for exhibition with the bills and posters supplied by the petitioner, and in some instances they received complaints from patrons of their theaters, who claimed to have been misled into believing them new pictures. In effect, it was stipulated that in communities where pictures were received and advertised, patrons attended the exhibition under the belief that they were new pictures.

The petitioner concedes that it is engaged in competition with other persons, partnerships, and corporations similarly engaged. Through its agency, it enters into leases, and contracts with exhibitors, agreeing to furnish the exhibitors over a fixed period, its current releases and grants the right to exhibitors to exhibit the same to the public for a stated number of performances. The president of the petitioner, in effect, testified that it has never been the general practice or policy of the petitioner to exploit, sell, or lease old pictures under new names or to reissue pictures under any names other than those of their original release. That the practice or policy of reissuing of old pictures under new names is obnoxious to him and to the motion-picture industry "and indefensible from any ethical or business standpoint; that of the multitude of motion pictures or photoplays produced by respondent, he knows of no instance except those involved in this proceeding in which respondent was reissued any old pictures under new names; that with respect to the above pictures there was no attempt to mislead the exhibitors, or the public that said pictures were not reissues." The order to cease and desist provides "that the respondent, Fox Film Corporation, its agents, servants and employees, cease and desist from directly or indirectly advertising, selling, or leasing, or offering to sell or lease reissued motion-picture photo-plays under titles other than those under which such photoplays were originally issued and exhibited, unless the former titles of such photoplays and the fact that they therefore have been exhibited under such former titles, be clearly, definitely, distinctly and unmistakably stated and set forth, both in the photoplay itself and in any and all advertising matter used in connection therewith in letters and type equal in size and prominence to those used in displaying the new titles." While the findings of the commission embraced but three pictures where the unfair methods were practiced, that is sufficient to support the order to desist. It is now well recognized that the act refers specifically to maintain methods of competition. This does not mean the general practice of the offender must be unfair in competition. General practice may involve many methods each conceived and to be applied for its particular desired result. One act that constitutes an unfair practice may of itself be offensive to the act. Congress made in mind, in this legislation, the prevention of acts which amount to unfair methods of competition, whatever their inception. (Federal Trade Comm. v.

<sup>1</sup> Senator Cummins, chairman of the committee which reported the bill, said (Cong. Rec., vol. 51, p. 11455)

"Unfair competition must usually proceed to great length and be destructive of competition before it can be seized and denounced by the antitrust law. In other cases it must be associated with, coupled with other vicious and unlawful practices in order to bring the person or the corporation guilty of the practice within the scope of the antitrust law. The purpose of this bill in this section and on other sections, which I hope will be added to it, is to seize the offender before his ravages have gone to the length necessary in order to bring him within the law that we already have.

"We knew little of these things 1890. The commerce of the United States has largely developed in the last twenty-five years.

The modern methods of carrying on

Grata, 253 U. S. 421.) To meet this, the antitrust law was supplemented. To violate the Sherman Act, it is necessary to find that the practice has grown to such proportions and strength that the business and practice is obnoxious as a trust or monopoly and restrains trade. No better illustration nany be example than the instant case of these three offenses or acts which are unfair restrains of trade and damage the competitor who sells to the exhibitors. The Federal trade act was Intended to reach such unfair business methods when the antitrust law could not do so. The commission may restrain an act which tends so unduly to hinder competition as to permit the act to be classed as an unfair method of competing. An act which involves such fraud in competition as to render it unfair, is an act within the condemnation of this statute. It is by stopping its use before it becomes a general practice that the effect of an unfair method in suppressing competition is destroyed and competitors protected. False and misleading advertising or representations concerning hosiery was held to be an unfair method of competition. (Winsted Hosiery case, 258 U. S. 483.) In that case a manufacturer's practice of selling underwear and other knit goods made partly of wool, was to label it "Natural merino," "Natural worsted," and "Natural wool." This product was purchased by the consuming public in the retail trade as indicating pure wool fabrics. It misled part of the public into buying as all wool garments, garments made largely of cotton and aided and encouraged misrepresentation by unscrupulous retailers and other salesmen. It was held to be an unfair method of competition as against manufacturers of like garments made of wool and wool and cotton who branded their products truthfully and therefore should be suppressed under Sec. 5 of the Federal trade act. It was held further that such method of competition does not cease to be so because competitors became aware of it or because it becomes so well known to the trade that retailers as distinguished from consumers are not deceived by it. The pictures in the instant case were presented in the advertising matter and misrepresented by the petitioner to the exhibitors as new pictures when they were in fact old. The exhibitors in the trade had a right to expect that a new name described a new picture. The exhibitors were accordingly deceived. It had been the custom to entitle the photoplay products truthfully. Fox's stipulated testimony concedes this. In *Royal Baking Powder Co. v. Federal Trade Comm.* (281 Fed. 744) the petitioner, due to the increased cost of cream of tartar, discontinued manufacturing its widely advertised brand of cream of tartar baking powder which had been on the market for sixty years, and began to manufacture a phosphate baking powder and advertised it for sale at about one-half the former price, under practically the same trade name and put up in the same containers. This court held that the finding to the effect that this was misleading to the public and unfair to other manufacturers selling cream of tartar baking powder, was justified and that false and misleading labeling and advertising induced the public to believe that the phosphate baking powder it was manufacturing was the same as the more expensive cream of tartar baking powder which it had formerly manufactured, was an unfair method of competition and could be prevented by the Trade Commission. The fact that the petitioner has discontinued this misrepresentation and promises a business practice which will forbid the publishing of false advertising in the future, does not deprive the commission of authority to command the company to desist from such advertising for it is not obliged to assume that false representations or publications or advertising will not be resumed. (*Guaranty Vet. Co. v. Federal Trade Comm.*, 285 Fed. 860.) This record establishes that exhibitors were actually misled by the contracts and the advertising matter into the belief that the pictures purchased for exhibition were new pictures. The case, therefore, presents the instance of a producer and distributor misrepresenting the

business have been discovered and put into operation in the last quarter of a century ; and as we have gone on under the antitrust law and under the decisions of the court in their effort to enforce that law, we have observed certain forms of industrial activity which ought to be prohibited whether in and of themselves they restrain trade or commerce or not we have discovered that their tendency is evil; we have discovered that the end which is inevitably reached through these methods is an end which is destructive of fair commerce between the States. It is these considerations which, baa my judgment, have made it wise, if not necessary, to supplement the antitrust law by additional legislation, not in antagonism to the antitrust law, but in harmony with the antitrust law, which is more effectively put into the industrial life of America the principle of the antitrust law, which is fair, reasonable competition, independence to the individual, and disassociation among the corporations. \* \* \*

quality of his goods in his contracts and in his advertising matter misrepresenting them so that the trade, apart from the public, was misled and deceived. In the reissuance of the old pictures under the new titles, without any intimation or notice concerning their origin or history, the petitioner was passing off one of its products for another of its products; that is to say, one of its old productions for a new production. This order to desist will not prohibit the retaking of a photoplay in which an entirely new cast is used or an entirely new production is made, or where the original title is used or reference made thereto in the advertising of the picture. There is no objection to the use of the former photoplay if the name be not changed and no deception be practiced in its release to the exhibitors or its exhibition.

The order of the commission is affirmed.

## EXHIBIT 11

### PROCEEDINGS DISPOSED OF DURING YEAR ENDED JUNE 30, 1924

#### I. ORDERS TO CEASE AND DESIST

*Complaint No. 303.*--Federal Trade Commission v. Utah-Idaho Sugar Co., Amalgamated Sugar Co., E. R. Wooley, A. P. Cooper, and E. F. Cullen. Charge : Using unfair methods of competition in connection with the manufacture and sale of beet sugar, consisting in the circulation of false and misleading reports concerning the business, methods, and financial standing of competitors and the inability of competitors to produce sugar, due to the alleged fact that all the producing territory is controlled by respondent ; making long-term contracts with growers in territories where competitors were intending to erect factories ; causing railroads to delay building tracks and other facilities for competitors, and causing banks to withhold credit ; spying upon the private and business affiliates of competitors ; establishing factories and buying up supplies in territories about to be occupied by competitors ; preventing manufactures of machinery from supplying competitors ; secretly paying others to institute litigation against competitors and furnishing money to secret agents for the purpose of acquiring the controlling interest in the business of competitions, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission dismissed the complaint as to E. F. Cullen, and entered the following order :

Now therefore it is ordered that the respondents, Utah-Idaho Sugar Co. and the Amalgamated Sugar Co., each of them and their officers, agents, and employees and E Re Wooled and A. P. Cooper, shall forever cease and desist from conspiring or combining between and among themselves to maintain or retain the monopoly of corporation respondents hereinbefore set out ; to prevent the establishment of beet-sugar enterprises and the building of sugar factories by persons or interests other than said corporation respondents, and to hinder, forestall, obstruct, or prevent competitors or prospective competitors from engaging in the purchase of sugar beets, and in the manufacture and sale of refined beet sugar in interstate commerce, and from effectuating or attempting to effectuate such conspiracy and combination--

(1) By respondent corporations allocating to themselves certain territory and establishing interstate territorial divisions lines to be observed by and between themselves in the obtaining of sugar beets and the building of beet-sugar factories for the purpose of unlawfully protecting the said respondent corporations against competitors who may endeavor to come into such allocated territory for the purpose of obtaining sugar beets and for the purpose of building factories for the manufacture of beet sugar.

(2) By intimidation, untruthful statements, or otherwise, preventing, hindering, or attempting to prevent or hinder the Dyer Co., a corporation of Cleveland, Ohio, a manufacturer of beet sugar factory machinery and builder of beet sugar factories in the United States, or any other such manufacturer, from engaging In interstate commerce in selling, building, and equipping beet sugar factories for competitors or prospective contributors who are engaged or who are about to engage in the purchase of sugar beets and the manufacture and sale of refined beet sugar in interstate commerce.

(3) By using their financial power and influence so as to cause banks and others to refuse credit to and to discourage competitors and prospective competitors from engaging in the purchase of sugar beets and the manufacture and sale of refined beet sugar in interstate commerce.

(4) By using their financial power and influence to purchase land and erect factories in the territory where competitors of prospective competitors intend or shall undertake to start in the business of purchasing sugar beets and of manufacturing and selling refined beet sugar in interstate commerce,



when such purchases or erections are not done in good faith and for no other purpose than to forestall, obstruct, and prevent competitors and prospective competitors from engaging in the business of purchasing sugar beets and of manufacturing and selling beet sugar in interstate commerce.

(5) By inducing beet growers to break or cancel contracts for the production of sugar beets for competitors or prospective competitors by promises to build sugar factories, when said respondent corporations have no intention of constructing same, but make such promise solely for the purpose of causing breach of contracts for said production in order thereby to prevent or hamper the building of prospective competing factories or the operation of existing competing factories.

(6) By circulating and publishing false, misleading, and unfair statements concerning the machinery and equipment of competitors or prospective competitors' factories or the fitness of such machinery to successfully manufacture refined beet sugar.

(7) By circulating and publishing false, misleading, and unfair statements concerning the (a) ability of competitors or prospective competitors to get and pay for beet seed ; (b) adaptability to raising sugar beets of land or territory in the localities where competitors are located or are intending to locate ; (c) ability of competitors or prospective competitors to pay producers or growers for sugar beets contracted for or delivered to them.

(8) By making untruthful and unjustifiable statements against competitors or prospective competitors to induce, persuade, and influence United States Government departments and agents, for the purpose of causing said governmental departments or agents to use their power and authority to prevent the building of factories for the manufacture and sale in interstate commerce of refined beet sugar by competitors or prospective competitors.

(9) By offering to advertise in newspapers circulating in the localities of the States of Utah, Idaho, Oregon, and Montana or elsewhere, where competitors operate or prospective competitors intend to build and operate beet sugar factories, with the understanding that editorial policies shall be in favor of corporation respondents as against competitors in regard to the beet sugar industry.

(10) By inducing beet growers or others, through false, unfair, and misleading statements, to withdraw their support from, and to breach contracts for the growing of sugar beets with competitors and prospective competitors in the manufacture and sale in interstate commerce of refined beet sugar, thereby depriving said competitors of, or hampering them in, the ability to compete with corporation respondents.

(11) By circulating and publishing false, misleading, and unfair statements concerning the financial standing and responsibility of competitors or prospective competitors for the purpose of preventing or hampering the sale or disposition of the stocks, bonds, and promissory notes of such competitors, or of otherwise causing said competitors financial embarrassment.

(12) By financing and furnishing money to secret and undisclosed agents or employees for the purpose of inciting financial trouble and embarrassment to competitors or prospective competitors by purchasing or acquiring secretly the whole or a controlling interest in the business of competitors or prospective competitors who are engaged or who intend to engage in the manufacture and sale of refined beet sugar in interstate commerce.

(13) By financing and furnishing money to secret and undisclosed agents or employees for the purpose of annoying, harassing, and eliminating competitors and prospective competitors by instituting unjustifiable and groundless litigation and law suits.

(14) By circulating false, misleading, and unfair statements in writing orally concerning the honesty, integrity, or ability of the promoters, officers, or employees of competitors or prospective competitors engaged in or about to engage in the purchase of sugar beets and the manufacture and sale in interstate commerce of refined beet sugar.

(15) By utilizing any other equivalent means not hereinbefore stated of accomplishing the object of unfairly preventing, forestalling, stifling or hampering the business of competitors and of those about to compete with corporations respondents in the purchase of sugar beets and the manufacture and sale of refined beet sugar in interstate commerce.

No service of the complaint having been made upon the respondent, E. F. Cullen, it is further ordered that the complaint herein be, and the same is hereby, dismissed as to the said respondent, E. F. Cullen.



By the commission, Commissioners Van Fleet and Gaskill, dissenting. Memorandum dissent by Commissioner Van Fleet attached.

DISSENT BY COMMISSIONER VAN FLEET.

In this case the respondents are engaged in the manufacture and sale of beet sugar. The sugar is sold in interstate commerce. The manufacture is intrastate. This proceeding is based on section 5 of the Federal Trade Commission act, which declares unlawful unfair methods of competition in commerce. The fact that respondents are engaged in commerce in selling sugar produced has no bearing on the case for the reason that the proof does not show any acts of unfair competition in such product. The fact that a respondent is engaged in commerce is not material unless the acts charged have to do with such commerce or that of its competitors in such commerce. The acts to which the proof is directed are concerning only the manufacture. The manufacture of sugar from beets is somewhat peculiar in that it is necessary to have the factory located where beets may readily be obtained by short haul. It is not profitable to ship the beets a great distance to the factory. The acts to which the proof is directed consisted in the effort of respondents to prevent competing factories being located in contiguous territory where they might absorb a part of the supply of beets to respondents' factories. It was at most a prevention of competition in the purchase of the raw material for manufacture within the State, and in no case does the proof show an interference with the transport of beets from one State to another, or an interference with the purchase thereof.

It is well settled that production and manufacture is not commerce. *Coe v. Errol*, 116 U. S. 517; *Kidd v. Pearson*, 128 U. S. 1; *United States v. E. C. Knight Co.*, 156 U.S. 1; *Capital City Dairy Co. v. Ohio*, 183 U. S. 238; *McCluskey v. Marysville & Northern Ry. Co.*, 243 U. S. 251; *Arkadelphia Milling Co. v. St. Louis Southwestern Ry. Co.* 249 U. S. 134; *The Coronado case*, 259 U. S. 344; *Hammer v. Dagenlanart*, 247 U. S. 251.

The fact that an article in process of manufacture is intended for export to another State does not render it an article of interstate commerce. *Crescent Oil Company v. Mississippi*, 257 U. S. 129. But it is contended in support of that jurisdiction of the commission that such interference with the source of supply of respondent's competitors affects the ability of such competitors to produce sugar to be sold in interstate commerce and that such acts are thus an interference with such commerce. This theory is based on those cases holding that intrastate acts which directly interfere with a current of commerce may be controlled by Congress, *Swift v. U. S.*, 196 U. S. 375; *United States v. Patten*, 226 U. S. 525; *United States v. Ferger*, 250 U. S. 199; *Stafford v. Wallace*, 257 U. S.; *Board of Trade of the City of Chicago v. Olsen, et al.* U. S. Sup., Apr. 16, 1923.

There is no conflict between the cases holding that production and manufacture are not commerce and the doctrine laid down in the *Swift* and following cases. In the first case there is no interstate commerce unless the acts themselves are such. In the second case there already is interstate commerce which is being affected or obstructed by the intrastate acts. Confusion may arise if the intrastate acts regulated under the doctrine in the *Swift* case be compared with intrastate acts where there is not already commerce.

Purely intrastate acts may or may not come under the Federal jurisdiction, depending on whether they affect existing interstate commerce. The same acts thus may or may not be subject to such jurisdiction. This is well illustrated in the two cases of *Hill v. Wallace*, 42 Sup. Ct. Rep. 453; *Board of Trade of the City of Chicago v. Olsen et al.* U. S. Sup., Apr. 16, 1923. When such acts are subject to such jurisdiction it is not because they are commerce, but because they affect or obstruct it.

In the present case there is no commerce to obstruct until the beets are manufactured into sugar and such sugar has been placed in transport. The argument is, however, as stated above, that the acts here cut off at the source such commerce. It is only such acts as directly interfere with commerce which come under the Federal jurisdiction. The line must be drawn somewhere, else all jurisdiction in trade or production would become Federal. Hence Congress has not jurisdiction of such acts as only indirectly or remotely affect commerce. In the instant case if interference with the production and manufacture into sugar of beets is an obstruction to a later or unborn commerce in sugar to be made from the beets, one

who intrastate sold defective beet seed,

thus preventing the production of beets to be manufactured into sugar, would be in commerce. Or one who sold fertilizer to raise the seed to plant the beets to make the sugar to be shipped in commerce would be in commerce.

*Complaint No. 459.*--Federal Trade Commission v. United Typothetae of America, Benjamin P. Moulton, Arthur E. Southworth, Charles Le Kingsley, George H. Gardner, E. H. James, Fred W. Gage, and Joseph A. Borden. Charge : Using unfair methods of competition by inaugurating a campaign known as the "three-year plan" for the purpose of collecting assessments from manufacturers and merchants who sell paper, printing presses, type, ink, and other supplies to employing printers and other associations allied to the printing industry, the money to be used mainly for the purpose of inducing employing printers to use a uniform system of cost accounting and a standard price list compiled by the respondent ; using coercive methods to obtain subscriptions to the " three-year-plan" fund ; adopting through its " trade-matter committee" a practice of attempting to control the matter of terms on which manufacturers of printing presses, etc., sell their output to printing establishments, and attempting to have such manufacturers refuse to place any of their presses, etc., in any printing establishment until a cash payment equal to 25 per cent of the amount of the total purchase price be paid ; urging printers to adopt a "standard cost system" and " standard price list," for the purpose of establishing a uniform scale of prices throughout the printing industry, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing the commission entered the following order:

It is now ordered that the respondent, United Typothetae of America, its officers, as individuals and as officers of the United Typothetae of America ; its members, individually and as members of the United Typothetae of America ; Its branch and affiliated local organizations, including, in addition to some not known to the commission, the following:

Capital District Typothetae, Albany, N. Y. ; Fox River Valley Typothetae, Appleton, Wis. ; Mountain Typothetae, Asheville, N. C. ; Atlanta Typothetae, Atlanta, Ga. ; Augusta Typothetae, Augusta, Ga. ; Austin Typothetae, Austin, Tex. ; Baltimore Typothetae, Baltimore Md. ; Battle Creek Typothetae, Battle Creek, Mich. ; Bay City Typothetae, Bay City, Mich. ; Binghamton Typothetae, Binghamton, N. Y. ; Birmingham Typothetae, Birmingham Ala. ; Bloomington Typothetae, Bloomington, Ill. ; Boston Typothetae Board of Trade, Boston, Mass. ; Bridgeport Typothetae, Bridgeport Conn. ; Buffalo Typothetae, Buffalo, N.Y. ; West Jersey Typothetae, Camden, N. J. ; Stark County Typothetae, Canton, Ohio ; Charleston Typothetae, Charleston, S. C. ; Charlotte Typothetae, Charlotte, N. C. ; Chattanooga Typothetae, Chattanooga, Tenn. ; Franklin Typothetae of Chicago, Chicago, Ill. ; Franklin Typothetae of Cincinnati, Cincinnati, Ohio ; Graphic Arts Club of Cleveland, Cleveland, Ohio ; Columbia Typothetae, Columbia, S. C. ; Columbus Typothetae, Columbus, Ga. ; Columbus Typothetae, Columbus, Ohio ; Dallas Typothetae, Dallas, Tex. ; Franklin Typothetae of Dayton, Dayton, Ohio ; Des Moines Typothetae, Des Moines, Iowa ; Typothetae Franklin Association, Detroit, Mich. ; Duluth Typothetae, Duluth, Minn. ; Typothetae of Elmira, Elmira, N. Y. ; Erie Typothetae, Erie, Pa. ; Everett Typothetae, Everett, Wash. ; Fargo-Moorhead Typothetae, Fargo, N. Dak. ; Flint Typothetae, Flint, Mich. ; Typothetae of Fort Smith, Fort Smith, Ark. ; Fort Wayne Typothetae, Fort Wayne, Ind. ; Fort Worth Typothetae, Fort Worth, Tex. ; Grand Rapids Typothetae, Grand Rapids, Mich. ; Greenville Typothetae, Greenville, S. C. ; Western Ontario Typothetae, Guelph, Ontario, Canada ; Central Pennsylvania Typothetae, Harrisburg, Pa. ; Hartford Typothetae, Hartford, Conn. ; Typothetae of Haverhill, Haverhill, Mass. ; Houston-Galveston Typothetae, Houston, Tex. ; Southwestern Typothetae of Kansas and Oklahoma, Independence, Kans. ; Indianapolis Typothetae, Indianapolis, Ind. ; Jackson Typothetae, Jackson, Mich. ; Jacksonville Typothetae, Jacksonville, Fla. ; Hudson County Typothetae, Jersey City, N. J. ; East Tennessee Typothetae, Johnson City, Tenn. ; Kalamazoo Typothetae, Kalamazoo, Mich. ; Graphic Arts Organization, Kansas City, Mo. ; Knoxville Typothetae, Knoxville, Tenn. ; Lansing Typothetae, Lansing, Mich. ; Lima Typothetae, Lima, Ohio ; Lincoln Typothetae, Lincoln, Nebr. ; Arkansas Typothetae, Little Rock, Ark. ; Typothetae of Macon, Macon, Ga. ; Marietta Typothetae, Marietta, Ohio ; Memphis Typothetae, Memphis, Tenn. ; Milwaukee Typothetae, Milwaukee, Wis. ; Minneapolis Typothetae, Minneapolis, Minn. ; Mobile Typothetae, Mobile, Ala. ; Montgomery Typothetae, Montgomery, Ala. ; Graphic Arts Section, C. M.



A., Montreal, Province of Quebec, Canada; Muskegon Typothetae, Muskegon, Mich.; Ben Franklin Typothetae of Muskogee, Muskogee, Okla.; Typothetae of Newark, Newark, N. J.; New Haven Typothetae, New Haven, Conn.; New Orleans Typothetae, New Orleans, La.; New Westminster Typothetae, New Westminster, British Columbia, Canada; New York Employing Printer Association, New York, N. Y.; Tidewater Typothetae, Norfolk, Va.; Graphic Arts Association, Oklahoma City, Okla.; Ottawa Typothetae, Ottawa Ontario, Canada; Pensacola Club, Pensacola, Fla.; Typothetae of Philadelphia, Pa.; Typothetae of Western Pennsylvania, Pittsburgh, Pa.; Maine Typothetae, Portland, Me.; Portland Typothetae, Portland, Oreg.; Typothetae of Rhode Island, Providence, R. I.; Quebec Typothetae, Quebec, Province of Quebec, Canada; Gem City Typothetae, Quincy, Ill.; Racine-Kenosha Typothetae, Raleigh, Wis.; Central North Carolina Typothetae, Raleigh, N. C.; Richmond Typothetae, Richmond, Va.; Rochester Typothetae, Rochester, N. Y.; Rockford Typothetae, Rockford, Ill.; Tri-City Manufacturing Printers' Association, Rock Island, Ill.; Saginaw Typothetae, Saginaw, Mich.; Employing Printers' Educational Association, San Antonio, Tex.; Typothetae of Savannah, Savannah, Ga.; Ben Franklin Club of St. Louis, St. Louis, Mo.; St. Paul Typothetae, St. Paul, Minn.; Anthracite Typothetae, Scranton, Pa.; Seattle Division, U. S. A., Seattle, Wash.; St. Joseph Valley Typothetae, South Bend, Ind.; Spokane Typothetae, Spokane, Wash.; Springfield Typothetae, Springfield, Mass.; Springfield Typothetae, Springfield, Ohio; Okanagan Press Guild, Summerland, British Columbia, Canada; Syracuse Typothetae, Syracuse, N. Y.; Tacoma Typothetae, Tacoma, Wash.; Florida West Coast Typothetae, Tampa, Fla.; Terre Haute Typothetae, Terre Haute, Ind.; Toledo Typothetae, Toledo, Ohio; Topeka Typothetae, Topeka, Kans.; Toronto Typothetae, Toronto, Ontario, Canada; Trenton Typothetae, Trenton, N. J.; Typothetae of Tulsa, Tulsa, Okla.; Typothetae of Utica, and vicinity, Utica, N. Y.; Vancouver Typothetae, Vancouver, British Columbia, Canada; Waco Typothetae, Waco, Tex.; Typothetae of Washington, D. C., Washington, D. C.; Ben Franklin Typothetae of Wichita, Wichita, Kans.; Williamsport Typothetae, Williamsport, Pa.; Wilmington Typothetae, Wilmington, Del.; Ben Franklin Typothetae, Wilmington, N. C.; Triangle Typothetae, Winston-Salem, N. C.; Winnipeg Typothetae, Winnipeg, Manitoba, Canada; Worcester Typothetae, Worcester, Mass.--

cease and desist, directly or indirectly--

1. From conducting its system of education in principles and methods of cost accounting in such way as to suggest any uniform percentage to be included in selling price as profit or otherwise by members or others using such system of cost accounting.

2. From requiring or receiving from members and others using respondent's uniform cost-accounting system, identified and itemized statements of production costs for the purpose of calculating average, normal, or standard costs of production, and from publishing them to members and the trade generally as a "Standard Price List" or "Standard Guide" or association cost or price list under any other name.

3. From compiling and publishing for use by members and others in the same trade, average, normal, or standard production costs with instructions or suggestions for the translation of such standard costs into selling prices under the name of "Standard Price List" or "Standard Guide" or any other name.

*Complaint No. 472.--Federal Trade Commission v. Pioneer Paper Co. Charge :* Using unfair methods of competition by falsely advertising its products as "rubber," and using the terms "one ply," "two ply," and "three ply," to designate and describe the different degrees of thickness of its product, when the different degrees of thickness consist of but one layer or ply with the effect of misleading and deceiving the public, and giving the respondent's product an undue preference over products of competitors who do not use such methods, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in line of testimony, the Commission entered the following order:

It is now ordered that respondent, Pioneer Paper Co., its agents, servants, employees, and representatives do cease and desist--

From employing or using in connection with the sale of roofing material not composed of rubber the word "Rubber," alone or in combination with any other word or words to describe its product; (a) in circulars booklets or other advertising matter; or (b) as, or in connection with, or as part of, a

trade name or brand for such roofing ; or (c) on labels, covers, or wrappers for, or on rolls of, such roofing; and

From employing or using in connection with the sale of roofing material not composed of two or more plies, layers, or thicknesses the words "two ply" or "three ply," alone or in combination with any other word or words to describe its product; (a) In circulars, booklets, or other advertising matter ; or (b) as, or in connection with, or as part of, a trade name or brand for such roofing ; or (c) on labels, covers, or wrappers for, or on rolls of, such roofing

*Complaint No. 473.*--Federal Trade Commission v. Western Elaterite Roofing Co. Charge : (Ante, complaint No. 472.) Disposition : (Ante, complaint No 472 )

*Complaint No. 474.*--Federal Trade Commission v. Sifo Products Co Charge : (Ante, complaint No.472.) Disposition: (Ante, complaint No.472.)

*Complaint No. 475.*--Federal Trade Commission v. Oertell Roofing Manufacturing Co. Charge : (Ante, complaint No. 472.) Disposition : (Ante, complaint No.472.)

*Complaint No. 476.*--Federal Trade Commission v. Stowell Manufacturing Co. Charge : (Ante, complaint No. 472.) Disposition : (Ante, complaint No. 472.)

*Complaint No. 477.*--Federal Trade Commission v. Beckman-Dawson Co. Charge : (Ante, complaint No.472.) Disposition: (Ante, complaint No. 472.)

*Complaint No. 478.*--Federal Trade Commission v. Durable Roofing Manufacturing Co. Charge: (Ante, complaint No.472.) Disposition : (Ante, complaint No.472.)

*Complaint No. 479.*--Federal Trade Commission v. McHenry-Millhouse Manufacturing Co. Charge: (Ante, complaint No.472.) Disposition : (Ante, complaint No.472.)

*Complaint No. 480.*--Federal Trade Commission v. International Roofing Manufacturing Co. Charge: (Ante, complaint No.472.) Disposition : (Ante, complaint No. 472.)

*Complaint No. 481.*--Federal Trade Commission v. Amalgamated Roofing Co. Charge : (Ante, complaint No.472.) Disposition: (Ante, complaint No.472.)

*Complaint No. 482.*--Federal Trade Commission v. The Chatfield Manufacturing Co. Charge : (Ante, complaint NO. 472.) Disposition : (Ante, complaint No. 472.)

*Complaint No. 483.*--Federal Trade Commission v. H. W. Johns-Manville Co. Charge: (Ante, complaint No.472.) Disposition: (Ante, complaint No.472.)

*Complaint No. 484.*--Federal Trade Commission v. Keystone Roofing Manufacturing Co. Charge : (Ante, complaint No. 472.) Disposition : (Ante, complaint No.472.)

*Complaint No. 485.*--Federal Trade Commission v. The Barrett Co. Charge : (Ante, complaint No. 472.) Disposition: (Ante, complaint No. 472.)

*Complaint No. 487.*--Federal Trade Commission v. Philip Carey Manufacturing Co. Charge : (Ante, complaint No.472.) Disposition : (Ante, complaint No.472.)

*Complaint No. 488.*--Federal Trade Commission v. H. F. Watson Co. Charge : (Ante, complaint No.472.) Disposition: (Ante, complaint No.472.)

*Complaint No. 489.*--Federal Trade Commission v. The Paraffine Companies. Charge : (Ante, complaint No.472.) Disposition: (Ante, complaint No. 472.)

*Complaint No. 490.*--Federal Trade Commission v. Sylvester Le Weaver, trading as the Weaver Roof Co. Charge : (Ante, complaint No. 472.) Disposition : (Ante, complaint No.472.)

*Complaint No. 594.*--Federal Trade Commission v. Butterick Co, Federal Publishing Co., Standard Fashion Co., Butterick Publishing Co., New Idea Pattern Co., and Designer Publishing Co. (Inc.) . Charges : Using unfair methods of competition by entering into contracts with approximately 20,000 retail dry goods dealers whereby its paper dress patterns are to be resold at certain prices fixed and established by respondents, and refusing to sell to those who do not maintain such resale prices in alleged violation of section 5 of the Federal Trade Commission act ; and entering into contracts whereby its dealers are prohibited from dealing in patterns manufactured by competitors of respondents, and enforcing such contracts by' refusal to sell to such dealers who do not maintain such agreements and by threats of suits and institution of suits for damages, in alleged violation of section 3 of the Clayton Act.



Disposition : After hearing, the commission entered the following order :

Now, therefore, It is ordered that the respondents, Butterick Co., Federal Publishing Co., Standard Fashion Co., Butterick Publishing Co., New Idea

Pattern Co., and Designer Publishing Co. (Inc.), their officers, directors, agents, and employees, while engaged in competition in interstate commerce among the several States and Territories of the United States and District of Columbia, cease and desist--

From selling the patterns manufactured by them, or any of them, for resale to the public upon any contract, agreement, or understanding that the distributor shall maintain the resale price fixed by the maker, and/or that such distributor shall not deal in patterns produced by any other maker than the respondents or any of them.

*Complaint No. 694.*--Federal Trade Commission v. The Chamber of Commerce of Minneapolis; the officers, board of directors, and members of the Chamber of Commerce of Minneapolis; Manager Publishing Co.; John H. Adams; and John F. Flemming. Charges: Using unfair methods of competition by engaging in a confederation and conspiracy to annoy and embarrass and destroy the business of the Equity Cooperative Exchange, a competitor of the respondent chamber of commerce and its members in the selling, buying, and distribution of grain, by (a) the publication of false and misleading statements concerning the said cooperative exchange, particularly in the publications of the respondent publishing company; (b) the instigation and preparation for trial of certain litigation; (c) refusal to make available to said cooperative exchange and its members the telegraphic market quotation service supplied by the respondents; (d) the boycott of and persistent refusal to buy grain from the said cooperative exchange; (e) the suppression of competition among members of the respondent chamber of commerce and discrimination against nonmembers; and (f) by the means of contracts binding country shippers to ship all or a greater part of their grain to the respondent chamber of commerce members, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: After hearing, the commission entered the following order: Now, therefore, it is ordered that the respondents, the Chamber of Commerce of Minneapolis; C. A. Magnuson, C. M. Cause, William Dalrymple, A. C. Andrews, B. F. Benson, W. T. Frasier, H. P. Gallaher, J. B. Gilfillan, jr., H. S. Helm, Asher Howard, John McLeod, J. H. MacMillan, F. C. Van Dusen, John G. McHugh, and all other members, officers, directors, agents, servants, and employees of the Chamber of Commerce of Minneapolis; Manager Publishing Co.; John H. Adams; and John F. Flemming, and each of them and their or its officers, agents, solicitors, representatives, servants, and employees, and all other persons acting under, through, by, or in behalf of them or any of them, forever cease and desist.

From combining and conspiring among themselves or with others, directly or indirectly, to interfere with or injure or destroy the business or the reputation of the St. Paul Grain Exchange, or its officers and members, or the Equity Cooperative Exchange, or its officers and stockholders (or other competitors of the respondent chamber and its members), by--

(1) Publishing or causing to be published in any newspaper, periodical, pamphlet, or otherwise, or circulating, or causing to be circulated orally or otherwise, along the customers or prospective customers of the members of the St. Paul Grain Exchange, or the public generally, any false or misleading statements concerning the financial standing, the business, or the business methods of the said exchange, its officers or members, or concerning the said Equity Cooperative Exchange, its officers or stockholders.

(2) Instituting vexatious or unfounded suits either at law or in equity against said Equity Cooperative Exchange with the purpose or intent, or with the effect of hindering or obstructing the business of the said Equity Cooperative Exchange or injuring its credit and reputation.

It is further ordered that the respondents, the Chamber of Commerce of Minneapolis; C. A. Magnuson, C. M. Case, William Dalrymple, A. C. Andrews, B. F. Benson, W. T. Frasier, H. P. Gallaher, J. B. Gilfillan, jr., H. S. Helm, Asher Howard, John McLeod, J. H. MacMillan, F. C. Van Dusen, John G. McHugh, and all other members, officers, directors, agents, servants, and employees of the Chamber of Commerce of Minneapolis, and each of them, and their or its officers, agents, solicitors, representatives, servants, and employees and all persons acting under, through, by or in behalf of it or them, or any of them, forever cease and desist from--

(1) Combining and conspiring among themselves or with others directly or indirectly to induce, persuade, or compel and from inducing, persuading, or

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compelling any of the members of said chamber, their agents or employees, to refuse to buy from, sell to, or otherwise deal with the St. Paul Grain Exchange or its members or the Equity Cooperative Exchange, or its stockholders, or the customers of any of them, because of the patronage dividend plan of doing business adopted by the said Equity Cooperative Exchange, or by any of the members of the said St. Paul Grain Exchange, as more particularly set forth in paragraph (4) infra of this order.

(2) Hindering, obstructing, or preventing any telegraph company or other distributing agent from furnishing continuous or periodical price quotations of grains to the St. Paul Grain Exchange, or its members, or to the Equity Cooperative Exchange or its stockholders.

(3) Passing or enforcing any rule or regulation, or enforcing any usage or custom, that prohibits or prevents members of the respondent chamber from conducting their business of dealing, in grain according to the cooperative method of marketing grain or according to the patronage dividend plan, like or similar to the method or plan adopted by the Equity Cooperative Exchange.

(4) Denying to any duly accredited representatives of any organization or association of farmer grain growers or shippers admission to membership in said respondent chamber, with full and equal privileges enjoyed by any or all of its members or by any or all concerns represented by membership in said respondent chamber of commerce, because of the plan or purpose on the part of such organization or association to pay or purpose to pay patronage dividends or to operate or purpose to operate according to the cooperative plan of marketing grain, namely, the plan of returning any portion or all of its earnings or surplus to its patrons or members on the basis of patronage, whether such earnings or surplus is derived from charging patrons or members commissions or otherwise.

(5) Passing or enforcing any rule or regulation or enforcing any usage or custom, that compels shippers of grain to Minneapolis, Minn., from country points or from St. Paul, Minn., to pay commission or other charges, unless and until like commissions and charges are paid by shippers of grain to Minneapolis from Omaha, Nebr., or from Kansas City, Mo., or other such favored markets

(6) Passing or enforcing any rule or regulation, or enforcing any usage or custom, that prohibits members of the respondent chamber, when buying grain on track at country points from paying therefor more than the market price of similar grain prevailing at that time in the exchange room of the respondent chamber, less freight, commissions, anti other charges.

(7) Promulgating, interpreting, or enforcing any rule, custom, regulation, or usage in such a manner as to require any member of respondent chamber to pay to the farmer or country shipper or other person a price for grain limited to a price equivalent to or identical with the Minneapolis market price, or otherwise limit the exercise of free will and individual independent judgement of any such member as to the price which he shall pay, or which he desires to pay, farmers, country shippers, or others for grain on track at country points.

*Complaint No. 740--Federal Trade Commission v. Prichard & Constance (Inc. ). Charge : Using unfair methods of competition in the manufacture of cosmetics and toilet articles by adopting and maintaining a system of fixing the resale price of its products and refusing to sell until prospective customers have given written assurance that the resale prices fixed by respondent will be maintained, in alleged violation of section 5 of the Federal Trade Commission act.*

Disposition : After hearing, the commission entered the following order :

It is now ordered that the respondent, Prichard & Constance (Inc.), its officers, directors, agents, servants, and employees cease and desist from employing or carrying into effect any selling policy or system of merchandising, whereby respondent through cooperation with its customers, fixes or controls, or undertakes to fix or control the prices at which its products shall be resold by others--more particularly, through any of the following means :

1. By giving or offering to give special discounts, bonuses, or terms of sale, to jobbers or retailers, conditional upon their observance of or promise to observe the resale prices fixed by respondent.
2. By otherwise contracting or entering into agreements or understandings with jobbers or retailers, providing for the maintenance of such prices.
3. By cooperation with its customers In establishing or maintaining a system of resale prices.
4. By utilizing any other cooperative means, directly or indirectly, to bring about the maintenance of

the resale prices fixed by respondent.

*Complaint No. 742.*--Federal Trade Commission v. F. B. Dunn, R T. Harris, L G Wright, T. E. Lester, S. H. Miles, George F. Burton, F. L McCoy, and J. H. Darby. Charge : Using unfair methods of competition in the sale of the capital stock of the Congressional Oil Co. by the use of said company as a device for the disposition of certain oil leases at exclusive and fictitious prices ; by publishing false and misleading statements relative to the company property, earnings, and prospects, and by deceiving the purchasing public by numerous fraudulent schemes of promotion, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission dismissed the complaint as to respondents L. G. Wright, T. E. Lester, S. H. Miles, F. L McCoy, J. H. Darby, and entered the following order to the remaining respondents :

It is now ordered that the respondents, F. B. Dunn, H. T. Harris, and George F. Burton and their agents do cease and desist from, directly or indirectly--

Publishing, circulating, or distributing or causing to be published, circulated, or distributed, any magazine, newspaper, pamphlet, circular, letter, advertisement, or any other printed or written matter whatsoever in connection with the sale or offering for sale in interstate commerce of stock or securities wherein is printed or set forth any false or misleading statements or representations to the effect that the property or operation of any corporation, association, or partnership is in proven oil territory, or any other false or misleading statements or representations concerning the promotion, organization, character, history, resources, assets, oil production, cannings, income, dividends, progress, or prospect of any corporation association, or partnership.

*Complaint No. 776.*--Federal Trade Commission v. Armstrong Paint & Varnish Works, United States Roofing Paper & Paint Factories (Inc.), and Abe Hochman and Harry Goldfish, partners doing business under the trade name of Army & Navy Stores. Charge : Using unfair methods of competition by offering for sale paints, varnishes, and roofing paper, labeled "U. S." with a reproduction of a picture of Uncle Sam, with the purpose and effect of misleading the purchasing public into the belief that the goods were made for the Army or Navy, or according to Government specifications, and by labeling its product in such manner as to indicate they were manufactured by the respondent United States Roofing Paper & Paint Factories (Inc.) and by the use or numerous false and misleading statements by the respondent, Hochman and Goldfish, as to the value and quality of the paints, varnishes, and roofing paper offered for sale, with the effect of misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

Therefore it is now ordered that respondent, Armstrong Paint & Varnish Works, a corporation organized under and existing by virtue of the laws of the State of Illinois, its officers, directors, agents, servants, and employees, do cease and desist--

(1) From using the words "United States" or the symbol or abbreviation thereof "U. S.," or a picture of the figure known as "Uncle Sam" which by custom and general usage has become well known as symbolic of the United States, either in combination or alone, in advertising matter or labels or otherwise, as describing commodities as having been purchased from or manufactured for or by the Government of the United States, when such commodities have not in fact been purchased from or manufactured for or by the Government of the United States.

(2) From selling or offering for sale by means of labeling, designating, or otherwise describing or advertising commodity as "U. S. House Paint," "U. S. Floor or Utility Varnish," or by using words of similar import, as having been purchased from or manufactured for or by the Government of the United States, when such commodities have not in fact been purchased from or manufactured for or by the Government of the United States.

It is further ordered that respondent, United States Roofing Paper & Paint Factories ( Inc.) (otherwise United States Roofing Paper Co. (Inc.)), a corporation organized under and doing business by virtue of

the law's of the State of South Dakota, its officers, directors, agents, servants, and employees do cease and desist--

(1) From using the words "United States" on the symbol or abbreviation thereof "U. S." on an picture of the figure known as "Uncle Sam," which by custom and general usage has become well known as symbolic of the United States, other in combination or alone, in advertising matter or labels or otherwise, as describing commodities as having been purchased from or manufac-

tured for or by the Government of the United States, when such commodities have not in fact been purchased from or manufactured for or by the Government of the United States.

(2) From selling or offering for sale by means of labeling, designating, or otherwise describing or advertising a commodity as "U. S. House Paint," "U. S. Floor or Utility Varnish," or by using words of similar import, as having been purchased from or manufactured for or by the Government of the United States, when such commodities have not in fact been purchased from or manufactured for or by the Government of the United States.

(3) From using in its firm name or on labels or advertising or otherwise the word "Factories" or words of similar import in connection with statements indicating or representing that by reason of purchasing paints, varnish, or roofing from it customers save or can save costs or profits otherwise and ordinarily required by intermediary dealers unless respondent is in fact a manufacturer and not itself an intermediary dealer.

It is further ordered that respondents, Abe Hochman and Harry Goldfish, doing business under the name "Army and Navy Stores" or "Army and Navy Goods Stores," and each of them, their agents, servants, and employees, do cease and desist--

(1) From using the words "United States" or the symbol or abbreviation thereof "U. S." or a picture of the figure known as "Uncle Sam," which by custom and general usage has become well known as symbolic of the United States either in combination or alone, in advertising matter or labels or otherwise, as describing commodities as having been purchased from or manufactured for or by the Government of the United States, when such commodities have not in fact been purchased from or manufactured for or by the Government of the United States.

(2) From selling or offering for sale by means of labeling, designating or otherwise describing or advertising a commodity as "U. S. House Paint." "U. S. Floor or Utility Varnish," or by using words of similar import, as having been purchased from or manufactured for, or by the Government of the United States, when such commodities have not in fact been purchased from, or manufactured for or by the Government of the United States.

(3) From selling or offering for sale in "Army and Navy Stores" or otherwise, either by means of advertising, designating or otherwise describing or representing, directly or indirectly a commodity as surplus Government supplies, or Government supplies when such commodities have not been purchased from, or manufactured by, or for the Government of the United States.

*Complaint No. 793.*--Federal Trade Commission v. the Q. R. S. Music Co. Charge: Unfair competition in the manufacture and sale of rolls for player pianos, in establishing and announcing fixed resale prices and stating that it will refuse to sell, and in fact has refused to sell, to those who fail to maintain such prices, in alleged violation of section 5 of the Federal Trade Commission act; further, because of contracts entered into with dealers under the terms of which such dealers to the extent of their trade in player rolls are to handle respondent's products only, the effect is to substantially lessen competition and tend to create a monopoly, inn alleged violation of section 3 of the Clayton Act.

Disposition: After hearing, the commission entered the following order:

*Now, therefor, it is ordered* that the respondent, the Q. R. S. Music Co., its officers, directors, agents, servants and employees, cease and desist from carrying into effect a policy of fixing and maintaining uniform prices at which the articles manufactured by it shall be resold by its distributors and dealers, by--

1. Entering into contracts, agreements and understandings with distributors or dealers requiring or providing for the maintenance of specified resale prices on products manufactured by respondent.

2. Attaching any condition, expressed or implied, to purchases made by distributors or dealers to the effect that such distributors or dealers shall maintain resale prices specified by the respondent.

3. Requesting dealers to report competitors who do not observe the resale price suggested by respondent, or acting on reports so obtained by refusing or threatening to refuse sales to dealers so



reported.

4. Requesting or employing salesmen or agents to assist in such policy by reporting dealers who do not observe the suggested resale price, or acting on reports so obtained by refusing or threatening to refuse sales to dealer's so reported.

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5. Requiring from dealers previously cut off promises or assurances of the maintenance of respondent's resale prices as a condition of reinstatement.

6. Utilizing any other equivalent cooperative means of accomplishing the maintenance of uniform resale prices fixed by the respondent.

It is further ordered that respondent, the Q. R. S. Music Co., its officers, directors, agents, servants and employees cease and desist from entering into contracts, agreements or misunderstandings or making sales or fixing a price charged therefor or discount from or rebate upon such price subject to the condition, agreement or understanding that the purchaser of respondent's product shall not deal in the goods, wares or merchandise of any competitor of respondent.

*Complaint No. 826.*--Federal Trade Commission v. Philip Moskowitz, trading under the name and style of Rochester Clothing Co. Charge : Unfair methods of competition in that the respondent, engaged in New York N. Y., in the manufacture and sale of clothing for men and boys, labels his clothes "Trademark, Rochester Clothing Co., for particular men," with the abbreviation "Co." inconspicuously placed, thereby in misleading the purchasing public into the belief that the respondent's clothing is of the quality produced in Rochester and under Rochester manufacturing Conditions as extensively advertised by the chamber of commerce and other business associations of that city, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

Now, therefore, it is ordered that the respondent, Phillip Moskowitz, individually and trading under the name of Rochester Clothing Co., his partners, agents, servants, representatives, and employees to cease and desist from

(1) Using on tags or labels on clothing manufactured in New York City, N. Y., or any place other than Rochester, N. Y. and sold and shipped, or sold for shipment, in interstate commerce, the words "Rochester Clothing Company," or the word "Rochester" alone or in combination with other words or words, unless following such words or brands, and in type or lettering equally conspicuous with them appear the words "Made in New York City" or "Manufactured in New York City," if the clothing is in fact, made in New York City, N. Y., or by the words "made in" or "manufactured in" or words of equivalent meaning followed by the name of the city or place and State where such clothing is made.

(2) Displaying or using the words or brand "Rochester Clothing Company," or "Rochester" alone or in combinations with other words, on stationery and billheads used in the business of making, selling, and shipping, or selling for shipment, clothing in interstate commerce, or in advertising clothing made elsewhere than in Rochester, N. Y., in newspaper's, trade journals, or elsewhere in interstate commerce, unless following such words or brand and in type or lettering equally conspicuous with them appear the words "Made in New York City" or "Manufactured in New York City," if the clothing, in fact, is made in New York City; or by the words "made in" or "manufactured in" or words of equivalent meaning, followed by the name of the city, town, or place and State where such clothing is made or manufactured.

*Complaint No. 827.*--Federal Trade Commission v. Samuel Blum. Charge : Unfair methods of competition in that the respondent, engaged in New York, N. Y., in the manufacturing and sale of clothing for men and boys, labels his clothes to indicate Rochester, N. Y., manufacture, hereby misleading the purchasing public into the belief that the respondent's clothing is of the quality produced in Rochester and under Rochester manufacturing conditions, as extensively advertised by the chamber of commerce and other business associations of that city, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order:

Now, therefore, it is ordered that the respondent, Samuel Blum, his agents, servants, representatives, and employees cease and desist from--

1. Using on tags or labels on clothing manufactured in New York City, N. Y., or in any other place than

Rochester, N. Y., and sold and shipped, or sold, or sold for shipment, in interstate commerce, the words or brand, and in type or lettering equally conspicuous with them, appear the words or brand "High grade tailored Rochester art clothes," unless following such words or brand, and in type or lettering equally conspicuous with them, appear the words "Made in New York City, N. Y.," if the clothing, in fact is made in New York City, N. Y., or by words in which the true place of manufacture, town, or city and State is stated.

2. Displaying or using the words or brand "High class tailored Rochester art clothes" on stationery and billheads used in the business of making, selling, and shipping, or selling for shipment, such clothes in interstate commerce, or in advertising such clothes made elsewhere than in Rochester, N. Y., in newspapers, trade journals or elsewhere, unless following such words or brand, and in type or lettering equally conspicuous with them, appear the words "Made in New York City, N.Y.," if the clothing, in fact, is made in New York City, N.Y., or by words in which the true place of manufacture, town, or city and State is state.

3. Using on tags or labels on clothing manufactured in New York City, N.Y., or any other place than Rochester, N.Y., and sold and shipped, or sold for shipment in interstate commerce, or displaying or using on stationery and bill-heads used in the business of making, selling, or shipping, or selling for shipment, such clothing, or in advertising such clothing in newspapers, trade journals, or elsewhere, in interstate commerce, the word "Rochester" alone or in any combination of words other than those stated in the preceding paragraph, unless in connection therewith and with equal prominence appear the words "Made in New York City" or a like statement according to the facts as to the place or places of the manufacture of respondent's product or of clothing sold by him; and from representing in any manner or form whatever that clothing made elsewhere than in the city of Rochester, N. Y., is made there.

Complaint No. 836--Federal Trade Commission v. National Biscuit Co. Charge : Unfair methods of competition in that the respondent, engaged in the manufacture and sale of biscuits, crackers, and other bakery products, in allowing discounts based on aggregate monthly orders, refuses to grant as high a rate of discount on the pooled orders of two or more retail store owners as on the orders of owners of so-called chain stores, thereby giving the owners of chains of retail stores an undue advantage in competing with owners operating but one retail store, the said discrimination in price tending to lessen competition and create a monopoly, in alleged violation of section 5 of the Federal Trade Commission act and section 2 of the Clayton Act.

Disposition : After hearing, the commission entered the following order :

It is now ordered that respondent, National Biscuit Co., its officers, directors, agents, representatives, servants, and employees cease and desist in interstate commerce, directly or indirectly--

1. From discriminating in price between purchasers operating separate units or retail grocery stores of chain systems and purchasers operating independent retail grocery stores of similar kind and character purchasing similar quantities of respondent's products, where such discrimination is not made on account of difference in the grade or quality of the commodity sold, nor for a due allowance in the difference in the cost of selling or transporting, nor in good faith to meet competition in the same or different communities.

2. From giving to purchasers operating two or more separate units or retail grocery stores of chain systems a discount on the gross purchases of all the separate units or retail stores of such chain system, where the same or a similar discount on gross purchases is not allowed or given to associations or combinations of independent grocers operating retail grocery stores similar to the separate units or stores of such chain system.

Complaint No. 837.--Federal Trade Commission v. Loose-Wiles Biscuit Co. Charge: Unfair methods of competition in that the respondent, engaged in the manufacture and sale of biscuits, crackers, and other bakery products, in allowing discounts based on aggregate monthly orders, refuses to grant as high a rate of discount on the pooled orders of two or more retail store owners as on the orders of owners of so-called chain stores, thereby giving the owners of chains of retail stores an undue advantage in competing with owners operating but one retail store, the said discrimination in price tending to lessen competition and create a monopoly; in alleged violation of section 5 of the Federal Trade Commission act and section 2 of the Clayton Act. Status :

Disposition : After hearing, the commission entered the following order :

It is now ordered that respondent, Loose-Wiles Biscuit Co., its officers, directors, agents, representatives, servants, and employees cease and desist, in interstate commerce, directly or indirectly-

1. From discriminating in price between purchasers operating separate units or retail grocery stores of chain systems and purchasers operating independent retail grocery stores of similar kind and character purchasing similar quantities of respondent's products, where such discrimination is not made on account of difference in the grade or quality of the commodity sold, nor for a

due allowance for the difference in the cost of selling or transporting, nor in good faith to meet competition in the same or different communities.

2. From giving to purchasers operating two or more separate units or retail grocery stores of chain systems a discount on the gross purchases of all the separate units or retail stores of such chain system, where the same or a similar discount of gross purchases is not allowed or given to associations or combinations of independent grocers operating retail grocery stores similar to the separate units or stores of such chain system.

*Complaint No. 856.*--Federal Trade Commission v. George F. Barton Rockwood Brown, Charles N. Edwards, Claude A. Hargis, and R. W. Watts. Charge : The respondents are the officers and promoters of the Consolidated Royalty & Leasing Syndicate, an unincorporated association. They are charged with making and publishing numerous false and misleading statements relative to the organization, business, and prospects of the association, as a means of deceiving the purchasing public and furthering the sale of the share stock of the said Consolidated Royalty & Leasing Syndicate, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission dismissed the complaint as to Rockwood Brown, R. W. Watts, Claude A Hargis, and entered the following order to the remaining respondents :

It is now ordered that the respondents George F. Barton and Charles N. Edwards, individually and as officers, shareholders, agents, or trustees of the Consolidated Royalty & Leasing Syndicate, or as officers agents, or share-holders of any other corporation, association, or partnership, and their agents and representatives, do cease and desist from directly or indirectly--

1. Publishing, circulating, or distributing, or causing to be published, circulated, or distributed, any newspaper, pamphlet, circular letter, advertisement, or any other printed or written matter whatsoever in connection with the sale or offering for sale in interstate commerce of stock or securities wherein is printed or set forth any false or misleading statements or representations to the effect that the property or operation of any corporation, association, or partnership is in proven oil territory, or any false or misleading statements or representations concerning the promotion, organization, character, history resources, assets, oil production, earnings, income, dividends, progress, or prospect of any corporation, association, or partnership.

*Complaint No. 862.*--Federal Trade Commission v. Crofts & Reed Co., Polonia Soap Co. Charge : Unfair methods of competition in that the respondent Crofts & Reed Co., controlled by the respondent Polonia Soap Co., brands and mislabels its products to promote the belief that olive oil, poroxidol, palm oil, witch hazel, buttermilk, medicines, or drugs are contained in the soaps so designated, when in fact its soaps contain no such ingredients, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into, in lieu of testimony, the commission entered the following order:

Now, therefore, it is ordered that the respondents, Crofts & Reed Co. and Polonia Soap Co.. their officers, directors, representatives, agents, and employees cease and desist--

(1) From employing or using as labels or brands on soap sold by them,. the fatty ingredient of which is not composed entirely of olive oil, or on the wrappers and containers in which such soap is delivered to customers, the word "Olive" alone or in combination with any other word or words, unless accompanied by a word or words designating the constituent elements other than olive oil constituting in part the fatty ingredient of the soap (e. g., "Olive oil, coconut oil, and tallow base:" "Olive oil and tallow base") or by a word or words otherwise clearly indicating that the fatty ingredient of such soap does not consist entirely of olive oil (e. g., " 5 per cent olive oil base").

(2) From employing or using as labels or brands on soap sold by them, which contains no medicament,. or on the wrappers or containers in which such soap is delivered to customers the word "medicinal" alone or in combination with any other word or words.

(3) From employing or using as labels or brands on soap sold by them, or on the wrappers or containers

in which such soap is delivered to customers, the word "Peroxide," "Buttermilk," or "Witch hazel," either alone or in combination with another word or words, which soap when purchased by the consumer in the usual and regular course of commerce, contains none of the ingredient or ingredients indicated by such labels or brand names.

(4) From employing or using as labels or brands on soap sold by them, the fatty ingredient of which is not composed entirely of palm oil, or on the

wrappers or containers in which such soap is delivered to customers, the word "Palm," either alone or in combination with any other word or words unless accompanied by a word or words designating the material other than palm oil constituting in part the fatty ingredient of the soap (e. g., "Palm oil, coconut oil, and tallow base;" "Palm oil and tallow base") or by a word or words otherwise clearly indicating that the fatty ingredient of the soap does not consist entirely of palm oil (e. g., " 5 per cent palm oil base").

*Complaint No. 875.*--Federal Trade Commission v. Lexington Manufacturing Co., Middlesburg Mills, Millwood Corporation. Charge : The respondents Lexington Manufacturing Co. and Middlesburg Mills are engaged in the manufacture of cotton bedticking and other cotton products and are controlled by the respondent Millwood Corporation, a holding company. Unfair methods of competition are charged in that some of the respondent's bedticking of various grades and qualities are labeled "A. C. A." in simulation of a symbol used for many years by the Amoskeag Manufacturing Co. as a designation for its best quality special-process bedticking, which, because of its quality and adaptability to purpose is popular and in great demand in the trade, the said practice by the respondents tending to mislead and deceive the purchasing public into the belief that tickings manufactured by respondent manufacturers are identical with those of the Amoskeag Manufacturing Co., in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission dismissed the complaint as to Millwood Corporation and entered the following order to the remaining respondents :

Therefore, it is now ordered that the respondents, Lexington Manufacturing Co. and Middlesburg Mills, corporations organized and existing under and by virtue of the laws of the State of South Carolina, their officers, directors, agents, servants, and employees, do cease and desist--

1. From in any way designating or describing any bedticking manufactured or sold by them as "A. C. A." ticking, either in advertisements, circulars, price lists, or other literature in which bedticking manufactured or sold by respondents is listed, described, or advertised for sale in interstate commerce.

2. From placing upon any ticking manufactured or sold by them any ticket or label upon which appear the letters "A. C. A.," or any combination or variation thereof.

*Complaint No. 876.*--Federal Trade Commission v. Lawrence S. Mayers and Chauncey H. Mayers, partners, doing business under the firm name and style of Geneva Watch Co. Charge : The respondents, wholesale dealers in watches, the movements of which they import from places in Switzerland other than Geneva, have adopted the trade name "Geneva Watch Co." for their watch business, have procured the United States registration of the trademark "Geneva," and stamp it on the dials of their watches with the addition of the word "Swiss," to simulate the standard method of designating high-grade Geneva watches, and advertise the said watches as "Geneva" watches manufactured by the "Geneva Watch Co." and offered at the lowest manufacturer's prices, all for the purpose of creating the mistaken belief that they are engaged in the manufacture of watches in the Swiss city of Geneva, well known as the place of origin of the highest grade of Swiss watches, that their watches are manufactured in said city, and that they are sold direct to the trade at manufacturer's prices, and thereby induce the trade and consuming public to purchase respondents' watches in preference to competitors' watches of like quality, which are not falsely designated "Geneva," and in many instances in violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

Now, therefore, it is ordered that the respondents, Lawrence L. Mayers and Chauncey M. Mayers, individually and as copartners, trading under the name and style of Geneva Watch Co., their agents, servants, representatives, and employees do cease and desist from--

1. Using or displaying upon circulars or advertising matter used in connection with the sale of watches and watch movements manufactured, dealt in, or sold by them in interstate commerce, upon the cases containing said watch movements, or upon the boxes or packages containing said watches or watch movements the words "Geneva Watch Company," or the word "Geneva," alone or in combination with other word or words, if in truth and fact the said watches and watch movements were not made in the city



of Geneva, Switzerland, unless following such word or words and in type or lettering

equally conspicuous with them, appear words in which the true place of manufacture, town or city and State, is stated.

2. Using or displaying upon circulars or advertising matter used by them in connection with the sale of watches or watch movements made, dealt in, or sold by them in interstate commerce, upon the dials of said watches or watch movements, upon the cases containing said watch movements, or upon the boxes and containers thereof, the word or brand "Geneva" in association with the words "Geneva Watch Company" or in simulation of the word or brand "Geneva," if in truth and fact such watches or watch movements were not made in the city of Geneva, Switzerland, unless such brand and words are followed by words in type or lettering equally conspicuous with them, in which the true place of manufacture, town or city and State, is stated.

*Complaint No. 886.*--Wholesale Tobacco Cigar Dealers' Association of Philadelphia, its officers, directors, and members, the American Tobacco Co. and P. Lorillard Co., respondents. Charge : That the association and its members agreed upon a schedule of fixed prices for tobacco products at which the members should resell to their dealer customers, and that they adopted a system for the maintenance and enforcement of such prices by the members of the association and by all other wholesale dealers selling in the association's territory, the respondent manufacturers cooperating and conspiring with the association and its members and participating in said price-maintenance system by agreeing to refuse to sell and by refusing to sell offending dealers further supplies of their products, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission dismissed the complaint as to P. Lorillard Co., and entered the following order to the remaining respondents :

Now, therefore, it is ordered that the Wholesale Tobacco & Cigar Dealers' Association of Philadelphia, Pa., and its officers, directors, and members, as follows : Nelson F. Eberbach, president; Harvey D. Narrigan and James Murphy, vice presidents; Herman J. Krull, treasurer; Paul L. Brogan, secretary, respectively; Arthur Shipton, Frank Kuhn, William Cohen, Bennett Hollard, Frank Blatt, H. Stewart Moorhead, Philip Godeski, William D. Shepherd, and Morris Hochman, its directors; and the following members : Nelson F. Eberbach, John S. Eberbach, and Joseph H. Eberbach, partners doing business under the name and style A. B. Cunningham & Co.; Dusel, Goodloe & Co. (Inc.), a corporation; Philip Godeski and Sidney G. Godeski, partners doing business under the name and style Franklin Tobacco Co.; Frank Kuhn, George Kuhn, and John Kuhn, partners doing business under the name and style F. Kuhn & Bro. ; Peter J. Murphy and John Murphy, partners doing business under the name and style Peter J. Murphy Co.; Charles A. Krull and Herman Krull, partners doing business under the name and style Charles A Krull; Baum & Neely (Inc.), a corporation; William F. Shepherd and John G. Shepherd, partners doing business under the name and style S. Shepherd's Sons; T. H. Hart and A. I. Mitchell, partners doing business under the name and style T. H. Hart & Co.; F. Hartmann & Son, a corporation; Yahn & McDonnell Co., a corporation; M. Blumenthal, John Wagner, and Joseph W. Wagner, partners doing business under the name and style of John Wagner & Sons; Harvey D. Narrigan, an individual doing business under the trade name H. D. Narrigan & Co.; Victor Fermani; Anna E. Bechtold, an individual doing business under the trade name James S. Bechtold; Frank Blatt, Arthur Shipton, and Thomas F. Cooper, partners doing business under the name and style Shipton & Payne Co.; H. S. Moorhead, an individual doing business under the trade name Duncan & Moorhead; Bennett Hollard; P. Hochman; M. J. Dalton Co., a corporation; Brucker & Boghien (Inc.), a corporation; Fred G. H. Woerner, an individual doing business under the trade name Fred G. H. Woerner & Sons; S. T. Banham and A. L. Banham, partners doing business under the name and style S. T. Banham & Bros.; E. Cohen and William Cohen, partners doing business under the name and style E. Cohen & Sons; John Murphy and James Murphy, partners doing business under the name and style Murphy Bros., cease and desist from fixing, enforcing, and maintaining and from enforcing and maintaining by combination, agreement, or understanding among themselves, or with or among any of them, or with any other wholesaler of cigarettes or other tobacco products, resale prices for cigarettes or other tobacco products dealt in by such respondents, or any of

them, or by any other wholesaler of cigarettes or other tobacco products.

And it is further ordered that the American Tobacco Co. and desist from assisting and from agreeing to assist any of its dealer customers in

maintaining and enforcing in the resale of cigarettes and other tobacco products manufactured by the said the American Tobacco Co., resale prices for such cigarettes and other tobacco products, fixed by any such dealer customer by agreement, understanding, or combination with any other dealer customer of said the American Tobacco Co.

Commissioner Van Fleet dissenting.

#### DISSENT BY COMMISSIONER VAN FLEET

I dissent in this case as to the order against the American Tobacco Co. The charge is that said company conspired with the Wholesale Dealers Association to maintain prices. The association was interested in maintaining the price that its members might obtain more for their goods. The object of the American Co. was not the same as the association. The American Co. sold its goods upon a 10 per cent discount to the members of the association and its price was in no wise affected by the cutting of dealers. Of course, this did not necessarily prevent the American Co. from conspiring with the association, but it is a fact to be considered whether there was such conspiracy. If dealers were cutting prices and demoralizing the trade, which at the time charged had proceeded to the extent of ruin if continued, the American Co. had a legal right to refuse to continue business dealings with such concerns. It is evident that a concern can not stay in business if it sells at no profit, as the evidence shows was the case here. The mere fact that the acts of the American Co. were contemporaneous with those of the association is not determinative.

Of course, conspiracy is often incapable of direct proof, but when resort is had to circumstantial evidence, as in this case, the proof should rise above the dignity of mere suspicion. Some of the evidence relied upon to sustain the order hardly ever rises to that dignity. Without summarizing the evidence, to my mind, it appears that the truth is that the American Co. had nothing to do with the organization of nor conduct of the association, and I know of no proof to the contrary. Also, I believe, its acts were taken independently of the association and no real proof to the contrary appears. The commission dismissed the case against the Lorillard Co. for lack of proof, and, I believe, that eliminating evidence of acts of others for which the American Co. was in no wise responsible and discarding mere conjecture there is not proof to warrant an order against the American Co.

*Complaint No. 887.-Federal Trade Commission v. Oppenheim, Oberndorf & Co. (Inc.),* doing business under the trade name and style Sealpax Co. Charge : The respondent, in the sale of its "Sealpax" underwear, maintains a schedule of uniform resale prices and refuses to sell said underwear to wholesale dealers who fail to observe and maintain said resale prices and otherwise endeavors to enforce its fixed prices for the resale of its product, in alleged violation of Section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

It is now ordered that the respondent, V. Vivaudou (Inc.), its officers, agents, representatives, servants, and employees, do cease and desist from adopting and employing, or attempting to employ, any cooperative system or method whereby respondent or its officers, agents, representatives, servants, or employees undertake to prevent others from obtaining respondent's products at less than the prices designated by it, and more particularly, from carrying out any said system or method by the following means :

(a) Securing from its customers or others names of dealers who do not observe the resale prices fixed by respondent.

(b) Enrolling the names of dealers so reported or who come to its attention otherwise, upon lists of undesirable purchasers, who are not to be supplied with its products until they furnish satisfactory assurances of their purpose to maintain such prices in the future.

(c) Securing or attempting to secure assurances from other dealers that they will observe the resale prices on respondent's products as fixed by it.

(d) Giving assurances to dealers that others who do not observe respondent's fixed resale prices will be cut off from further supplies of respondent's goods, and requesting cooperation and support in such

a course of action.

(e) Threatening to refuse to sell or refusing to sell dealers who sell to others who do not observe the resale prices fixed by respondent.

(f) Attempting to establish and enforce its resale prices by any other equivalent cooperative means.

*Complaint No. 892.*--Federal Trade Commission *v.* V. Vivaudou (Inc.). Charge : The respondent, engaged in the manufacture and sale of toilet articles, adopted and maintains a schedule of uniform prices for the resale of its products, threatening to refuse to sell and refusing to sell said products to those dealers who persist in selling below the resale prices fixed by the respondent and otherwise enforcing said system of price maintenance, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that the respondent, V. Vivaudou (Inc.), its officers, agents, representatives, servants, and employees, do cease and desist from adopting and employing, or attempting to employ, any cooperative system or method whereby respondent, or its officers, agents, representatives, servants, or employees, undertake to prevent others from obtaining respondent's products at less than the prices designated by it and, more particularly, from carrying out any said system or method by the following means :

(a) Securing from its customers or others names of dealers who do not observe the resale prices fixed by respondent.

(b) Enrolling the names of dealers so reported, or who come to its attention otherwise, upon lists of undesirable purchasers who are not to be supplied with its products until they furnish satisfactory assurances of their purpose to maintain such prices in the future.

(c) Securing or attempting to secure assurances from other dealers that they will observe the resale prices on respondent's products as fixed by it.

(d) Giving assurances to dealers that others who do not observe respondent's fixed resale prices will be cut off from further supplies of respondent's goods, and requesting cooperation and support in such a course of action.

(e) Threatening to refuse to sell or refusing to sell dealers who sell to others who do not observe the resale prices fixed by respondent.

(f) Attempting to establish and enforce its resale prices by any other equivalent cooperative means.

*Complaint No. 893.*--Federal Trade Commission *v.* St. Louis Wholesale Grocers' Association, its officers and members. Charge : The respondent association is an unincorporated trade association composed of wholesale grocers and jobbers of groceries and food products. Unfair methods of competition are charged in that said association, acting on behalf of its members and in cooperation with them, has adopted and carried out a plan of coercing and attempting to coerce manufacturers to guarantee against decline in price, publishing classified lists of manufacturers that the said members may give preference when making purchases to those manufacturers who have agreed to guarantee against decline in price and thereby tend to restrict, diminish, and obstruct the business of manufacturers of food products who do not so guarantee in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission dismissed the complaint as to J. M. Anderson Grocery Co. and entered the following order to the remaining respondents :

Now, therefore, it is ordered that the respondents, and each of them, their officers, directors, representatives, agents, and employees, cease and desist from cooperating among themselves or with others, directly or indirectly, to induce, influence, or coerce, and from inducing, influencing, or coercing by cooperative methods, manufacturers from whom they purchase the goods and commodities in which they deal, into guaranteeing and assuring them that in the event of a reduction in the prices charged them by said manufacturers for such commodities each such respondent holding in stock at the time of such a reduction any of said commodities purchased prior to the time of such reduction will receive from said manufacturers, respectively, a rebate or credit allowance equivalent to the difference between the price paid by him in each instance for said commodities actually on hand and unsold and said reduced prices thereof--

(1) By the practice of reporting to respondent association the names of manufacturers who do not so guarantee the prices of their commodities against decline.

(2) By causing the names of manufacturers thus reported who do not so guarantee the prices of their commodities against decline to be enrolled upon a list and such list inserted and published in bulletins and letters issued and distributed by respondent association, together with information emphasizing the advisability of coining their purchases to manufacturers who guarantee the price of their commodities against decline.

(3) By the practice of soliciting the names of and information concerning manufacturers who do and those who do not guarantee the prices of their commodities against decline and causing such names and information to be published and distributed among the members of respondent association and others by means of bulletins and letters containing such names, together with information and statements setting forth the advisability of making purchases from those manufacturers who guarantee the price of their commodities against decline and the inadvisability of purchasing from manufacturers of competitive commodities who do not so guarantee the prices thereof against decline and comments denunciatory and depreciatory of such manufacturers who do not so guarantee against decline.

(4) By boycotting, or threatening to boycott, or threatening with loss of patronage or custom any manufacturer, or his agent or representative, who does not guarantee the prices of commodities sold by him against decline.

(5) By utilizing any other equivalent cooperative means of obtaining from manufacturers guaranties or assurances against decline in the price of their commodities.

*Complaint No. 894.--Federal Trade Commission v. Wisconsin Wholesale Grocers' Association, its officers, directors, and members. Charge :* The respondent association is an unincorporated trade association composed of wholesale grocers and jobbers of groceries and food products. Unfair methods of competition are charged in that the said association, acting on behalf of its members and in cooperation with them, has adopted and carried out a plan of coercing and attempting to coerce manufacturers to guarantee against decline in price, publishing classified lists of manufacturers that the said members may give preference when making purchases to those manufacturers who have agreed to guarantee against decline in price and thereby tend to restrict, diminish, and obstruct the business of manufacturers of food products who do not so guarantee, in alleged violation of section 5 of the Federal Trade Commission act.

*Disposition :* After hearing, the commission dismissed the complaint as to Chesbrough-Moss Co., J. F. Rappel Co., Mueller-Wild Co., and entered the following order to the remaining respondents :

Now, therefore, it is ordered that the respondent association, its officers and directors, individually and as representatives of the members, the successors of said officers and directors, and the members, their agents, representatives, and employees, cease and desist from cooperating among themselves or with others directly or indirectly to induce, influence, or coerce, and from inducing, influencing, or coercing by cooperative methods manufacturers from whom they purchase the goods and commodities in which they deal to guarantee and assure them that in the event of a reduction in the prices charged them by said manufacturers for such commodities, each such respondent holding in stock at the time of such a reduction any of said commodities purchased prior to the time of such reduction will receive from said manufacturers, respectively, a rebate or credit allowance equivalent to the difference between the price paid by him in each instance for said commodities actually on hand and unsold and said reduced prices thereof--

(a) By the practice of publishing and distributing among the members of respondent association and others communications and statements which directly or indirectly convey that manufacturers guaranteeing against decline are entitled to receive the cooperation and preferential patronage of members of respondent association or of the jobbers generally.

(b) By the practice of publishing and circulating among the members of respondent association and others communications and statements which identify manufacturers not guaranteeing against decline and which directly or indirectly convey that such manufacturers are not equally entitled to the cooperation and patronage of members of respondent association or of the jobbers generally.

(c) By the practice of urging and requesting members of respondent association to make concerted protest and solicitation to manufacturers who do not guarantee against decline.

(d) By the practice of directly or indirectly conveying to manufacturers who refuse to guarantee against decline that such refusal would result in a lack of cooperation on the part of respondent jobbers or of jobbers generally.

(e) By the practice of directly or indirectly conveying to respondent members that in correspondence



with manufacturers who refuse to guarantee against decline they suggest that such refusal would result in a lack of cooperation on the part of respondent jobbers or of jobbers generally.

(f) By the practice of suggesting to members of respondent association that in their solicitation of manufacturers for guarantees against decline they should urge the point that guarantee against decline is necessary and valuable as a means of protecting respondent members against price competition with each other.

(g) By the practice of soliciting the names of and information concerning manufacturers who do and those who do not guarantee the prices of their commodities against decline and causing the names and policy of the former to be published and distributed among the members of respondent association and others.

(h) By utilizing any other equivalent cooperative means of obtaining from manufacturers guarantees or assurances against decline in the price of their commodities.

*Complaint No. 898.*--Federal Trade Commission v. United States Products Co. Charge : Unfair methods of competition in that respondent, engaged in the manufacture and sale of an abrasive bearing-fitting compound named by it "Kwik-Ak-Shun," having done no more than to file with the commission a petition praying that the commission institute such proceedings in the premises as might seem proper against the M. K. T. Products Co., a competitor, nevertheless notified the trade, through advertisements, that it had commenced proceedings for unfair competition against the M. K. T. Products Co. before the commission to enjoin the same, which notification had the capacity and tendency of misleading and deceiving the trade into the belief that respondent had instituted competent legal proceedings before the Federal Trade Commission wherein the rights and liabilities of respondents and the M. K. T. Products Co. in the premises would be legally adjudicated and determined and the legality or illegality of the things done by the M. K. T. Products Co. complained against be fixed and determined in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission dismissed the complaint as to Harry C. Hagmaier, and entered the following order to the remaining respondents :

Now, therefore, it is ordered that respondent Charles C. Battenfield individually and as an officer of respondent Unitech States Products Co., and respondent United States Products Co., cease and desist from--

(1) Advertising and representing to the trade that the product Kwik-Ak-Shun is the result of any invention on the part of the patentee Hagmaier.

(2) Advertising and representing to the trade that Time Saver was not or is not patented and that it was or is an infringement of a patent owned or controlled by respondent United States Products Co. or by respondent Battenfield, at the time this proceeding was instituted.

(3) Passing off or attempting to pass off the product Kwik-Ak-Shun as and for Time Saver, the product of the M. K. T. Products Co.

(4) Advertising and representing to the trade that Kwik-Ak-Shun is the original product and that Time Saver is a duplicate thereof.

(5) Advertising and representing to the trade that The Saver is in inferior imitation of Kwik-Ak-Shun

(6) Fabricating letters, forging signatures thereto, and submitting same to the Federal Trade Commission as the basis for action by said commission against a competitor.

(7) Making application to the Federal Trade Commission for relief against a competitor and simultaneously advertising to the trade the filing of such application before the issues involved are determinable by the Federal Trade Commission.

(8) Notifying the customers of a competitor that charges have been filed with the Federal Trade Commission against said competitor, and simultaneously publishing advertisements to the same effect, before the issues involved are determinable by the Federal Trade commission.

*Complaint No. 909.*--Cincinnati Tobacco Jobbers' Association, its officers and members, and the P. Lorillard Co., respondents. Charge : The charge is unfair competition in that the association and its members agreed with the P. Lorillard Co. upon a schedule of prices at which they should thereafter resell the tobacco products of that company, and that the P. Lorillard Co. cooperated with the respondent

association and its members in enforcing the maintenance of such fixed schedule of prices, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

Now, therefore, it is ordered that the Cincinnati Wholesale Tobacco Association, its officers, as follows: J. E. Cruse, president; G. O. Fennell, vice president; J. C. Nienaber, vice president; John H. Dickerson, secretary and the following corporations, partnerships, and persons : David Straus, Robert Straus, and Charles L. Straus, partners trading as Henry Straus; J. B. Moos Co., a corporation, and its following officers : D.J.Brown, president; R C. Christie, vice president; E. D. Stickle, secretary and treasurer; Janszen Grocery Co., a corporation, and its following officers : August Janszen, Sr., president; Joseph A. Janszen, vice president; Frank Harpenau, treasurer, and August Janszen, Jr., secretary; I. Keilson, Dan Keilson, Alexander Schwartz, partners, trading as I. Keilson & Sons; Minnie Young Casey trading as M. & L. Young; G. W. Bickett and Ray F. W. Bickett, partners, trading as G. W. Bickett's Son; Louis C. Weisbrodt; G. O. Fennell; John C. Davis ; James E. Cosgrove; George W. Harriman; John H. Schulten and Edwin E. Schulten, partners, trading as George Schulten Sons; J. C. Nienaber; H. Haebe, C. Bosken, and each of them cease and desist from fixing, enforcing, and maintaining, and from enforcing and maintaining, by combination, agreement, or understanding among themselves, or with or among any of them, or with any other wholesaler of cigarettes of their tobacco products, or any manufacturer thereof, resale prices for cigarettes or other tobacco products dealt in by said respondents, or any of them, or by any of them, or by any other wholesaler of cigarettes or other tobacco products.

And it is further ordered that P. Lorillard Co. (Inc.) cease and desist from assisting and from agreeing to assist any of its dealer customers in maintaining and enforcing in the resale of cigarettes and other tobacco products manufactured by the said P. Lorillard Co. (Inc.), resale prices for such cigarettes and other tobacco products fixed by any such dealer customer by agreement, understanding, or combination with any other dealer customer of said P. Lorillard Co. (Inc.).

*Complaint No. 920.*--Commission v. Atlantic Comb Works. Charge : Unfair methods of competition in commerce are charged in that the respondent in the sale of its toilet articles, composed of nitrated cellulose or pyroxyn plastic, known commercially as "celluloid," pyroxylin," "fibroid," "viscoloid," etc., advertises said products as "white ivory," thereby misleading and deceiving the purchasing public as to the quality and value of said articles, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

It is now ordered that the respondent, Atlantic Comb Works, its officers, directors, agents, and employees, cease and desist from making use of any form of advertising matter in which articles manufactured and sold by it and composed in whole or in part of nitrated cellulose or pyroxylin plastics, known commercially as "celluloid," "pyralin," and by other names, are described as "ivory" or "white ivory."

*Complaint No. 924.*--Federal Trade Commission v. The Don-O-Lac Co. (Inc.). Charge: Using unfair methods of competition by falsely advertising and misrepresenting as "American Shellac" a product which is not shellac as commercially known and which contains no shellac gum.

Disposition : After hearing the commission entered the following order :

Now, therefore, it is ordered that the respondent, the Don-O-Lac Co.(Inc.), its officers, directors, representatives, agents and employees cease and desist--

(1) From 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 "American shellac " or the word "shellac " alone or in combination with any word or words unless accompanied by a word or words clearly and distinctly setting forth the substance, ingredient, 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 the 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, the words "American 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 setting forth the substance, ingredient, or gum of which the varnish is composed with the percentages of all such substances,

ingredients, or gums

therein used clearly stated (e. g. "shellac substitute," or "imitation shellac" to be followed by a statement setting forth the percentages of ingredients or gums therein used).

*Complaint No. 931.*--Commission v. Occidental Oil Corporation and T. F. Smith, president; W. R. Charles, vice president; and L. J. Robling, secretary-treasurer. Charge : Unfair methods of competition in commerce are charged in that the individual respondents in their efforts to sell the shares of stock in the respondent corporation make use of statements concerning the properties, assets, oil production, and prospects thereof, in letters, circulars, maps, and other literature that are false and misleading, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the Commission entered the following order :

It is now ordered that the respondent Occidental Oil Corporation, T. Frank Smith, W. R. Charles, and L. J. Robling, and their agents, do cease and desist from directly or indirectly making any false or misleading statements or representation concerning the resources, operations, production, profits, earnings, disbursements, dividends, progress, or prospects of the respondent Occidental Oil Corporation, or of any other corporation, association, or partnership, in connection with the sale or offering for sale In interstate commerce of the stock or other security of the respondent Occidental Oil Corporation, or of any other corporation, association, or partnerships.

*Complaint No. 933.*--Commission v. Texas-Atlantic Oil Co., G. P. Edgell, J. B. Sikes, V. C. Nelson, R. J. Leavitt, and W. Lincoln Wilson. Charge : The respondent company is a Texas trust and the respondent individuals are the promoters, officers, and agents thereof. Unfair methods of competition are charged in that the respondents, to further the sale of the share stock of said company, made numerous false and misleading statements and concealed essential facts as to the properties, prospects, and earnings of said company, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

It Is now ordered that the respondent, Texas-Atlantic Oil Co., and the respondents G. P. Edgell, J. H. Sikes, V. C. Nelson, and R. J. Leavitt, individually and as officers, shareholders, or agents of the respondent Texas-Atlantic oil Co., and as officers, shareholders, or agents of any other corporation, association, or partnership, their trustees and agents, do cease and desist from directly or indirectly--

Publishing, circulating, or distributing, or causing to be published, circulated, or distributed, any newspaper, pamphlet, circular, letter, advertisement, or any other printed or written matter whatsoever, in connection with the sale or offering for sale in interstate commerce of stock or securities, wherein is printed or set forth ally false or misleading statements or representations concerning the promotion, organization, character, history, resources, assets, oil production, earnings, income, dividends, progress, or prospect of any corporation, association, or partnership.

*Complaint No. 934.*--Commission v. Pacific States Paper Trade Association, its officers and members; Seattle-Tacoma Paper Trade Conference, its officers and members; Spokane Paper Dealers, its officers and members; Portland Paper Trade Association, its officers and members; Paper Trade Conference of San Francisco, its officers and members; Los Angeles Wholesale Paper Jobbers Association, its officers and members J. Y. C. Kellogg, individually and as secretary of the Seattle-Tacoma Paper Trade Conference; Chris A. Bell, individually and as secretary of the Portland Paper Trade Association; B. N. Coffman, individually and as secretary of the Pacific States Paper Trade Association; J. R. Coffman, individually and as secretary of the Los Angeles Whole sale Paper Jobbers' Association; W. B. Gilbert, individually and as secretary of the Spokane Paper Dealers; Zellerbach Paper Co.; Blake, Moffitt & Towne; American Paper Co.; J. W. Fales Paper Co.; Mutual Paper Co.; Washington Pulp & Paper Corporation; Paper Warehouse Co. (Inc.) ; the Seattle Paper Co.; Standard Paper Co.; Tacoma Paper & Stationery Co.; John W. Graham & Co.; B. G. Ewing Paper Co.; American Type Founders Co.; Blake-McFall Paper Co. ; J. W. P. McFall, an individual doing business under the trade name J. W. P. McFall Paper Co. ; Endicott Paper Co. ; R. L. Brackett and Charles L. Frazier, partners doing business under the

name and style Crescent Paper Co. ; Bonestell & Co. ; Pacific Coast Paper Co. ; Union Paper Co. ;  
Richardson Case Paper Co. ; Eastman Gibbons Paper Co. ; Delmas Paper Co. ; San Jose Paper Co. ;  
Pioneer Paper Co. ; R. L. Craig Co. ; Spokane Paper & Stationery Co. ; Rogers Paper Co. ; Sierra Paper  
Co. ; Standard Woodenware Co. Charge:

Arbitrary designation as to "legitimate" or "illegitimate" dealers and the same adjective applied to the channels through which their trade flows are among the factors involved in this complaint. The association, through its members comprising a number of "local associations," the complaint states, embraces practically all the wholesale dealers in paper and paper products throughout the States of Oregon, Washington, and California. Other States affected in great part by the activities of the association are Idaho, Nevada, Arizona, Montana, New Mexico, and the Territory of Alaska. Averments by the commission are to the effect that by concerted agreement adherence of members of local associations to the maintenance of enforced schedule prices is consummated. It is further alleged that to the end that such schedule prices may be maintained and price competition eliminated throughout the Pacific States, the members notify their local associations and the Pacific States Paper Trade Association of infractions of the agreement to maintain standard prices, and these various associations bring pressure to bear upon the offending member to cease such practice. It is charged that the alleged acts and things done by respondents and by each of them have a dangerous tendency unduly to hinder competition and to create a monopoly, and constitute unfair competition within the meaning of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony, the commission dismissed the complaint as to Washington Pulp & Paper Corporation and as to American Type Founders Co., and entered the following order to the remaining respondents :

It is now ordered that--

(a) The Spokane Paper Dealers, its officers and members, forever cease and desist from entering into or acting under any agreement or understanding, express or implied, among each other or with other jobbers or dealers, which fixes or is intended to fix the prices to be charged for paper or paper products in interstate commerce, or from using any joint or uniform price list or other device which fixes prices for paper or paper products sold or to be sold in interstate commerce.

(b) The Spokane Paper Dealers, Portland Paper Trade Association, Paper Trade Conference of San Francisco, Los Angeles Wholesale Paper Jobbers Association, and their officers and members, or any of them, forever cease and desist from using, directly or indirectly, either separately or in combination, in the making or soliciting of sales in interstate commerce, the price list of any local association, or any price list the prices wherein have been fixed by agreement or understanding between two or more respondent jobbers or wholesalers, or from compiling, publishing, and distributing any joint or uniform list or compilation of prices for use or used or intended to be used in making sales of paper products in interstate commerce.

(c) Each and all of the respondent local associations, their officers and members, forever cease and desist from entering into or acting under any agreement or understanding, express or implied, among each other or others, which fixes the prices for sales designated and described in the findings herein as "mill shipments" in carload quantities or less than carload quantities, where the article sold by respondent jobber or wholesaler is one supplied by the manufacturer from a point without the State wherein such jobber or whole sales is located, or from compiling, publishing, and distributing any joint or uniform list or compilation of prices for use or intended to be used in making such sales.

(d) Each and all of the members of the respondent local associations, whether acting independently or through the medium of such local association or associations, forever cease and desist from entering into any agree-meant or understanding with each other or with others to fix prices for any particular article or kind of paper or to fix prices for any particular State or Territory, where the prices so fixed are designed for use and are used in quoting prices or making sales in interstate commerce.

(e) The Seattle-Tacoma Paper Trade Conference, Spokane Paper Dealers, Portland Paper Trade Association, their officers and members, the Pacific States Paper Trade Association and its officers, forever cease and desist. through the medium of meetings of the so-called Northwest Paper Dealers, or in any similar manner, from discussing uniform terms, discounts and prices, agreeing upon prices by



resolution or otherwise, or employing any similar device, which fixes or tends to fix the prices at which paper or paper products shall be sold in interstate commerce, or which is designed to equalize or make uniform the selling prices, terms, discounts, or policies of such

respondent jobbers in the sale of paper or paper products in interstate commerce.

(f) The Pacific States Paper Trade Association, its officers and members, and the various respondent local associations, their officers and members, forever cease and desist from conspiring or combining between or among themselves or any of them, to hinder or prevent, by intimidation, coercion, withdrawal or threatened withdrawal of patronage or any other similar means, the American Writing Paper Co., or any other manufacturer of paper and paper products, from making sales of paper or paper products at any price or upon any terms or condition such manufacturer may elect, to any wholesaler, jobber, dealer or consumer, whether or not considered by said respondents as entitled to such purchases.

(g) All of respondent associations and their officers and members forever cease and desist from conspiring, combining or agreeing among themselves, or with each other or others, or through respondent associations, or any other organization or association, or in any way whatsoever to hinder or prevent any wholesaler, jobber, dealer, or consumer from purchasing paper or paper products in interstate commerce directly from the manufacturer or wholesaler thereof or from any one else selling or desiring to sell such products.

(h) All of respondent associations and their officers and members forever cease and desist from any attempt or effort through such associations or by concert of two or more of their members or through any other organization or association, to hinder or prevent, by intimidation, coercion, withdrawal or threatened withdrawal of patronage or custom, either express or implied, or promises or agreements to increase such patronage or custom, any person, firm, partnership, or corporation, or any agent or representative thereof, from buying and selling paper or paper products in interstate commerce, from or to whomsoever, or at whatsoever price or terms may be agreed upon between the seller and the purchaser; or by combination or agreement, express or implied, to communicate directly or indirectly with any manufacturer, wholesaler, or retail dealer, or any agent or representative thereof, for the purpose of inducing, coercing, or compelling such manufacturer, wholesaler, or retail dealer, not to sell paper or paper products in interstate commerce to any person, firm, partnership, or corporation whether or not recognized or classified by respondents as a legitimate dealer or otherwise entitled to such purchases.

*Complaint No. 943.*--Commission v. Abbott E. Kay and R. T. Nelson, as individuals and as copartners, doing business under the name of Aaban Radium Co. Charge : Unfair methods of competition in commerce are charged in that respondent, while engaged in the manufacture and sale of a product purporting to contain radium, but which in fact contains no radium, advertise radium content and thereby tend to mislead and deceive the purchasing public in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

It is now ordered that respondents, Abbott E. Kay and R. T. Nelson, as individuals and as copartners, doing business under the name of Aaban Radium Co., their servants, agents, and employees, cease and desist from further, in any manner whatsoever

1. Selling or offering for sale or advertising as and for radium the product heretofore sold and advertised as and for radium by respondents.

2. Applying, employing, or using the word "radium" in connection with the sale, offering for sale, or advertising of the product heretofore sold and advertised as and for radium by respondents.

3. Making or causing to be made, in advertising matter or otherwise, representations, statements, or assertions that the product heretofore sold and advertised by respondents 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 .

*Complaint No. 945.*--Commission v. Ajax Rope Co. (Inc.). Charge : Unfair methods of competition in commerce are charged, in that the respondent, engaged in the purchase and sale of rope, cable, and twine, advertises as the "maker" of said products and states that it operates "mammoth rope factories,"

when in fact the respondent does not own, operate, or control any factory engaged in the manufacture of rope, cable, or twine, and by its advertising tends to mislead the trade and purchasing public, in alleged violation of section 5 of the Federal Trade Commission act.

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Disposition : After hearing, the commission entered the following order :

It is now ordered that respondent, its officers, agents, representatives, and employees, cease and desist from representing or causing to be represented, by advertisements, labels, tags, stencil marks, circulars, verbal statements, or in any other manner--

1. That the respondent, Ajax Rope Co. (Inc.) is the maker or manufacturer of the rope which it sells and offers for sale, unless and until said respondent shall engage in the manufacture of such rope ; or

2. That the respondent, Ajax Rope Co. (Inc.), is tire maker or manufacturer of the rope which is made for it by the Waterbury Co., of the city or Brooklyn, State of New York, either by virtue of contract obligations or in any other manner.

*Complaint No. 950.--Commission v. Dr. Herman Heuser.* Charge : Unfair methods of competition in commerce are charged in that the respondent, licensor of patent rights for a process of manufacture of nonalcoholic beverages caused a letter of warning to be sent to licensees of the Baltimore Process Co., holder of a similar patent of prior date, advising them that the process they were using was an infringement of certain patents owned by the respondent, and, for purposes of intimidation and without intention of bringing suit, threatening legal action unless said licensees discontinued the use of the process owned by the Baltimore Process Co., thereby tending to intimidate and coerce said licensees to discontinue the use of the Baltimore process in favor of respondent's process, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

It is now ordered that respondent, Dr. Herman Heuser, his servants, agents, representatives, acrid employees cease and desist from directly or indirectly--

Threatening, by letters or otherwise to institute suits against manufacturers of nonalcoholic beer, for the infringement of the process claimed in respondent's letters patent, without in good faith intending to institute such suit or suits, and in fact following up such threat, or threats, with suit, or suits, brought within a reasonable time, unless such acts shall be desisted from.

Commissioner Van Fleet dissenting.

#### DISSENT BY COMMISSIONER VAN FLEET

I do not believe the necessary element of public interest exists in this case. This is not on account of the nature of the Case. An often used method by those seeking the elimination of competition has been to harass weak competitors by threats of patent litigation. But in this case it would appear that applicant and respondent are equally matched and the controversy is a private one which they may settle and which will ultimately be settled in the litigation now pending.

*Complaint No. 954.--Commission v. Jacob Hochman and Samuel Levine,* as individuals and trading under the name and style of Hochman & Levine. Charge : Unfair methods of competition are charged in that the respondents label, brand, and sell shirts manufactured by them as "English broadcloth," when in fact said shirts are manufactured from cotton cloth manufactured in the United States a quality inferior to that of the widely advertised English broadcloth imported from England, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

It is now ordered that the respondents, Jacob Hochman and Samuel Levine, do cease and desist from--

Using the words "English broadcloth" as a label or brand for shirts, or other garments, unless such garments made from broadcloth made in and imported from England.

*Complaint No. 959.--Commission v. Hygienic Laboratories.* Charge : Unfair methods of competition in commerce are charged in that respondent's "free trial" offer for its hair color restorer "Kolor-Bak" does in fact involve the payment of the regular price for the said restorer, and in that the respondent avoids

fulfillment of its money-back guarantee by claiming that the preparation has not been used according to instructions, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been filed in lieu of testimony, the commission entered the following order :

It is now ordered that the respondent, Hygienic Laboratories. its officers, agents, representatives, servants, and employees, do cease and desist from

Stating, in advertisements which it may cause to be published, or in advertising matter which it may cause to be distributed to the public, that it will give to anyone desiring it or applying for it, "Special free trial offer," or a "Free trial offer," of a preparation manufactured and sold by respondent and for which the claim is made by respondent, that such preparation will restore the original color to gray hair, and then requiring those who apply for the so-called "Free trial" privilege, to purchase a quantity of such preparation upon the condition that if the preparation should fail to satisfy the customer, then the purchase price will be returned, thereby affording customers only what is known commercially, as a conditional "money-back offer" and not a free trial offer.

*Complaint No. 965.*--Federal Trade Commission v. Turner & Porter (Inc.). Charge : Unfair methods of competition in commerce are charged in that the respondent, engaged in the manufacture and sale of stationery, designates and advertises as "Relief-Engraving" its process of printing which resembles, in appearance, to some extent, an impression made from engraved plates but is not "engraving" as commonly understood by the purchasing public, and in that respondent falsely represents that the words "Relief-Engraving" have been registered in the United States Patent office as the trade-mark, all for the purpose of misleading and deceiving the purchasing public in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

Now, therefore, it is ordered that the respondent, Turner & Porter (Inc.), its officers, directors, representatives, agents, and employees cease and desist--

(1) From causing advertisements to be published in magazines, trade papers, or other publications of general circulation among the States of the United States, and from causing circulars, catalogues, and other forms of advertising matter, to be distributed in the several States, in which advertisements and advertising matter the claim is made that the word "Relief-Engraving" has been registered in the United States and Canada as the trade-mark of respondent, or for any similar purpose.

(2) From using "Relief-Engraving" or the word "Engraving," either alone or in combination with any other word or words, in its advertisements and advertising matter, to designate or describe stationery sold by It, the lettering, inscription, or designs on which have been printed from inked type faces, electrotypes, or similar devices, and which stationery does not have thereon impressions from engraved plates or dies, and which lettering, inscription, or designs, have been given a raised letter effect by the application of a chemical in powder form to the ink while it was still wet, then subjecting same to heat thereby causing the chemical so applied to fuse with the wet link.

*Complaint No. 970.*--Federal Trade Commission v. Wasatch Woolen Mills, a corporation. Charge: Unfair methods of competition in commerce are charge that the respondent. engaged him the purchase and sale of "woolen goods made to order," and having no mills or factories of its own, indicates by the use of its corporate name that it is a manufacturer owning or operating woolen mills and that its customers thereby save the profits of the middleman, thus misleading and deceiving the public, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

Now, therefore, it is ordered that the respondent, Wasatch Woolen Mills (Inc.) cease and desist from doing business under the corporate name and style of Wasatch Woolen Mills, or any other corporate name which includes the word "mills," unless and until such respondent actually owns or operates a mill or mills in which it manufactures the woolen articles which it sells.

*Complaint No. 971.*--Federal Trade Commission v. Salt Lake Cooperative Woolen Mills, a corporation. Charge : Unfair methods of competition in commerce are charged in that the respondent, engaged in the purchase and sale of "woolen goods made to order," and having no mills or factories of its own, indicates by the use of its corporate name that it is a manufacturer owning or operating woolen mills, and that its customers thereby save the profits of the middleman, thus misleading and deceiving the

purchasing public, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

Now, therefore, it is ordered that the respondent, Salt Lake Cooperative Woolen Mills (Inc.), its successors, officers, directors, agents, servants, and employees, cease and desist from

1. Doing business under the corporate name and style of "Salt Lake Cooperative Woolen Mills," or any other corporate name which includes the words

“woolen mills,” unless and until such respondent actually owns or operates a mill or mills in which raw wool is converted into yarn or cloth by the process of spinning or weaving.

2. Using any words, phrases, sentences, or order blanks, letterheads, or another literature distributed by it in the course of its business which indicate or creates the impression that said respondent is a manufacturer of the article which it sells, unless and until such respondent does actual manufacture said articles.

*Complaint No. 971.*--Federal Trade Commission v. Jenkins Knitting Mil Co., a corporation. Charge: Unfair methods of competition in commerce a charged in that the respondent, having no mills or factories of its own, but engaged in the purchase and sale of knit goods, indicate by the use of it corporate name that it is a manufacturer owning and operating woolen mills and that its customers therefore save the profits of the middleman, thus misleading and deceiving the purchasing public in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

Now, therefore, it is ordered that the respondent. Jenkins Knitting Mills Co Inc. cease and desist from doing business under the corporate name and style of Jenkins Knitting Mills Co., or any other corporate name which includes the words “knitting” or “mills” unless and until such respondent actually owns and operates a factory or mills in which it manufactures the knitted a articles which it sells.

*Complaint No. 973.*--Federal Trade Commission v. B. Raff & Sons, Charge: Unfair methods of competition are charged in that the respondent in jobbing pyroxyliny or celluloid combs, toilet sets, etc., advertises said articles as “Parisian Ivory,” “White Ivory,” or “Reed Ivory” thereby misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that the respondents, B. Raff, M. Raff, and I. Raff, as partners and individually do cease and desist from directly or indirectly advertising or representing as “Ivory” articles offered for sale or sold by them. unless such articles are in fact made or composed of ivory.

*Complaint No. 975.*--Edward Frohlich, trading under the name and style of Frohlich Glass Co., and E. A. Benedict. Charge: Unfair methods of competition in commerce are charged in that the respondents, cooperating in the sale of house paint have falsely represented, advertised. and labeled said products as “U. S. Quality Paint” the said paint in fact being a low-grade product not made for nor used by the United States Government and not made according to any Government specification or requirements, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A Stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that the respondents. Edward Frohlich and E. A. Benedict, their agents, representatives, servants, and employees do cease and desist from directly or indirectly--

(1) Using a label, mark, or brand containing the words “U. S. Quality Paint” upon paint manufactured or sold by them or either of them. or any similar label, mark, or brand that would tend to induce the belief that said paint was manufactured for use by the United States Government or prepared according to specifications or requirements of the United States Government, unless the paint in the containers upon which said label is used is or was manufactured for use by the United States Government or prepared according to the specifications or requirements of the United States Government.

(2) Selling or offering for sale in commerce paint, the containers of which bear the label, mark, or brand “U. S. Quality Paint” or any similar label, mark, or brand that would tend to induce the belief that the paint therein contained was manufactured for use by the United States Government or prepared according to specifications or requirements of the United States Government, unless the paint in the containers so labeled was. and is, in fact manufactured for use by the United States Government or



prepared according to specifications or requirements of the United States Government.

*Complaint No. 977.*--Federal Trade Commission v. Eastman Kodak Co., Allied Laboratories Association (Inc.), the Burton Holmes Lectures (Inc.), the Crafts

men Film Laboratory (Inc.), Kineto Co. of America (Inc.), Erbograph Co., Cromlow Film Laboratories (Inc.), Palisades Film Laboratories (Inc.), Claremoat Film Laboratories (Inc.), Film Developing Corporation, Evans Film Manufacturing Co. (Inc.), Republic Laboratories (Inc.), Lyman H. Howe Film Co., Rex Laboratory (Inc), Tremont Film Laboratories (Inc.), Mark Dintenfass, George Eastman, Jules E. Brulatour. Charge: The complaint alleges that the Eastman interests, in sad endeavor to monopolize the manufacture and sale of cinematography film in the United States, caused the respondent Brulatour to establish and operate laboratories for the production of positive-print motion picture film (without disclosing the ownership) for the purpose of coercing competing laboratories to refrain from purchasing foreign cinematography film, such coercion being effected by underselling, discrimination in price and terms of credits, or delay in or refusal to make delivery; and that subsequently the Eastman interests assumed title to said laboratories and by threat of operation thereof induced the respondent association and its members to join in a conspiracy by which the association members agreed to confine their purchases to film manufactured in the United States, the Eastman Co. agreeing to close its manufacturing laboratories and to refrain from further competition with members of the association, but threatening to reopen and operate its laboratories if the association members again purchased or listed imported film and the respondent members thereupon confined their purchasing to Eastman film, falsely announcing that film produced by manufactures other than Eastman can not be used to good advantage. Unfair methods of competition are charged in that the practices above described have resulted in the monopoly of the cinematography-film business in the United States by the Eastman Co. and restricted competition and fixed prices in the sale of positive prints to the producers of motion-pictures film in alleged violation of section 5 or the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony, the commission issued the following order:

Now, therefore, it is ordered that the respondents, Eastman Kodak Co., its officers, agents, and employees, George Eastman, Jules E. Brulatour, the Allied Film Laboratories Association (Inc.), its officers, agents, and employees, the Burton Holmes lectures (Inc.), the Craftsmen Film Laboratory (Inc.), the Kineto Co. of America (Inc.), the Erbograph Co., the Cromlow Film Laboratories (Inc.), the Palisades El lm Laboratories (Inc.), the Claremont Film Laboratory (Inc.), the Film Developing corporation, the Evans Film Manufacturing Co. (Inc.), the Republic Laboratories (Inc.), the Lyman H. Howe Film Co., the Rex Laboratory (Inc.), the Tremont Film Laboratories (Inc.), their respective officers, agents, and employees, and Mark Dintenfass, his servants, agents, and employees, and each of them, forever--

Cease said desist from conspiring, combining, confederating, agreeing and operating between or among themselves to hinder and restraint competition in the manufacture and sale of positive raw cinematography-film stock and to maintain and extend or attempt to maintain and extend the monopoly of the Eastman Kodak Co. in the distribution and sale of positive raw cinematography film stock, in interstate and foreign commerce by--

First. The acquisition and equipment by the Eastman Kodak Co. of the Paragon Laboratory, the G. M. Laboratory, and the Sen Jacq Laboratory, whose combined capacity equals the market demand for printing and developing positive prints of cinematographic films from exposed and developed cinematography films, for the purpose of extending its business to include the making and selling of such prints.

Second. The use by the Eastman Kodak Co. of the ownership and possession of the said Paragon, G. M., and Sun Jacq laboratories and their equipment and capacity for producing positive prints of cinematography films from exposed and developed negative cinematography films to induce, compel, and coerce the Allied Film Laboratories Association (Inc.), and its members, to use in their laboratories for the manufacture of positive prints of cinematography film, exclusively, American-made positive raw cinematography film stock of which the said Eastman Kodak Co. has a monopoly in the manufacture and

sale thereof.

Third. The agreement or understanding by and between members of the Allied Film laboratories Association (Inc.) and the Eastman Kodak Co. that the multi members will use American-made positive raw cinematography film stock of which said Eastman Kodak Co. has a monopoly in the manufacture and sale thereof, exclusively, and particularly to the exclusion of foreign manufactured positive raw cinematography film stock, provided the Eastman Kodak

Co. will not operate commercially the said Paragon, G. M. and Sen Jacq laboratories in competition with the laboratories operated by said members of the Allied Film Laboratories Association (Inc.).

Fourth. The agreement or understanding entered into by and between the Eastman Kodak Co. and the members of the Allied Film Laboratories Association (Inc.) that the Eastman Kodak Co. will not operate commercially the Paragon, G. M., and Sen Jacq laboratories in the manufacture and sale of positive prints of cinematography films in competition with the laboratories operated by said members, provided that said members use and continue to use American-made positive raw cinematography film stock, of which the Eastman Kodak Co. has a monopoly in the manufacture and sale thereof, exclusively in the manufacture of positive prints or cinematography films from exposed negative cinematography films and the sale thereof.

Fifth. The continued ownership by the Eastman Kodak Co. of the Paragon, G. M., and Sen Jacq laboratories and the maintenance of the same in readiness for immediate operation for the production of positive prints of cinematography films or any other dominant control of the production, or capacity for production, of positive prints of cinematography films from exposed negative cinematography films.

Sixth. Utilizing any other equivalent means, not hereinbefore stated, to accomplish the object of unfairly forestalling, preventing, hindering, or restraining the manufacture and sale of positive raw cinematography film stock and the making of positive prints of cinematography films from exposed negative cinematography films, or the sale thereof, in interstate and foreign commerce.

It is further ordered that for the purpose of preventing the maintenance and extension of the monopoly of the Eastman Kodak Co. in the manufacture and sale of positive raw cinematography film stock to the use thereof in making positive prints of cinematography films and of restoring competitive freedom in the distribution and sale of positive raw cinematography film stock, the Eastman Kodak Co. shall, with all due diligence, sell and convey the said Paragon, G. M., and Sen Jacq laboratories to parties not connected directly or indirectly in interest with the Eastman Kodak Co.

*Complaint No. 978.*--Federal Trade Commission v. Western Woolen Mills Co., a corporation. Charge: Unfair methods of competition are charged in that the respondent, engaged in the purchase and sale of woolen goods and having no mills of its own, indicates by the use of its corporate name that it is a manufacturer owning or operating woolen mills and that its customers therefore save the profits of the middleman, thus misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

Now, therefore, it is ordered that the respondent, Western Woolen Mills Co. (Inc.), its successors, officers, directors agents, servants and employees cease and desist from--

(1) Doing business under the corporate name and style of Western Woolen Mills Co. or any other corporate name which includes the word " mills " unless and until such respondent actually owns or operates a mill or mills in which it manufactures the woolen articles which it sells.

(2) Using any words, phrases, or sentences on the order blanks, letterheads, or any other literature distributed by it in the course of its business's which indicate or create the impression that said respondent is a manufacturer of the articles which it sells, unless and until such respondent does actually manufacture said articles.

Commissioner MURDOCK dissents.

*Complaint No. 989.*--Federal Trade Commission v. Victor K. Kissal and Paul Kokalis, copartners doing business under the name of Kissal & Kokalis. Charge : Unfair methods of competition are charged in that the respondents, operating a beverage stock in the District of Columbia, have simulated the white store front and distinctive sign well known to the people of the District of Columbia as originally adopted by and associated with a chain of retail stores known as Dikeman's Orange Beverage Stores, thereby tending to mislead and deceive the consuming public in alleged violation of section 5 of the Federal Trade

Commission act.

Disposition : After hearing, the commission entered the following order :

It is now ordered that respondents, Victor K. Kissal and Paul Kokalis, copartners doing business under the name of Kissal & Kokalis, their agents, representatives, servants, and employees, do cease and desist from simulating the signs, letterings, legend, and store front in color, size, shape, design, and general appearance of the chain stores of Carroll H. Dikeman.

*Complaint No. 982.*--Federal Trade Commission v. E. O. Wakefield, Mrs. E. O. Wakefield, A. J. Plume, and William Plume, copartners, doing business under the firm name of Murray Knitting Co, Charge: Unfair methods of competition in commerce are charged in that the respondents, engaged in the purchase and sale of knit goods and having no mills or factories of their own, indicate by the general use and prominent display of the firm name under which they do business that they are manufacturers and that their customers therefore save the profits of the middleman, thereby misleading and deceiving the purchasing public in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

Now, therefore, it is ordered that the respondents, E. O. Wakefield, Mrs. E. O. Wakefield, A. J. Plume, and William Plume, copartners, doing business under the firm name of Murray Knitting Co., cease and desist from--

(1) Doing business under the firm name and style of Murray Knitting Co. or any other firm name which includes the word "knitting," unless and until such respondents actually own or operate a factory or mills in which they manufacture the knitted articles which they sell.

(2) Using any words, phrases, or sentences on the order blanks, letterheads, or any other literature distributed by them in the course of their business, which indicate or create the impression that said respondents are manufacturers of the articles which they sell, unless and until such respondents do actually manufacture said articles.

Commissioner MURDOCK dissents.

*Complaint No. 983.*--Federal Trade Commission v. Morris Errera. Charge : Unfair methods of competition on commerce are charged in that respondent, operating a beverage store in the District of Columbia, has simulated the white store front and distinctive signs well known to the people of the District of Columbia as originally adopted by and associated with a chain of retail stores known as Dikeman's Orange Beverage Stores and thereby tends to mislead and deceive the consuming public in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

It is now ordered that respondent, Morris Errera, his agents, representatives, servants, and employees, do cease and desist from simulating the signs, letterings, legend, and store front in color, size, shape, design, and general appearance of the chain of stores of Carroll H. Dikeman.

*Complaint No. 986.*--Federal Trade Commission v. Broadway Knitting Co., a corporation. Charge : Unfair methods of competition in commerce are charged in that the respondent, engaged in the purchase and sale of knit goods and "woolen goods made to order" and having no mills or factories of its own, indicated by the use of its corporate name that it is a manufacturer and that its customers therefore save the profits of the middleman, thereby misleading and deceiving the purchasing public in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

Now, therefore, it is ordered that the] respondent Broadway Knitting Co. cease and desist from doing business under the name and style of Broadway Knitting Co. or any other corporate name which includes the word "knitting" unless and until such respondent actually by owns or operates a factory or mill is in which it manufactures the knitted articles which it sells.

*Complaint No. 994.*--Federal Trade Commission v. Standard Education Society. Charge: The complaint relates that the respondent offers its "Standard Reference Work" free of charge in conjunction with a 10 years subscription for its "Standard Loose-Leaf Extension Service" at \$49, payable within one year in monthly installments. Unfair methods of competition are charged in that the respondent's representation that the sum of \$49 is for the so-called extension service is false and misleading, as such sum is greatly in excess of the cost of the service and is sufficient too compensate the respondent for the set of books delivered "free," and in that the respondent misrepresents the value of the said books and extension service and induces individuals to accept said hooks on approval but prevents the purchasers

from exercising their option of returning the books to the respondent at its expense; misrepresents the quality of its book bindings ; makes false and misleading representation as to honorary membership in the "Standard Education Society," offered as an inducement to purchase respondent's books; claims that other books offered in connection with its "Standard Reference Work" are given free and with-

out charge, whereas the price obtained is so far in excess of the usual selling price of the Standard Reference Work as to constitute a fair price for all of the books delivered to the customers ; falsely advertises that the Standard Reference Work has been "officially adopted by 24 States" ; and circulates commendations of its publications subsequent to their withdrawal and abrogation by the persons signing them, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony the commission entered the following order:

It is now ordered that the respondent, Standard Education Society, a corporation, its officers, agents, and employees cease and desist from--

(1) Representing to customers or prospective customers that the usual prices which it receives or has received for any book, set of books, or any publication, or any combination of books, sets of books, or publications, are greater than the price at which they are offered to such customers or prospective customers, when such is not the fact.

(2) Representing that any book or publication offered for sale by it is bound in "rich maroon levant" or other leather when such is not the fact.

(3) Offering to its prospective customers honorary memberships in the Standard Education Society.

(4) Advertising that the publication designated as "Standard Reference Work" has been officially adopted by 24 States or by any State.

*Complaint No. 995.*--Federal Trade Commission v. King-Ferree Co. (Inc.). Charge : Unfair methods of competition are charged in that the respondent, manufacturer of cigars at Greensboro, N. C., by labeling and advertising its said product as "Vantampa" cigars, tends to mislead and deceive the purchasing public to believe said cigars are Tampa cigars manufactured from the Havana tobacco used in the Tampa district, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony the commission entered the following order:

It is now ordered that the respondent, King-Ferree Co. (Inc.), its officers, agents, representatives, servants, and employees, do cease and desist from--

Using the word "Vantampa" alone or in combination with other words in brands, labels, or legends on cigars and the containers thereof manufactured by it in Greensboro, N. C., or any other place than the city of Tampa, Fla., or the Tampa district, so-called, unless, if the cigars in fact are not made in Tampa, Fla., or the Tampa district, such word or words are followed by words in type or lettering equally conspicuous with the word "Vantampa" which state the true place of manufacture.

*Complaint No. 997.*--Federal Trade Commission v. Co. (Inc.). Charge : Complaint herein charges unfair methods of competition in that the respondent, for the purpose of inducing its competitors' customers to wrong fully and unlawfully breach their contracts with said competitors and there fully and lawfully breach their contracts with said competitors and there for of its competitors, allows as part payment of the purchase price for its own machines such sums as have been paid on contracts for the purchase of competing machines and furnishes the services of attorneys to defend suits brought by competitions for the purchase price for competing machines originally installed in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that the respondent, Prosperity Co. (Inc.), its agents, representatives, servants, and employees, do cease and desist from--

Inducing, or attempting to induce, purchasers of garment-pressing machines of competitors to breach their contracts with such competitors, and to install and use machines purchased from said respondent corporation.



And in particular by any of the following means :

(a) or offering to allow such purchasers as part payment of the purchase price of its own machines, such sums as have been paid on contracts for the purchase of such competing machines.

(b) Agreeing to indemnify or offering to indemnify such purchasers who breach their contracts for the purchase of competing machines against any loss which may accrue to them because of such breach.

*Complaint No. 998.*-Federal Trade Commission v. Mrs. E. M. Henning, Joseph M. Henning, C. Wesley Henning, and William E. Henning, individuals,

trading under the name and style of Phillips Genuine Sausage Co. Charge : Unfair methods of competition are charged in that the respondents, engaged in the sale of pork sausage, simulate the trade name and label of the Joseph Phillips Co., a long-established and favorably known manufacturer of "Phillips Original All-Pork Sausage," in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

It is now ordered that the respondents, Mrs. E. M. Henning, Joseph M. H Henning, C. Wesley Henning, and William E. Henning, individuals, trading under the name and style of Phillips Genuine Sausage Co., their agents, servants, and employees, do cease and desist from directly or indirectly--

Representing, advertising, labeling, or branding in any manner whatsoever, their said sausage as "Made and prepared by Thomas C. Phillips," unless and until such products are actually made and prepared by Thomas C. Phillips.

*Complaint No. 1002.*--Federal Trade Commission v. A Morrison and L Morrison, partners, trading as Morrison Fountain Pen Co. Charge : Unfair methods of competition are charged in that the respondents, engaged in the sale and manufacture of fountain pens and pencils, label their products with false and fictitious resale prices far in excess of the usual retail prices for the purpose of misleading and deceiving the purchasing public as to the true value and usual selling price of said articles, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

It is ordered that the respondents, A. Morrison and L. Morrison, do cease and desist from selling in interstate commerce fountain pens bearing upon them any brand, label, or other mark indicating a false, fictitious, exaggerated, and misleading price in excess of the price at which such pens are usually sold at retail.

*Complaint No. 1004.*--Federal Trade Commission v. Henry Lederer & Bros. (Inc.). Charge : Unfair methods of competition are charged in that pens and pen points manufactured by the respondent from metals other than gold are inscribed or stamped in small and indistinct letters and figures : "Premo 141 Warranted," the said figures being used with the intent and purpose of deceiving the purchasing public by reason of their resemblance to the "14k" mark on articles made of gold, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that the respondent, Henry Lederer & Bros. (Inc.), its officers, agents, and employees, cease and desist from--Selling or offering to sell in interstate commerce pens or pen points made from metal or metals other than gold and finished to resemble gold in color and appearance, bearing thereon the following inscription : "Premo 141 Warranted," or any other device or mark calculated to indicate to the purchasing public that said pens are made from or contain gold.

*Complaint No. 1005.*--Federal Trade Commission v. Greenhalgh Mills, a corporation, J. Braumhall, J. W. Bird, W. C. Bayhies, Robert Amory, Charles Crehore, and B. F. Meffert, copartners, trading under the name and style of Amory, Browne & Co. Charge : Unfair methods of competition are charged in that the respondents, manufacturers and sales agents of cotton fabrics, caused certain of said cottons to be labeled "De Luxe Pongee," the said name having the capacity and tendency to mislead the trade and purchasing public to believe that the fabric so labeled is a silk fabric such as that commonly known and designated "Pongee," in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

Now, therefore, it is ordered that respondents Greenhalgh Mills, a corporation, J. Braumhall, J. W. Bird, W. C. Bayhies, Robert Amory, Charles Crehore, and B. F. Meffert, copartners, trading under the name and style of Amory, Browne & Co., its or their officers, agents, representatives, servants, or em-

ployees, cease and desist from using as a brand, stamp, or label, or otherwise using or applying the word "Pongee" on or in connection with any fabric manufactured by respondent, Greenhalgh Mills, sold or to be sold in interstate commerce, unless such fabric is the product of the cocoon of the silk worm.

*Complaint No. 1011* --Federal Trade Commission v. J. Mailender, trading under the unincorporated names and styles of "M. Rider & Co.," "Queen

City Salvage Co.," "Army Goods Headquarters," "Army-Navy Store," and Army Goods Store." Charge: Unfair methods of competition are charged in that the respondent, engaged in the purchase and sale of men's work and dress clothing, surplus Army and Navy property, paints, and other goods, falsely represents certain of his wares as purchased from the United States Army or Navy, or made in accordance with specifications of the United States Government and of high quality, thereby tending to mislead and deceive the purchasing public, ill alleged violation of section 5 of the Federal Trade Commission act.

Disposition: A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that the respondent H. Mailender ( whose full name is Harry Mailender), trading under the unincorporated names and styles of "M. Rider & Co.," and "Queen City Salvage Co.," his agents, representatives, servants, and employees. cease and desist from directly or indirectly-

(1) Selling or offering for sale in interstate commerce, in places of business designated and described by him as "Army Goods Headquarters," "Army-Navy Stores" or "Army Goods Store," ordinary commercial merchandise or commodities as surplus Army and Navy supplies or Government supplies, when in truth and in fact, such merchandise or commodities were not purchased from or manufactured by or for the United States Government or made in accordance with specifications or requirements of the United States Government.

(2) Advertising or describing in newspapers, circulars, or other literature, ordinary commercial merchandise or commodities as surplus Army and Navy supplies, when, in truth and in fact, such merchandise and commodities were not purchased from or manufactured for or by the United States Government, or made in accordance with specifications or requirements of the United States Government.

(3) Employing or using on labels or as brands for paint manufactured, sold or offered for sale by him in interstate commerce, or upon the containers in which said paint is delivered to purchasers, the words "U. S. Marine Paint," "One Gallon U. S. Standard," unless in truth and in fact, said paint was purchased from or manufactured by or for the United States Government, or prepared in accordance with specifications or requirements of the United States Government.

(4) Using or displaying in advertising matter, circulars, or other literature used in connection with the sale of paint manufactured, sold, or offered for sale by him in interstate commerce, the words "U. S. Marine Paint" or "U. S. Quality Paint," unless, in truth and in fact, said paint was purchased from or manufactured by or for the United States Government, or prepared in accordance with specifications or requirements of the United States Government.

*Complaint No. 1014.*--Federal Trade Commission v. Ralph E. Dings and Lyon S. Schuster, a partnership doing business under the name and style of Dings & Schuster. Charge : Unfair methods of competition are charged, in that the respondents, engaged in the manufacture and sale of paints, varnishes, shellac, and shellac substitutes, label as ' white shellac " a product composed of shellac gum and a large quantity of shellac-gum substitutes, such as rosin amid similar ingredients, without distinguishing it from their similarly labeled product which is composed solely of shellac gum dissolved in alcohol, thereby tending to mislead and deceive the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of facts, the commission entered the following order :

It is now ordered that the respondents, Ralph E. Dings and Lyon S. Schuster, copartners, doing business under the name and style of Dings & Schuster, and each of them, their agents, representatives, servants, and employees, cease and desist from directly or indirectly-

(1) 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 "White shellac" or the word "Shellac" alone or in combination with any word or words unless accompanied by

a word or words clearly and distinctly setting forth the substance, ingredient, 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, on upon the containers ( e. g., "Shellac substitute"

or "Imitation shellac," to be followed by a statement setting forth the per percentages of ingredients or gums therein used).

(2) 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, the words "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 setting forth the substance, ingredient, or gum of which the varnish is composed, with the percentages of all such substances, ingredients, or gums therein used clearly stated (e. g., "Shellac substitute" or "Imitation shellac," to be followed by a statement setting forth the percentages of ingredients or gums therein used).

*Complaint No. 1017.*--Federal Trade Commission v. Process Engraving Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the printing and soiling of stationery, designates and advertises as "Process engraving" its method of printing in simulation of impressions made from engraved plates, thereby tending to mislead and deceive the purchasing public into the erroneous belief that the respondent's products are in fact "engraved," in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

Now, therefore, it is ordered that the respondent, Process Engraving Co.. its officers, directors, representatives, agents, and employees cease and desist--

From using the words "process engraving" engraved by our process," or the word "engraving," either alone or in combination with any other word or words, in its advertisements and advertising matter distributed or displayed to the public in the several States of the United States, to designate or describe stationery sold by it, the lettering, inscription, or designs on which have been printed from inked type faces, electrotypes or similar devices, and which stationery does not have thereon impressions from engraved plates or dies, and which lettering, inscriptions, or designs have e been given a raised-letter effect by the application of a chemical in powder form to the ink while it was still wet, then subjecting same to heat, thereby causing the chemical so applied to fuse with the wet ink.

*Complaint No.1026.*--Federal Trade Commission v. M. Kaplin, trading as Butterfly Shop. Charge : Unfair methods of competition are charged in that the respondent, engaged in the sale of wearing apparel at retail, falsely represents as "silk" certain hosiery and other articles manufactured from materials or fabrics other than silk but resembling silk in appearance and texture, thereby misleading and deceiving the purchasing public, In alleged violation of section 5 of the Federal Trade commission act.

Disposition : After hearing, the commission entered the following order :

It is now ordered that respondent, M. Kaplin, his servants, agents, representatives, and employees cease and desist from directly or indirectly--

Using in advertisements, placards, or signs in connection with hosiery sold by him the word "silk" or any modification thereof, (1) unless the hosiery on which it is used is made entirely of the silk of the silk worm, or (2) unless where the hosiery is made partly of silk it is accompanied by a word or words aptly and truthfully describing the material or materials of which said hosiery is in part composed.

*Complaint No.1041.*--Federal Trade commission v. Mountain Grove Creamery, Ice & Electric Co. Charge : Unfair methods of competition are charged in that the respondent has caused its butter to be put up in packages or cartons containing from 1 to 2 ounces less than the recognized standard weight of 16 ounces or 1 pound, the true weight being marked on the container, however, each carton containing separately wrapped unmarked units of slightly less than the standard and customary size and weight, and in limitation thereof, the tendency being to enable and encourage retailers to commit a fraud on the ultimate purchasers of the separately wrapped unmarked units, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of facts, the commission entered the following order :

It is now ordered that respondent Mountain Grove Creamery, Ice & Electric Co., its officers, agents,

and employees, do cease and desist from selling, or offering for sale to distributors, dealers, or others butter in shapes, sizes, and dress in imitation of, or resembling the standard or recognized shapes and sizes generally known to the purchasing public to contain 4 ounces, 8 ounces,

and 1 pound of butter, respectively, when such shapes and sizes contain less than said standard respective weights.

*Complaint No. 1042.*--Federal Trade Commission v. The Wichita Creamery Co. Charge : unfair methods of competition are charged in that the respondent has caused its butter to be put up in packages or cartons containing 1 ounce less than the recognized standard weight of 16 ounces or 1 pound, the true weight being marked on the container, however, each carton containing separately wrapped unmarked units of slightly less than the standard and customary size and weight, and in imitation thereof, the tendency being to enable and encourage retailers to commit a fraud on the ultimate purchasers of the separately wrapped unmarked units, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of facts, the commission entered the following order :

It is now ordered that respondent, the Wichita Creamery Co., its officers, agents, and employees, do cease and desist from selling or offering for sale to distributors, dealers, or others, butter in shapes, sizes, and dress in imitation of, or resembling the standard or recognized shapes and sizes generally known to the purchasing public to contain 4 ounces, 8 ounces, and 1 pound butter, respectively, when such shapes and sizes contain less than said standard respective weights.

*Complaint No. 1043.*--Federal Trade Commission v. The Meriden Creamery -Co. Charge : Unfair methods of competition are charged in that the respondent has caused its butter to be put up in packages or cartons containing 1 ounce less than the recognized standard weight of 16 ounces or 1 pound, the true weight being marked on the container, however, each carton containing separately wrapped, unmarked units of slightly less than the standard and customary size and weight, and in imitation thereof, the tendency being to enable and encourage retailers to commit a fraud on the ultimate purchasers of the separately wrapped, unmarked units, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of facts, the commission entered the following order :

It is now ordered that respondent, the Meriden Creamery Co., its officers, agents, and employees, do cease and desist from selling or offering for sale to distributors, dealers, or others, butter in shapes, sizes, and dress in imitation of, or resembling the standard or recognized shapes and sizes generally known to the purchasing public to contain 4 ounces, 8 ounces, and 1 pound of butter. respectively, when such shapes and sizes contain less than said standard respective weights.

*Complaint No. 1049.*--Federal Trade Commission v. Philadelphia Blanket Co. (Inc.). Charge : Unfair methods of competition are charged in that the respondent sells certain of its blankets, rugs, and robes under the trade name William B. Riley & Co., "the name of a partnership formerly engaged in a similar business and from which the respondent purchased certain trade-marks which did not include the aforesaid trade name, the sale or transfer of which to the respondent was refused, the respondent thereby tending to mislead the purchasing public to believe that the respondent's products are those of William B. Riley & Co., and that the last named company continues its existence, when in fact it has been dissolved, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the commission entered the following order :

It is ordered that the respondent, Philadelphia Blanket Co. (Inc.), its agents, representatives, and employees, do--

Cease and desist from trading under the name Wm. B. Riley & Co. by causing the said name to be or to remain listed in any telephone directory, either in connection with the same telephone number and address as the Philadelphia Blanket Co. (Inc.) or in connection with any other telephone number or address; from using the name Wm. B Riley & Co. on letterhead or other stationery in any manner representing that it is conducting business under said firm name or in connection therewith; from using the name Wm. B. Riley & Co.. in any manner on any sign used by respondents in its business except in



connection with the words “former lines of “ or words of equivalent meaning placed conspicuously immediately preceding the said firm name.

Commissioner Van Fleet dissents.

## MEMORANDUM BY COMMISSIONER VAN FLEET

I dissent from the order in this case.

On March 17, 1924, the complaint in this case by vote of the commission was dismissed "for the reason that the record shows that this matter should have been determined between the parties by private action in court," and the secretary was directed to serve the order of dismissal. On March 28, 1924, the commission by majority vote reconsidered the former vote and voted the present order to cease and desist. I am dissenting because I adhere to the opinion as expressed in the first order of the commission, that "the record shows that this matter should have been determined between the parties by private action in court." The record disclosed that William B. Riley & Co. was a partnership composed of William B. Riley and Edgar E. Young; that Riley died and Young continued the business for a time under the firm name; that Young later sold to respondent all the merchandise of said partnership on hand, together with the right to use certain trade-marks belonging to said partnership.

The agreement was evidenced by a written instrument executed by the parties, Edgar E. Young died and his widow and the executors of his estate complained of the use by respondent of the name William B. Riley, evidently deeming that the name was of some commercial value. Whether under the written agreement the respondent had the right to use this name is a question of law to be determined by the court. It is a purely private controversy between them. The commission is not created to collect debts or establish purely personal and private rights between parties.

The trial examiner in this case found that :

"The form of letterhead adopted by the respondent on or about April 29, 1922, and continued in use by the respondent until on or about November 29, 1922, is calculated to, and might, cause someone seeing said stationery to believe that the respondent, Philadelphia Blanket Co. (Inc.), was a successor to Wm. B Riley & Co., but such was the fact, and there is no evidence of any of the trade, or of the consuming public, in any way, being misled or deceived. The notice sent out by Edgar E. Young to the trade, advising them that Wm. B. Riley & Co. had ceased business, and of the transference of the business of Wm. B. Riley & Co. to the Philadelphia Blanket Co. would negative any presumption which might arise as to any general tendency or capacity of such stationery to mislead or deceive the trade, and there is absolutely no evidence that the ultimate user of blankets or robes, the consumer, ever had any opportunity to see such stationery.

"The respondent ceased the use of the words, ' Wm. B. Riley & Co.' upon its stationery on or about November 29, 1922, as set out in Paragraph IV, and has not since that the used same. The respondent has used, since November 29, 1922, and continues to use upon the sign at the New York office, under the words ' Steamer rugs,' the words. 'Former lines of Wm. B. Riley & Co.,' which is a statement of a fact.

"The evidence reveals no acts or things done by respondent which are to the prejudice of the public or to the competitors of respondent, and reveals only a private dispute between the widow and executors of Edgar E. Young and the respondent."

" The respondent contends that among the rights conveyed was the right to the good will of Wm. B. Riley & Co. : the widow and executor of Edgar E. Young contend that the contract does not carry the good will. This is strictly a question of involving the construction of a contract, which is for the courts to determine. There is no substantial public interest involved."

The law authorizes the commission to issue orders only when it shall be to the public interest. There being no public interest and this being in my opinion a purely private controversy, I dissent from the order.

*Complaint No. 1055.*--Federal Trade Commission v. Max Baer and A. Baer, partners, doing business under the name and style of Baer Bros. Charge : Unfair methods of competition are charged in that the respondents' product. which is not composed wholly of shellac gum dissolved in alcohol, is represented as pure shellac or shellac varnish and labeled and advertised as "Mongol shellac" without indicating that

said product contains any gum, ingredient, or substitute for gum other than genuine gum shellac, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that the respondents, Max Baer and A. Baer, copartners doing business under the name and style of Baer Bros., and each of them, their agents, representatives, servants, and employees, cease and desist--

(1) From directly or indirectly employing or using on labels or as brands for varnish not composed wholly, one hundred per cent, of shellac gum cut in alcohol, or on the containers in which the varnish is delivered to customers, the words "Mongol shellac" or the word "shellac" alone or in combination with any word or words unless accompanied by a word or words clearly and distinctly setting forth the substance, ingredient 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 the 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 one hundred per cent shellac gum cut in alcohol, the words "Mongol 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 setting forth the substance, ingredient or gum of which the varnish is composed with the percentages of all such substances, ingredients or gums therein used clearly stated (e. g., "shellac substitute," or "imitation shellac" to be followed by a statement setting forth the percentages of ingredients on gums therein used)

*Complaint No. 1056.*--Federal Trade Commission v. H. O. Greenbaum, trading as Technical Color & Chemical Works, and Victory Shellac Works. Charge : Unfair methods of competition are charged in that the respondent mis-represents its product composed of a small percentage of pure shellac gum, and in some instances no shellac whatever, as a pure shellac dissolved in denatured alcohol, failing to indicate that the product contains any gum other than pure shellac gum, and labels and advertises it as "Red Devil Shellac" and "Victory White Shellac," thereby misleading and deceiving the purchasing public as to the quality of said product, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that the respondent, H. O. Greenbaum, trading under the names and styles of Technical Color & Chemical Works and Victory Shellac Works, his agents, representatives, servants, and employees, cease and desist--

(1) From, directly or indirectly, employing or using on labels, or as brands for varnish not composed wholly, one hundred per cent, of shellac gum cut in alcohol, or on the containers in which the varnish is delivered to customers, the words "Red Devil shellac," "Victory White shellac," or the word "Shellac" alone or in combination with any word or words unless accompanied by a word or words clearly and distinctly setting forth the substance, ingredient, 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 the percentages of ingredients or gums therein used)

(2) From using or displaying in circulars or advertising matter used in connection with the sale of his products in interstate commerce, except when such products contain one hundred per cent shellac gum cut in alcohol, the words "Red Devil shellac." "Victory 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 setting forth the substances, ingredients, or gums of which the varnish is composed, with the percentages of all such substances, ingredients, or gums therein used clearly stated (e. g., "Shellac Substitute" " or "Imitation shellac," to be followed by a statement setting forth the percentages of ingredients or gums therein used).

*Complaint No. 1059.*--Federal Trade Commission v. J. D. Smiley, doing business under the trade name and style of "Dixie Tailors." Charge : The complaint relates that the respondent, in soliciting orders for his men's clothing, represents that his weekly-payment-plan customers are formed into groups and that the respondent selects one customer from each group each week to receive his suit of clothing

without further payment until all customers in the group have received their suits. Unfair methods of competition are charged in that the respondent fails to divide said customers into groups and make a

weekly selection therefrom, but makes selections at random from time to time and not to the number represented at the time the orders were solicited, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that respondent, J. D. Smiley, doing business under the name and style of Dixie Tailors, his agents, solicitors, representatives, servants, and employees, do cease and desist from directly or indirectly--

(1) Falsely representing through his agents, or by or through any other means whatsoever, to his customers or prospective customers, his method of marketing his merchandise in commerce, and especially from--

(2) Falsely representing through his agents, or by or through any other means whatsoever, to his prospective customers that in the sale of suits of clothing customers would be divided into clubs or groups of forty-eight persons each, and that from such clubs or groups each week the name of a person would be drawn or otherwise selected by choice to receive a suit of clothing without further charge or payment.

(3) From representing to customers or prospective customers that under respondent's plan of marketing his merchandise each and every customer would have an equal chance or opportunity with other customers in a selection and designation for those who were to receive a suit of clothing at a price under the full payment of \$48, when in truth and in fact no equal chance or opportunity is given.

*Complaint No. 1062.*--Federal Trade Commission v. L. F. Cassoff, an individual doing business under the names and styles of Central Paint & Varnish Works and Central Shellac Works. Charge : Unfair methods of competition are charged in that the respondent's product, which is not composed wholly of gum shellac dissolved in alcohol, is advertised as "White Shellac" and "Orange Shellac" without indicating that said product contains any gum, ingredient, or substitute for gum, other than the genuine shellac gum, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that the respondent, L. Francis Cassoff, otherwise known as L. F. Cassoff. doing business under the names and styles of Central Paint & Varnish Works and Central Shellac Works, his agents representatives, servants and employees, 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 within the percentages of all such substance ingredients, or gums there in 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 same 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 our 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).

*Complaint No. 1063.*--Federal Trade Commission v. Brown-Phelps Hosiery Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of hosiery composed in part of vegetable fiber or other material not derived from the cocoon of the silkworm,

labels its hosiery as "Special Thread Silk Hosiery" and by other similar designations represents it to be made of silk, thereby misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony, the Commission entered the following order:

Now, therefore, it is ordered that the respondent, Brown-Phelps Hosiery Co., its officers, agents, representatives, servants, and employees, cease and desist from, directly or indirectly--

(1) Using as labels or brands on hosiery sold by it, or on the containers thereof, or in advertisements thereof, the word "silk" or any modification thereof, (a) unless the hosiery on which it is used is made entirely of silk of the silk worm, or (b) unless where the hosiery is made partly of silk, it is accompanied by a word or words aptly and truthfully describing the other materials of which such hosiery is in part composed.

*Complaint No. 1069.*--Federal Trade Commission v. Herman M. Neuschatz and I. M. Halpern, partners doing business under the trade name and style of Peruvian Rubber Cement Co. Charge : Unfair methods of competition are charge in that the respondents by labeling and advertising their millinery glue as "G L U," in conjunction with a design closely resembling the trade mark of U-Gun (Inc.) . an established manufacturer of millinery glue, and by printing on their labels certain statements and assertions as to their product and directions for its use, all practically identical with the printed matter on the labels used by the said U-Glu (Inc.) tend to mislead and deceive the millinery trade to believe that the glue manufactured by the respondents is the same as that of U-Glu (Inc.), in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that the respondents, Herman M. Neuschatz and I. M. Halpern, individually and as copartners doing business under the trade name and style of Peruvian Rubber Cement Co. and/or National Rubber Manufacturing Co., their agents, representatives, servants, and employees do cease and desist from describing the commodity known as millinery glue, manufactured and sold by respondents, by or with the name spelled "Glu" either alone or surrounded by a wreath or other device with or without connection with the words "Trade-mark" on any labels attached to a container or containers or in connection with any printed matter relating to the said commodity dealt in by respondents known as millinery glue.

Respondents shall cease and desist from using labels on a container or containers of their said product which are printed closely resembling the labels of the corporation known as "U-Glu Inc," in color, size, and design, and from printing upon the said labels any statement of the purposes of the use of said millinery glue or directions for its use, the words of which statement or the manner of their arrangement residential or substantially identical with in such statements heretofore used upon the labels of the aforesaid corporation "U-Glu Inc."

*Complaint No. 1075.*--Federal Trade Commission v. American Turpentine Co., a corporation, trading under the name and style of North American Fibre Products Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the purchase and sale of paints, varnishes, roofing material, and similar products, in publishing as advertising matter that which stated to be an exact copy of a letter from a State official comparing the analyses of two samples of roof paint, captioned one of the numerical designated analyses as its roof paint "Horneblend" and the other as "Arco," the product of a competitor, and changed the analyses to favor its "Horneblend," thereby tending to mislead and deceive the purchasing public as to the true text of said letter, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: A stipulation having been entered into lieu of testimony, the Commission entered the



following order:

It is now ordered that the respondent, American Turpentine Co., trading under the name and style of North American Fibre Products Co., and its officers, directors, agents, representatives, servants, and employees to cease and desist--

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From circulating or publishing, on causing to be circulated or published in the form of circulars or otherwise, advertisements offering products for sale, which advertisements do not truthfully describe such products.

From circulating or publishing in such advertisements or otherwise a purported analysis of paints or other products which is not, in fact, an accurate and truthful analysis of such products.

*Complaint No. 1078.*--Federal Trade Commission v. Allied Golf Co., a corporation. Charge : Unfair methods of competition are charged in that the respondent labels its golf balls "official" and by printing alleged on its wrappers and containers to the effect that its ball is standard and official as required by the United States Golf Association, the Loyal & Ancient Club, and other governing bodies tends to mislead the purchasing public to believe that theme respondent's product has been officially adopted by the United States Golf Association and the Royal & Ancient Club of St. Andrew's, Scotland, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that the respondent, Allied Golf Co., a corporation organized and existing by and under the laws of theme State of Illinois, its officers, agents, and employees. do cease and desist from directly or indirectly-Marketing in commerce, among any of the States in the United States, golf balls, with the word "official" imprinted or stamped upon such balls or upon the wrappers and containers in which such balls are wrapped or packed, unless and until such golf balls have been adopted as "Official" by some competent authority.

*Complaint No. 1079.*--Federal Trade Commission v. Joseph Greenberg, Ben Greenberg, and Eva Greenberg, copartners, trading at King Overall Co., Atlantic Overall Co. and A Greenberg Sons. Charge : Unfair methods of competition are charged in that the respondents, engaged in the manufacture and sale of overalls and trousers, label their products as " Union made," when in fact said overalls and trousers are of nonunion make, being fabricated by workmen who are not affiliated with any association or organization generally recognized as a " union" thereby tending to mislead and deceive the purchasing public in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered in lieu of testimony, the commission entered the following order :

It is now ordered that the respondents, Joseph Greenberg, Benjamin Greenberg, and Eva Greenberg, copartners, trading as Atlantic Overall Co., King Overall Co., and A. Greenberg Sons, do cease and desist from, directly or indirectly, selling in commerce among the States of the United States, overalls or trousers with the words "Union made" stamped, imprinted, or placed upon such garments or upon labels or cards attached thereto unless and until such overalls or trousers are in fact manufactured, made, or fabricated in a "union" shop by persons who are members of a labor union.

*Complaint No. 1088.*--Federal Trade Commission v. C. Read & Co. (Inc.). Charge: Unfair methods of competition are charged in that the respondent supplied retailers with chinaware in conjunction with their purchases of tea and coffee, the said chinaware to be given the consuming public as premiums or prizes pursuant to coupons inserted in its packages of tea and coffee, thereby tending to mislead the purchasing public in to the belief that the said china ware was free of cost to the purchaser whereas the cost of such premium, together with reasonable profit is included in the price paid for respondent's tea and coffee, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony the commission entered the following order:

It is now ordered that the respondent, C. Read & Co. (Inc.), its agents, representatives, servants, and employees, do cease and desist from directly or indirectly--

(1) Giving or delivering or from offering to give or to deliver and from combining log or conspiring

with others, individuals, partnerships, or corporations, in giving or delivering or offering to give or to deliver articles or quantities of merchandise with or in connection with the sale of delivery in commerce of packages or quantities of teas, coffees, or other commodities by means of any plan methods arrangement, scheme, combination, or conspiracy, or otherwise, whereby by means of coupons or tickets inclosed with or in or distributed or

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delivered in connection with such packages or quantities of teas, coffees; or other commodities, or by means of any system or device of lottery or chance, for equal prices paid by them, respectively, purchasers receive equal quantities or values, respectively, of the said teas, coffees, or other commodities together with articles or quantities of unequal values, respectively, of such other merchandise, and whether or not the cost of such other merchandise, either wholly or in part, has been included in the price or prices paid by the purchasers for the teas, coffees, or other commodities.

(2) Representing or combining or conspiring with others in representing by circulars or other forms of advertising or in bills or statements rendered to purchasers for teas, coffees, or other commodities sold to them, or by coupons or tickets inclosed with or in or distributed or delivered in connection with packages or quantities of teas, coffees, or other commodities, or by or through agents or salesmen, or in any other manner, or by any other means that articles or quantities of merchandise delivered or to be delivered with or in connection with the sale or delivery in commerce of packages or quantities *or* teas, coffees, or other commodities are given or are to be given or delivered free of charge to purchasers of such packages or quantities of teas, coffees, or other commodities when the cost or price of such other articles or quantities of other merchandise has been or is to be either wholly or in part included in the price of the said packages or quantities of teas, coffees, or other commodities, respectively.

*Complaint No. 1090.*--Federal Trade Commission v. C. N. Dellinger, trading as C. N. Dellinger & Co., and Jno. M. Thomas, trading as Tampa Ribbon Cigar Co. Charge : Unfair methods of competition are charged in that the respondents label as "Tampa Ribbon " and " Havana " their cigars manufactured in the city of Red Lion, Pa., thereby tending to mislead and deceive the purchasing public into the belief that said cigars were manufactured in the Tampa district from Havana tobacco and are of the workmanship and quality generally associated with cigars of such manufacture, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : Stipulations having been entered into in lieu of testimony, the commission entered the following order:

It is ordered that the respondents, C. N. Dellinger, trading as C. N. Dellinger & Co., and Jno. M. Thomas, trading as Tampa Ribbon Cigar Co., cease and desist from

(1) Using the word "Tampa," alone or in combination with any other word or words, in labels, brands, or legends on cigars or on the containers thereof, or in advertisements thereof, in connection with the manufacture and sale or distribution of cigars, if such cigars are in fact not made in the city of Tampa, Fla., or the Tampa district in the State of Florida.

(2) Using the word "Havana," alone or in combination with any other word or words, in labels, brands, or legends on cigars or on the containers thereof, or in advertisements thereof, in connection with the manufacture and sale or distribution of cigars, if such cigars are not composed of tobacco grown in and imported from the island of Cuba.

*Complaint No. 1091.*--Federal Trade Commission v. Spier-Simmons & Co. (Inc.). Charge Unfair methods of competition are charged in that the respondent, engaged in the sale of textile starches, soluble oils, and textile finishing products to owners and operators of textile mills, has made it a practice to promise and give sums of money as gratuities to employees of its customers, without the knowledge and consent of the employers and principle of such employees, as an inducement to such employees to recommend the respondent's commodities and obtain the purchase thereof in preference to the hike commodities of respondent's competitors, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that the respondent, Spier-Simmons & Co. (Inc.) , its officers, agents, representatives, servants, and employees, cease and desist from, directly or indirectly, giving or offering to give to employees of its customers or prospective customers, without the knowledge or consent of their employers, sums of money as inducements to influence their employers to purchase or contract to

purchase the products of respondent, or to influence their employers to refrain from purchasing or contracting to purchase, the products of respondent's competitors.

*Complaint No. 1099.*--Federal Trade Commission v. Durable Pure Silk Fashioned Hosiery (Inc.), a corporation. Charge : Unfair methods of competition

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are charged in that the respondent engaged in the sale of hosiery purchased from others, and riot being a manufacturer, represents itself as the manufacturer of its product and illustrates its catalogues and prospectuses with pictures of a factory described as the respondent's; and in that it advertises and sells its "seamless "hosiery as "Fashioned "hosiery, thereby misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into inn lieu of testimony, the commission entered the following order:

It is now ordered that respondent, Durable Pure Silk Fashioned Hosiery (Inc.), its agents, representatives, servants, and employees, do cease and desist from, directly or indirectly--

1. Advertising, describing, or representing in any manner or form that respondent is the manufacturer of the products which it sells or offers for sale, unless and until it is in truth and fact the manufacturer of such products.

2. Advertising, labeling, or representing the hosiery which respondent sells or offers for sale as "fashioned " or "full fashioned," or by the use of the word "fashioned " in combination with any other word or words, unless such hosiery is actually made by joining the opposite sides of a fabric which has been knitted or woven flat and open in a form so that it makes a shaped hose when closed, or in which the fabric, so knit or woven, has been cut so that when closed it makes a shaped hose.

3. Advertising labeling, or representing the hosiery which respondent sells or offers for sale, as "silk," "pure silk," "chiffon silk," or "pure thread silk." unless such hosiery is actually made entirely of silk spun from the cocoon of the silk worm.

*Complaint No. 1112.*--Federal Trade Commission v. William Schmidt, trading under the name and style of Plateless Engraving Bureau. Charge : Unfair methods of competition are charged in that the respondent, engaged in the printing and selling of stationery, designates and advertises as "Plateless Engraving "his methods of printing in simulation of impressions made from engraved plates thereby tending to mislead and deceive the purchasing public into the erroneous belief that the respondent's products are in fact "engraved," in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : A stipulation having been entered into in lieu of testimony, the commission entered the following order :

Now, therefore, it is ordered that the respondent, William Schmidt, trading under the name and style of "Plateless Engraving Bureau," his agents and employees, cease and desist--

From using the words "Plateless Engraving Bureau" or "Plateless Engraving" or "Engraved without Plates " or "Engraved " or "Engraving " in the business signs or advertisement, offer for sale, or sale of stationery, the words, letters, figures, and designs upon which have not been produced from metal plates into which such words, letters, and designs have been cut.

## 2. CASES DISMISSED

*Complaint No. 123.*--Federal Tirade Commission v. American Can Co. Charge : Price discrimination and price fixing on condition that the purchasers shall not use or deal in the products of competitors, the effect of which is to substantially lessen competition and to tends to create a monopoly in the tin can business in alleged violation of sections 2 and 3 of the Clayton Act; stifling and suppressing competition in the manufacture and sale of tin cans by attempting to induce customers to cuter into long-term contracts by giving certain customers or favorable terms than others in reference to allowances for leaky cans and storage privileges, by rebating if prices are lowered and by other discriminations, in alleged violation of section 5 of the Federal Trade Commission act. Disposition : After hearing, the complaint was dismissed.

*Complaint No. 446.*--Federal Trade Commission v. Van Camp Packing Co. and Van Camp Products Co. Charge : Using unfair methods of competition in the sale of soap and washing powders by guaranteeing its jobbers in the wholesale grocery trade against the decline in price of goods purchased

and not resold by such customers at the time of any subsequent decline in the respondent's list price thereof ; and in the event of decline in price of goods giving to such jobbers rebates equal to, the difference between the purchase price of such products as were undisposed of and respondent's lower list price therefor subsequently made, with the effect of obtaining from respondent an

unfair and undue advantage over competitors who do not follow this practice; relieving respondent's jobbers from risk of loss and encouraging such jobbers to hold in stock excessively large quantities of respondent's products for the purpose of realizing a speculative profit thereby and deterring respondent from reducing list prices of its product in accordance with reductions in cost of manufacturing, in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed without prejudice, Commissioner Nugent dissenting.

*Complaint No. 486.*--Federal Trade Commission v. Patent Vulcanite Roofing Charge: Using unfair methods of competition by falsely advertising its products as "rubber," and using the terms "one ply," "two ply," and "three ply" to designate and describe the different degrees of thickness of its product, when the different degrees of thickness consist of but one layer or ply, with the effect of misleading and deceiving the public and giving the respondent's product an undue preference over products of competitors who do not use such methods, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed; respondent out of business.

*Complaint No. 508.*--Federal Trade Commission v. C. H. Kroneberger and W. M. Kroneberger, doing business under the name of C. H. Kroneberger & Co. Charge: Unfair methods of competition are charged in that the respondents, engaged in the business of selling coffee and tea, have adopted the practice of leasing or loaning coffee urns to customers without consideration other than an expressed agreement that such customers will purchase all coffee and tea used by them from the respondent and thereby tend to stifle and suppress competition, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed November 13, 1923, this order rescinding order to cease and desist entered May 26, 1920.

*Complaint No. 509.*--Federal Trade Commission v. John H. Wilkins Co. (Inc.). Charge: Unfair methods of competition are charged in that the respondents, engaged in the business of selling coffee and tea, have adopted the practice of leasing or loaning coffee urns to customers without consideration other than an expressed agreement that such customers will purchase all coffee and tea used by them from the respondents and thereby tend to stifle and suppress competition, in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed November 13, 1923, thus order rescinding order to cease and desist entered May 26, 1920.

*Complaint No. 510.*--Federal Trade Commission v. The Levering Coffee Co. Charge: Unfair methods of competition are charged in that the respondents, engaged in the business of selling coffee and tea, have adopted the practice of leasing or loaning coffee urns to customers without consideration other than an expressed agreement that such customers will purchase all coffee and tea used by them from the respondents and thereby tend to stifle and suppress competition, in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed November 13, 1923, this order rescinding order to cease and desist entered May 26, 1920.

*Complaint No. 551.*--Federal Trade Commission v. Armour & Co. Charge: Using unfair methods of competition by adopting and maintaining a practice of offering, giving, and allowing certain benefits and advantages to purchasers in the way of free advertising, services of specialty salesmen, and payment of dealers' license fee, on the condition that such purchasers agree to purchase all or a large percentage of their supplies of butterine and oleomargarine from the respondent, in alleged violation of section 5 of the Federal Trade Commission act; and entering into contracts with a large number of purchasers of its said products at prices, in quantities, and for periods therein specified upon the condition, agreement, or understanding in the case of each contract that the purchaser named therein shall purchase all or a large percentage of the oleo-margarine and butterine needed by said purchaser of the respondent, in alleged violation of section 3 of the Clayton Act. Disposition: Dismissed without prejudice by reason of the Circuit Court of Appeals for the Seventh Circuit in the matter of B.S. Pearsall Butter Co. v. Federal Trade Commission.

*Complaint No. 552.*--Federal Trade Commission v. Swift & Co. Charge (Ante, complaint No. 551.) Disposition: (Ante. complaint No. 551.)



*Complaint No. 553.*--Federal Trade Commission v. Downey-Farrel Co. Charge: (Ante, complaint No. 551.) Disposition: (Ante, complaint No.551.)

*Complaint No. 554.*--Federal Trade Commission v. Wm. J. Moxley (Inc. ). Charge: (Ante, complaint No.551.) Disposition: (Ante, complaint No.551.)

*Complaint No. 555.*--Federal Trade Commission v. The Ed. S. Vail Butterine Co. Charge: Ante, complaint NO. 551.) Disposition: (Ante, complaint No. 551.)

*Complaint No. 559.*--Federal Trade Commission v. Troco Nut Butter Co. Charge: (Ante, complaint No 551.) Disposition: (Ante. complaint No. 551.)

*Complain t No. 560.*--Federal Trade Commission v. Friedman Manufacturing Co. Charge: (Ante, complaint No. 551.) Disposition: (Ante. complaint No. 551.)

*Complaint No. 591.*--Federal Trade Commission v. One piece Bifocal Lens Co. Charge: The respondent, engaged in the manufacture, sale, and distribution of one piece bifocal lenses for optical purposes, has adopted a system of licensing and price fixing by which its products are manufactured in part by certain licensee manufacturers to a specified degree of utility and thereupon sold to other finishing or retailing licensees who complete and sell the product, the prices thereof being at all times prescribed and maintained by the terms and conditions of the respondent's licensing agreements, which are not entered into, nor are respondent's products sold, unless customers or dealers agree to maintain the standard prices and system of price fixing and refrain from dealing in the one-piece bifocal lenses of competitors of respondent, in alleged violation of section 5 of the Federal Trade Commission act and of section 3 of the Clayton Act. Disposition: Dismissed.

*Complaint No. 728.*--Federal Trade Commission v. American Safety Razor Corporation. Charge: Using unfair methods of competition by the use of advertising matter containing false and misleading statements concerning the quality of material and workmanship entering into shaving brushes sold by it and by placing deceptive labels on the containers of such brushes with the effect of misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed.

*Complaint No. 729.*--Federal Trade Commission on v. South Bend Bait Co. Charge: Unfair methods of competition, tending to create a monopoly in the manufacture and sale of fishing tackle and artificial bait, are charged by reason of the respondent's practice of making price discriminations between customers by varying its rates of trade discount in accordance with its classification of customers and without regard to quantities purchased, in alleged violation of section 5 of the Federal Trade Commission act and of section 2 of the Clayton Act. Disposition: Dismissed by reason of the decision of the Circuit Court of Appeals for the Second Circuit in the matter of the Mennen Co. v. Federal Trade Commission, the order of dismissal rescinding the order too cease and desist issued March 14, 1922.

*Complaint No. 767.*--Federal Trade Commission on v. Wichita-Engle Oil Co., E.U. Engle, C. T. Engle, and W. S. Pratt. Charge: Using unfair methods of competition in the sale of the capital stock of the respondent company by the use of false and misleading statements respecting the location, owners, productivity, and value of respondent's oil interests, with the effect of misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed.

*Complaint No. 778.*--Federal Trade Commission v. Tide Water Oil Co., and Tide Water Oil Sales Corporation. Charge: That the respondents, by maintaining a system of rebates and discounts based and graduated on the separate purchases of their petroleum products by dealers during a definite period and on purchases of carload lots thereof, thereby causing the purchasers to confine their purchases to the respondents, have indulged in the practice which tends to substantially lessen competition and create a monopoly in alleged violation of section 5 of the Federal Trade Commission act and section 2 of the Clayton Act. Disposition: Dismissed without prejudice. Commissioner Thompson dissenting.

*Complaint No. 807.*--Federal Trade Commission v. Athol Manufacturing Co. Charge: The respondent, which is engaged in the manufacture of "Atholeather," a cotton fabric product finished so as to resemble genuine leather, indicates by the use of the name of "Atholeather" that its product consists of or contains leather, thereby tending to confuse the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed.

*Complaint No. 900.*--Commission v. National Lead Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture of white lead, red lead, litharge, and other

products used in the painting trade, has adopted and enforced a system of fixing and maintaining

standard prices for the resale of its products by dealers, in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed without prejudice, Commissioner Nugent dissenting.

*Complaint No. 908.*--Cincinnati Tobacco Jobbers' Association, its officers and members, and the Tobacco Products Corporation and Falk Tobacco Co., respondents, Charge: The charge is unfair competition in that the association and its members agreed with the Tobacco Products Corporation and Falk Tobacco Co. upon a schedule of prices at which they should thereafter resell the tobacco products of these companies, and that the Tobacco Products Corporation and Falk Tobacco Co. operated with the respondent association and its members in enforcing the maintenance of such fixed schedule of prices, all in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed without prejudice, Commissioner Thompson dissenting.

*Complaint No. 935.*--Federal Trade Commission v. T. S. Southgate, trading under the name and style of T. S. Southgate & Co., and Lcxington Grocery Co. and Taylor & Co. (Inc.), trading under the name and style of Southern Salt Co. Charge: The complaint relates that there are numerous manufacturers of salt in the United States who manufacture salt by the evaporation process and advertise their product as "Common fine salt ;" also that there are numerous salt manufacturers who manufacture salt from rock salt, which is usually imported and is indicated to be of inferior quality, and advertise their product as rock salt. Unfair methods of competition are charged in that the respondents advertise and sell their ground rock salt as "Common fine " and as "The highest grade of salt obtainable" without disclosing the fact that said salt was imported from Germany and that it is in fact rock salt, in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed without prejudice, this order rescinding order to cease and desist issued March 9, 1923.

*Complaint No. 951.*--Commission v. Pennsylvania, New Jersey, and Delaware Wholesale Grocers' Association, its officers, members of executive committee, and members . Charge: Unfair methods of competition are charged in that the respondents adopted a plan of hampering, obstructing, and preventing the Proctor & Gamble Distributing Co., engaging, in sale direct to the retail trade, from selling soap, soap products, and cooking fats to the members of the respondent association and wholesale grocers, and sought to coerce wholesalers to refrain from dealing in the products of said Proctor & Gamble Distributing Co., in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed, Commissioner Nugent dissenting.

*Complaint No. 957.*--Commission v. the Ohio Wholesale Grocers' Association Co., a corporation, and its stock-holding members. Charge: Unfair methods of competition in commerce are charged in that respondents have adopted and carried out the policy and plan of coercing manufacturers to guarantee the respondent members against decline in price of commodities dealt in and to make their purchases from manufacturers so guaranteeing in alleged violation of section 5 of the Federal Trade Commission act. Disposition : Dismissed.

*Complaint No. 966.*--Federal Trade Commission v. J. B. Harris-Mexia Trust, J. B. Harris-Mexia Trust No.2, and J. B. Harris. Charge: Unfair methods of competition in commerce are charged in the sale of stock of respondent trusts in that the respondents have misrepresented the business, management, properties, and prospects of the said respondent trusts for the purpose of misleading and deceiving the purchasing public in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed.

*Complaint No. 979.*--Federal Trade Commission v. Abraham Cohen, trading under the name and style of Puritan Products Co. (Inc.). Charge: Unfair methods of competition in commerce are charged in that the respondent, engaged in the manufacture and sale of "Magnolia" salad and cooking oil simulate the trade name, containers, and labels used by the Corn Products Refining Co., in the sale of its favorably known Mazola salad and cooking oil made of corn oil, thereby misleading and deceiving the purchasing public in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed without prejudice, respondent having discontinued business.

*Complaint No. 993.* Federal Trade Commission v. Bowers's Bros. (Inc.), Lipscomb-Russell Co., W. K. Livingston, and J. K. Livingston, a partnership trading under the name of Livingston & Co. ; J. E.

Talmadge, jr., C. J. Talmadge, J. Y. Talmadge, and the executors of J. E. Talmadge,sp., a partnership trading under the name of Talmadge Bros. & Co. Charge: Unfair methods of competition are charged in that the respondents cooperate to maintain and enforce standard

resale prices established for the resale of coffees roasted by respondent, Bowers Bros. (Inc.); refuse to sell to price cutters and prevent certain wholesalers and jobbers from obtaining said products, thereby suppressing and preventing all price competition, in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed.

*Complaint No. 999.*--Federal Trade Commission v. Royal Dutch Co. of Texas. Charge: Unfair methods of competition are charged in that respondent, originally organized as the "Pennsylvania Dutch Oil Co.," changed its name in simulation of that of the internationally known Royal Dutch Co., thereby tending to mislead prospective purchasers of its corporate stock to believe that the said respondent is affiliated with the Royal Dutch-Shell group of corporations, in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed without prejudice.

*Complaint No. 1003.*--Federal Trade Commission v. Consolidated Woolen Mills Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in knitting garments from yarns purchased from woolen mills and in purchasing from woolen manufacturers thereof blankets, robes, and mackinaws for sale by it, indicates by the use of its corporate name that it is a manufacturer of woollens, thereby causing the public to believe that purchases from the respondent are direct from the manufacturers of such yarn, cloth, and garments, and that the profits of the middleman are thus saved to the purchaser, in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed, respondent having changed its name to "Consolidated Knitting Mills Co.," Commissioner Nugent dissenting.

*Complaint No. 1008.*--Federal Trade Commission v. S. A. Samuels, L. E. Samuels, L. H. Samuels, Harry H. Samuels, doing business under the name and style of Cocoa Products Co. Charge: Unfair methods of competition are charged in that the respondents, engaged in the manufacture and sale of cocoa and chocolate preparations, changed, altered, and falsified orders obtained by respondents' salesmen for presentation to and to be filled by jobbers from stock to be purchased from respondents so that said orders represented larger purchases than the actual orders obtained from the retailers, thereby causing retail dealers to refuse to accept the respondents' products from the jobbers, to the detriment and loss of said jobbers, in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed.

*Complaint No. 1029.*--American Tobacco Co., Bauswitz Cigar Co., of Phoenix, Ariz., and others, all of whom are Phoenix, Ariz., tobacco jobbers, respondents. Charge: The charge is unfair competition in that the American Tobacco Co. and the other respondents entered into an understanding by which they fixed the prices at which respondent jobbers should resell the products of the American Tobacco Co., and that the American Tobacco Co. promised the other respondents its cooperation in the enforcement of the alleged conspiracy by agreeing to discontinue selling such of the jobber respondents as would resell its products at prices less than those fixed by the conspiracy. All in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed without prejudice.

*Complaint No. 1030.*--Liggett & Myers Tobacco Co., Bauswitz Cigar Co., of Phoenix, Ariz., and others, all of whom are Phoenix, Ariz., tobacco jobbers, respondents. Charge: The charge is unfair competition in that the Liggett & Myers Tobacco Co. and the other respondents entered into an understanding by which they fixed the prices at which respondent jobbers should resell the products of the Liggett & Myers Tobacco Co., and that the Liggett & Myers Tobacco Co. promised the other respondents its cooperation in the enforcement of the alleged conspiracy by agreeing to discontinue selling such of the jobber respondents as would resell its products at prices less than those fixed by the conspiracy. All in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed without prejudice.

*Complaint No. 1031.*--P. Lorillard Co. ( Inc. ), Bauswitz Cigar Co., of Phoenix, Ariz., and others, all of whom are Phoenix, Ariz., tobacco jobbers, respondents. Charge: The charge is unfair competition in that the P. Lorillard Co. (Inc.) and the other respondents entered into an understanding by which they fixed the prices at which respondent jobbers should resell the products of the P. Lorillard Co. (Inc.) and that the P. Lorillard Co. (Inc.) promised the other respondents its cooperation in the enforcement of the alleged conspiracy by agreeing to discontinue selling such of the jobber respondents as would resell its

products at prices less than those fixed by the conspiracy. All is alleged

violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed without prejudice.

*Complaint No. 1057.*--Federal Trade Commission v. Abner Frankel and Alexander Frankel, partners doing business under the trade name and style of the Willard Tailoring Co. Charge: The complaint relates that the respondents, in soliciting orders for their men's clothing, represent that their weekly-payment-plan customers are formed into groups and that the respondents select one customer from each group each week to receive his suit of clothing without further payment until all customers in the group have received their suits. Unfair methods of competition are charged in that the respondents fail to divide said customers into groups and make a weekly selection therefrom as represented, but make selections at random from time to time and not to the number represented at the time the orders were solicited; and in that said customers were not permitted the choice of any material on display in the respondent's place of business as originally represented, but were compelled to make selection from certain inferior materials unless payments in addition to the agreed price were forthcoming, all in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed without prejudice.

*Complaint No. 1058.*--Federal Trade Commission v. E.W. Lynch, doing business under the name and style Pure Silk Hosiery Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the purchase and sale of hosiery and having no mill or factory of his own, indicates by the use of his trade name, and the slogan "From mill to consumers," that he is a manufacturer and therefore able to sell said hosiery to the ultimate consumer at mill or wholesale prices, thereby misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed without prejudice, as respondent can not be located.

*Complaint No. 1077.*--Federal Trade Commission v. Madeira, Hill & Co., Pattison & Bowns (Inc.), Titan Fuel Corporation, Hartwell-Lester (Inc.), Clement P. Brodhead, an individual doing business under the name and style of C. P. Brodhead Coal Co., and Lynn M. Ranger. Charge: Unfair methods of competition are charged in that the operator respondent Maderia, Hill & Co., well knowing and taking advantage of the monopolistic condition and the shortage of supply existing in the production of anthracite coal at a time of national emergency, agreed and conspired with the remaining respondents (wholesalers) that it would invoice its anthracite coal to said wholesaler-respondents at the maximum prices approved by the fair practice committee of the Pennsylvania State Fuel Commission upon the secret condition that said wholesaler respondents thereafter when said anthracite coal was resold at higher prices would pay to said operator respondent a part of the margins of profit realized over and above the prices at which the anthracite coal was invoiced to the wholesaler-respondents, which margins of profit were unjust, unreasonable, and unfair, thereby tending to unduly enhance the price of anthracite coal to the consuming public, in alleged violation of section 5 of the Federal Trade Commission act. Disposition: Dismissed, Commissioner Murdoch dissenting and Commissioner Thompson taking no part in the action.



## EXHIBIT 12

### PROCEEDINGS PENDING JUNE 30, 1924

*Complaint No. 82.*--Federal Trade Commission v. Photo-Engravers' Club of Chicago. Charge: Adopting a standard scale of uniform prices at which the members sell their products, with the intent of stifling and suppressing competition in the manufacture and sale of photo-engraving, the respondent having entered into an agreement with the Chicago Photo-Engravers' Union No. 5, I. P. E. U., by their terms of which the respondent's members employ only union labor in their manufacturing plants and the members of the union do not accept employment from any manufacturing photoengraver not a member of the respondent club. In furtherance of such agreement the union has adopted a rule whereby union labor is to cease working in photoengraving plants which do not maintain such standard scale of prices, and has initiated a series of fines and threats to withdraw labor, thereby compelling members to maintain such prices against their will, all in alleged violation of section 5 of the Federal Trade Commission act. Disposition : In course of trial. (Consolidated with docket 928.)

*Complaint No. 157.*--Federal Trade Commission v. Saenger Amusement Co. Charge: Stifling and suppressing competition in the purchase and sale, lease, and exhibition of moving-picture films by forcing exchanges to accept its terms on threat to cause exhibitors to refuse to handle otherwise; causing contracts between exhibitors and exchanges to be broken by divers means and methods, including prior exhibition of films in neighboring theaters after "first exhibition" had been advertised by the other; threatening withdrawal of patronage if exchanges continued to supply exchanges; threatening curtailing supply unless exhibitors dealt with respondent; inducing employees of competitors to leave their employment, all in alleged violation of section 5 of the Federal Trade Commission act. Status : On suspense pending close of docket 835.

*Complaint No. 163.*--Federal Trade Commission v. Armor & Co. Charge: Stifling and suppressing competition in the manufacture and sale of dairy products by concealing its control of and affiliation with Beyer Bros. Co., a creamery company, while directing the efforts and business of said company; discriminating in prices paid for butterfat or cream; and by purchasing and offering to purchase butterfat or cream in certain localities at prices unwarranted by trade conditions and so high as to be prohibitive to small competitors, in alleged violation of section 5 of the Federal Trade Commission act. Status: On suspense pending close of dockets 455 and 531.

*Complaint No. 168.*--Federal Trade Commission v. The National Wholesale Druggists' Association et al. Charge: Engaging in a combination or conspiracy among themselves with the intent, purpose, and effect of discouraging, stifling, and suppressing competition in the wholesale drug trade and of unfairly hampering and obstructing certain of their competitors by inducing or compelling manufacturers to refuse to recognize competitors as jobbers, and as entitled to the benefits such competitors as jobbers would receive by means of oral and written notices to manufacturers to the effect that certain competitors not eligible to membership in the association were not entitled to recognition as jobbers; the appointment of committees to confer with manufacturers to the end that they adopt sales methods in harmony with the policies of the association, written and oral notices to the secretary of the association to manufacturers to the effect that competitors are selling below the manufacturers' established resale price, or that such competitors are persistent price cutters; the compilation and distribution among manufacturers and wholesalers of lists of so-called legitimate jobbers, and by bringing influence to bear on various local associations of drug jobbers and wholesalers to adopt policies in harmony with the policies of the association, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 266.*--Federal Trade Commission v. Pictorial Review Co. Charge: Using unfair methods

of competition in the sale of paper dress pat-

terms, consisting of selling patterns to dealers under a contract permitting the dealer to return all unsold patterns on the termination of contract at three fourths of the cost thereof, upon the condition that during the continuance of such contracts they have sold no patterns except those manufactured by respondent, or shall have sold such patterns at the prices fixed by respondent, in alleged violation of section 5 of the Federal Trade Commission act; selling and making contracts for sale of its paper dress patterns on the condition, agreement, or understanding that the purchasers thereof shall not use or deal in the patterns of competitors, the effect of which is to substantially lessen competition or tend to create a monopoly in violation of section 3 of the Clayton Act. Status: On suspense, awaiting the outcome of the Butterick Co. case. (Doe. 594.)

*Complaint No. 424.*--Federal Trade Commission v. Lutz Bros. & Co. Charge: Using unfair methods of competition in the sale of soap and washing powders by guaranteeing its jobbers in the wholesale grocery trade against the decline in price of goods purchased and not resold by such customers at the time of any subsequent decline in the respondent's list price thereof and in the event of decline in price of goods giving to such jobbers rebates equal to tire difference between the purchase price of such products as were undisposed of and respondent's lower list price therefor subsequently made with the effect of obtaining for respondent an unfair and undue advantage over competitors who do not follow this practice; relieving respondents jobbers from risk of loss and encouraging such jobbers to hold in stock excessively large quantities of respondent's product for the purpose of realizing a speculative profit thereby and deterring respondent from reducing list prices of its product in accordance with reductions in cost of manufacturing, in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

*Complaint No. 425.*--Federal Trade Commission v. Fels & Co. Charge: Using unfair methods of competition in the sale of soap and soap powders. (Ante, complaint No. 424.) Status: Awaiting briefs.

*Complaint No. 426.*--Federal Trade Commission v. The Globe Soap Co. Charge: Using unfair methods of competition in the sale of soap, soap powders, and other cleaning compounds. (Ante, complaint No.424.) Status: In course of trial.

*Complaint No. 427.*--Federal Trade Commission v. E. T. Babbitt (Inc.). Charge: Using unfair methods of competition in the sale of soap, soap powders, and other cleaning compounds. (Ante, complaint No.424.) Status: In course of trial.

*Complaint No. 428.*--Federal Trade Commission v. Curtice Bros. Co. Charge: Using unfair methods of competition in the sale of canned food products. (Ante, complaint No.424.) Status: At issue.

*Complaint No. 429.*--Federal Trade Commission v. Joseph Campbell Co. Charge: Using unfair methods of competition in the sale of canned soups. (Ante, complaint No.424.) Status: At issue.

*Complaint No. 449.*--Federal Trade Commission v. Wilson & Co. (Inc.). Charge: That the respondent Purchased all the property of the Morton Gregson Co., a Nebraska corporation, theretofore engaged in the same line of business as respondent and in active competition with it, and thereafter organized under the laws of the State of Delaware a subsidiary corporation called the "Morton Gregson Co.," which proceeded to take over the property thus purchased and to operate the business of the said Nebraska corporation, with the effect of eliminating competition previously existing between Morton Gregson Co., the Nebraska corporation, and the respondent, in alleged violation of section 5 of the Federal Trade Commission act and section 7 of the Clayton Act. Status: Awaiting answer to third amended complaint.

*Complaint No. 450.*--Federal Trade Commission v. Wilson & Co. (Inc.). Charge: That the respondent acquired the whole of the common or voting stock of the Paul O. Reyman Co., a corporation, the effect of such acquisition being to enable respondent to completely dominate the business and policy of said Paul O. Reyman Co., to restrain competition between said respondent and said Paul O. Reyman Co., and to tend to create a monopoly in the sale of meats and hike products, in alleged violation of section 5 of the Federal Trade Commission act and section 7 of the Clayton Act. Status: Awaiting examiner's

findings.

*Complaint No. 451.*--Federal Trade Commission v. The Cudahy Packing Co. Charge: That respondent acquired 55 per cent of the shares of capital stock of the Nagel Packing Co., a competitor ; 95 per cent of the capital stock of the D.E. Wood Butter Co., a competition; and that a subsidiary corporation, the

Dow Cheese Co., purchased the business and good will of a competitor, the A C. Dow Co., with the effect that respondent has dominated the business of the Nagel Packing Co. and the D. E. Wood Butter Co., and has eliminated competition theretofore existing between the three above mentioned companies and the respondent, in alleged violation of section 5 of the Federal Trade Commission act and section 7 of the Clayton Act. Status: Dismissed in part and in course of trial as to remainder.

*Complaint No. 452.*--Federal Trade Commission v. Morris & Co. Charge: That the respondent acquired approximately 75 per cent of the capital stock of the Crescent City Stock Yard & Slaughter House Co., a competitor; that it acquired stock in the Bluefield Produce & Provision Co.; that it acquired the whole of the capital stock of the Holland Butterine Co., and held the same out to the public as wholly independent and without connection with respondent; that it acquired 66 per cent of the common stock of the Providence Churning Co., a competitor, and organized a corporation to take over and succeed to the business and property of said Providence Churning Co.; that it acquired one-half of the entire capital stock of the Eskerson Co., a competitor; that it acquired one-half of the capital stock of the Jacob Marty Co., a competitor; that it acquired one-half of the capital stock of the C. A. Straubel Co., a competitor; and acquired \$64,300 of the capital stock of the Sherman, White Co., whose entire stock was \$123,700; and that the result of such acquisition is the domination by respondent of some of the above-mentioned companies, the elimination of competition theretofore existing between the above-mentioned companies and the respondent and the creation of conditions which tend to create a monopoly, in alleged violation of section 5 of the Federal Trade Commission act and section 7 of the Clayton Act. Status: Awaiting examiner's report

*Complaint No. 454.*--Federal Trade Commission v. Swift & Co., and United Dressed Beef Co. Charge: That the respondent caused its subsidiary, United Dressed Beef Co., to acquire all of the capital stock of J. J. Harrington & Co. (Inc.), which acquisition resulted in the control by Swift & Co. of the business theretofore conducted and controlled by said J. J. Harrington & Co. (inc.). elimination of competition between respondents, Swift & Co. and United Dressed Beef Co. and J. J. Harrington & Co. (Inc.), and a tendency to create for respondent, Swift & Co., a monopoly in alleged violation of section 5 of the Federal Trade Commission act and section 7 of the Clayton Act. Status: Awaiting briefs.

*Complaint No. 455.*--Federal Trade Commission v. Armour & Co. Charge: That respondent acquired three-fifths of the capital stock of Harold L. Brown Co (Inc.), a competitor, which company had previously acquired the capital stock and business of Beyer Bros. Commission Co., and also the capital stock and business of Beyer Bros. Co.; that it acquired as vendee and pledgee in controlling amount of the capital stock of the Eau Claire Creamery Co.; that it acquired through its agents 503 of the 1,000 shares of the capital stock of the Loudon Packing Co., an Ohio corporation, which corporation transferred all its business and property to the Loudon Packing Co., a Delaware corporation, in consideration of all of the stock of the Delaware corporation, consisting of 1,000 shares, 503 of which are held by agents of respondent in trust for respondent; that it acquired one-half of the capital stock of the A. S. Kinimoth Produce Co.; that it acquired the entire capital stock of the Pacific Creamery, which company the respondent held out and advertised as wholly independent without connection with respondent; and acquired 501 shares of the capital stock of Smith, Richardson & Conroy, a Florida corporation, and that the result of such acquisitions by respondent is the domination by respondent of the business of some of the above-mentioned companies, the elimination of competition between the above-mentioned companies, and the creation of conditions which tend to create a monopoly, in alleged violation of section 5 of the Federal Trade Commission act and section 7 of the Clayton Act. Status: Commission's testimony in chief completed.

*Complaint No. 457.*--Federal Trade Commission v. Western Meat Co. and Nevada Packing Co. Charge: That the respondents have violated section 5 of the Federal Trade Commission act and section 8 of the Clayton Act by having F.L. Washburn, a director of both the Western Meat Co. and the Nevada

Packing Co. (between which companies competition existed), and illegally acquiring by the Western Meat Co., the capital stock of the Nevada Packing Co., which acquisition suspended between respondents competition which

theretofore existed between them and tended to create a monopoly Status: Held pending decision in docket 456, which is now pending in the Circuit Court of Appeals for the Ninth Circuit.

*Complaint No. 522.*--Federal Trade Commission v. Rub-No-More Co. Charge: Using unfair competition in the sale of soaps. Status : (Ante. complaint No.424.)

*Complaint No. 531.*--Federal Trade Commission v. Armour & Co. Charge : Organizing apparently independent companies for tide purpose of taking over the business and property of the Lookout Refining Co. and the Chattanooga Oxygen Gas Co. and the Harris Tannery Co., competitors of respondent, the capital stock of the independent companies being held by officers and employees or agents of respondents with the purpose or effect of restraining and eliminating competition and tending to create a monopoly, in alleged violation of section 5 of the Federal Trade Commission act and section 7 of the Clayton Act. Status : In course of trial.

*Complaint. No. 540.*--Federal Trade Commission v. 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: In course of trial.

*Complaint No. 549*--Federal Trade Commission v. Cement Securities Co. Charge: Using unfair methods of competition by purchasing the whole of the stock and share capital of the Oklahoma Portland Cement Co., a competitor; purchasing and acquiring \$392,300 of preferred stock of a total of \$400,000, and \$193,750 of the common stock of a total of \$199,750 of the United States Portland Cement Co. ; and purchasing and acquiring all of the preferred stock of the Nebraska Cement Co., in alleged violation of section 5 of the Federal Trade Commission act and section 7 of the Clayton Act. Status : Suspended, pending action by the Department of Justice.

*Complaint No. 573.*--Federal Trade Commission v. Owens Bottle Co. Charge: That respondents have violated section 3 of the Clayton Act by entering into licensing agreements for the use of its glass-blowing machines with the principal manufactures in the United States of glass bottles, jars, and other glass products, upon the express condition, agreement, and understanding in each licensing agreement that the licensee named therein shall not use respondent's machine in connection with the machine or devices of competitors, with the effect of excluding and debarring competitors of respondents from securing sales of their machines or devices in commerce and lessening competition therein: that respondent has violated section 7 of the Clayton Act by acquiring 4,836 shares of the capital stock of the Whitney Glass Works, no competitor: the whole of the capital stock of the American Bottle Co., a competitor ; and the whole of the capital stock of the Graham Glass Co., with the effect of eliminating competition in sections and communities theretofore served by said companies: and that respondents have violated section 8 of said Clayton Act by having L. S. Stoehn a director of both the American Bottle Co. and the Graham Glass Co. since respondent acquired capital stock of said companies. Status: Awaiting briefs.

*Complaint No. 578.*--Federal Trade Commission v. Swift & Co., Libby, McNeill & Libby (of Illinois) and Libby, McNeil & Libby (Ltd.) (of Honolulu). Charge: That the respondent, Libby, McNeill & Libby, in effect a subsidiary of the respondent, Swift & Co., acquired all of the share capital of the Thomas Pineapple Co., the share, capital, property, and business of the Honolulu Pineapple; Cahill Pineapple & Range Co. (Ltd.); and Koolau Fruit Co.(Ltd.) with the effect of substantially lessening competition in the sale of pineapples in the Territory of Hawaii and creating a condition which tended to create for respondents a monopoly in the growing and sale of pineapples, in alleged violation of section 7 of the Clayton Act and section 5 of the Federal Trade Commission act. Status: On suspense pending court decisions in dockets Nos 351 and 453, being the commission's proceedings against Armour & Co. and Swift & Co., respectively, both of which are on appeal in the United States Circuit Court of Appeals for the seventh circuit.

*Complaint No. 626.*--Federal Trade Commission v. Gulf Ship Chandlery Co. Charge: Unfair methods

of competition in that the respondent, engaged in the sale of ship chandlery, etc. has given valuable gifts, cash commissions, and gratuities to captains and other officers of ships to induce them to purchase ship chandlery and supplies from the respondent, in alleged violation of



section 5 of the Federal Trade Commission act. Status: Suspended because of the action of the Supreme Court of the United States in denying petitions for writs of certiorari in the Winslow and Norden cases. (Dockets 458 and 614.)

*Complaint No. 648.*--Federal Trade Commission v. Alabama Dry Dock & Ship Building Co. (Inc.). Charge: Unfair methods of competition in that the respondent, engaged in the business of repairing ships and furnishing repair parts, has given to captains and other officers and employees of vessels valuable gifts, cash commissions, and gratuities as an inducement to have the ships operated by them for the owners thereof repaired by the respondent, in alleged violation of section 5 of the Federal Trade Commission act. Status: (Ante, complaint No. 626.)

*Complaint No. 705.*--Federal Trade Commission v. S. Davidson Co., D. R Davidson, S. Davidson, and M. A. Davidson. Charge: Using unfair methods of competition in the sale of ship chandlery by giving expensive gifts and large sums of money in the form of cash commissions to officers and employees of ships to induce them to purchase ship-chandlery supplies from the respondent, in alleged violation of section 5 of the Federal Trade Commission act. Status: (Ante, complaint No. 626.)

*Complaint No. 726.*--Federal Trade Commission v. Constantine Calevas, Joseph Garcia, and E. A. Piller, partners, styling themselves Garcia, Piller & Co., and Calevas Bros. Charge: Using unfair methods of competition in the sale of ship chandlery, including stewards' supplies, deck, engine, and cabin supplies, by giving to captains and other officers of vessels valuable gifts, cash commissions, and gratuities to induce them to purchase supplies from the respondents, in alleged violation of section 5 of the Federal Trade Commission act. Status: (Ante, complaint No. 626.)

*Complaint No. 745.*--Federal Trade Commission v. Austin, Nichols & Co. (Inc.) (Virginia). Charge: That Austin, Nichols & Co. (Inc.) entered into an agreement with Wilson & Co. (Inc.) for the acquisition of the Wilson & Co. (Whiteland, Ind.) vegetable-canning plant and control of the Fame Canning Co. and Wilson Fisheries Co. in anticipation of a consent decree resulting from the prosecution of a suit in equity brought by the Attorney General of the United States, by which decree Wilson & Co. (Inc.) were perpetually enjoined from engaging in business unrelated to the meat-packing industry. The respondent, incorporated to effect the consolidation of all the properties, now holds control thereof, and is charged with the suppressing of competition, tending to create a monopoly in the grocery and food-product business, in alleged violation of section 7 of the Clayton Act. Status: Awaiting final argument.

*Complaint No. 746.*--Federal Trade Commission v. W. J. Chapman. Charge: Using unfair methods of competition by offering and giving to captains of vessels cash gratuities to induce them to purchase ship chandlery, stewards supplies, deck, engine, and cabin supplies from the respondent, in alleged violation of section 5 of the Federal Trade Commission act. Status: (Ante, complaint No 626.)

*Complaint No. 760.*--Federal Trade Commission v. United States Steel Corporation, American Bridge Co., American Sheet & Tin Plate Co., Carnegie Steel Co., National Tube Co., American Steel & Wire Co., Illinois Steel Co., Minnesota Steel Co., Clairton Steel Co., Union Steel Co., the Lorain Steel Co., and the Tennessee Coal, Iron & Railroad Co. Charge: Using unfair methods of competition and discrimination in prices, in that the United States Steel Corporation and its subsidiaries, in fixing the price of steel which is made and used in such centers as Chicago, Duluth, and Birmingham upon the price f. o. b. mill at Pittsburgh, plus the freight rates from Pittsburgh to such centers, operates as a discrimination in price in favor of Pittsburgh fabricators as against fabricators in Chicago, Duluth, and Birmingham districts, in violation of section 2 of the Clayton Act and section 5 of the Federal Trade Commission act. Status: Awaiting final determination by the commission.

*Complaint No. 775.*--Federal Trade Commission v. Swift & Co., National Leather Co. Charge: That the respondent Swift & Co., by reason of its acquisition of a controlling interest in England, Walton & Co. Inc.) and its subsidiaries, and the subsequent organization by Swift & Co. of respondent National Leather Co. and the transfer thereto of the Swift & Co. interest in England, Walton & Co., and in numerous other corporations engaged in tanning and the manufacture and sale of leather and

by-products, the corporate stock of which had been acquired by Swift & Co., has been for the purpose and

effect of substantially lessening competition and of creating a combination in restraint of trade in the manufacture and sale of leather, in alleged violation of section 5 of the Federal Trade Commission act and section 7 of the Clayton Act. Status: At issue.

*Complaint No. 785.*--Federal Trade Commission v. J. H. Crites, John G. Dee, W. J. Ross, M. W. McQuaid, and M. L. Chandler. Charge: Using unfair methods of competition in the sale of share stock of the O-tex Production Co., by the use of numerous false and misleading statements as to the said company's drilling operations and the productivity of its properties, to the effect of misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting respondent's brief.

*Complaint No. 786.*--Federal Trade Commission v. Kelly Dry Dock & Ship Building Co. (Inc.). Charge: Using unfair methods of competition by offering and giving to officers and other employees of vessels, without the knowledge and consent of their employers, cash commissions and gratuities as an inducement to have their vessels repaired and repair parts furnished by the respondent, in alleged violation of section 5 of the Federal Trade Commission act. Status: (Ante, complaint No.626.)

*Complaint No. 798.*--Federal Trade Commission v. Osa J. Smythe and S. W. Levy, partners, styling themselves Smythe & Levy. Charge: Unfair methods of competition in that the respondent, engaged in the sale of ship chandlery, has given cash commissions and gratuities of various kinds to captains, officers, and employees of ships to induce them to purchase ship-chandlery supplies from the respondents, all in alleged violation of section 5 of the Federal Trade Commission act. Status: (Ante, complaint No.626.)

*Complaint No. 800.*--Federal Trade Commission v. Herbert W. Brand, Harry C. Oppenheimer, and Edwin W. Brand, partners, doing business under the name and style of Brand & Oppenheimer. Charge: Unfair methods of competition are charge in that the respondents, engaged in the manufacture and sale of cotton lining material, advertise and label their product as "Silkette," thereby deceiving and misleading the purchasing public into the belief that their linings are partly or wholly composed of silk, in alleged violation of section 5 of the Federal Trade Commission act. Status: Order of dismissal issued May 18, 1923, was revoked; an order dated May 14, 1924; reopening the case for further consideration.

*Complaint No. 801.*--Federal Trade Commission v. Adolphe Schwobe (Inc.). Charge: Unfair methods of competition in taking advantage of the American practice of grading watches by the number of jewels in the movement, by importing Swiss lever watch movements of a low grade but containing 15 to 23 jewels, and after casing said movements, selling the watches to retailers with the number of jewels conspicuously marked on the works or dial or both, thereby enabling said retailers to deceive the purchasing public as to the value and quality of said watches and injuring the manufacturers of and dealers in Swiss and American-made watches, in alleged violation of section 5 of the Federal Trade Commission act. Status: Before the commission for final determination.

*Complaint No. 804.*--Federal Trade Commission v. Maritime Co. (Inc.). Charge: Unfair methods of competition in offering and giving to captains, engineers, and other officers of vessels, without the knowledge of their employers, as an inducement to have their vessels cleaned, painted, and repaired by the respondent, lavish entertainment, including automobile, dinner, and theater parties, lodging accommodations, and for other forms of entertainment, are in alleged violation of section 5 of the Federal Trade Commission act. Status: (Ante. complaint 626.)

*Complaint No. 821.*--Federal Trade Commission v. Liberty Iron & Wire Co. ( Inc.)' Charge: Unfair methods of competition in offering and giving to captains, engineers, and other officers of vessels, without the knowledge of their employers, as an inducement to have their vessels repaired and repair parts furnished by the respondent, money and lavish entertainment, including automobile parties, dinner and theater parties, lodging accommodations, and forms of amusement, in alleged violation of section 5 of the Federal Trade Commission act. Status: (Ante, complaint No. 626.)

*Complaint No. 825.*--Federal Trade Commission v. J. Berman and B. Brenner. partners, styling

themselves Berman & Brenner. Charge: Unfair methods of competition in that the respondents, engaged in New York, N. Y., in the manufacture and sale of clothing for men and boys, label their clothes to indicate

Rochester, N. Y., manufacture, thereby misleading the purchasing public into the belief that the respondents' clothing is of the quality produced in Rochester and under Rochester manufacturing conditions, as extensively advertised by the chamber of commerce and other business associations of that city, in alleged violation of section 5 of the Federal Trade Commission act. Status: Suspended pending disposition of other similar cases.

*Complaint No. 828.*--Federal Trade Commission v. A. D. Davis Packing Co. Charge: Unfair methods of competition in offering and giving to officers and employees of vessels without the knowledge of their employers, as an inducement to have their vessels provisioned by respondent, lavish entertainment, in alleged violation of section 5 of the Federal Trade Commission act. Status:(Ante, complaint No.626.)

*Complaint No. 833.*--Federal Trade Commission v. John J. Morrill and Louis Halvarson, partners, styling themselves A. H. McLeod & Co, Charge: The respondents have offered and given cash commissions and gratuities to captains, engineers, and other officers or employees of vessels without the knowledge of their employers to induce the purchase of sails, rigging, and canvas equipment from respondent, in alleged violation of section 5 of the Federal Trade Commission act. Status: (Ante, complaint No. 626.)

*Complaint No. 835.*--Federal Trade Commission v. Famous Players-Lasky Corporation, the Stanley Co. of America, Stanley Booking Corporation, Black New England Theaters (Inc.), Southern Enterprises (Inc.) Saenger Amusement Co., Adolphe Zukor, Jesse L. Lasky, Jules Mastbaum, Alfred S. Blank, Stephen A. Lynch, Ernest V. Richards, Jr. Charge: Unfair methods of competition in that the respondents Famous Players-Lasky Corporation, Adolphe Zukor, and Jesse L. Lasky have combined and conspired to secure control of and monopolize the motion picture industry, and to restrain, restrict, and suppress competition in the distribution of motion picture films by (a) acquisition of all the corporate stock of Bosworth ( Inc.), Jesse L. Lasky Feature Play Co (Inc.), Famous Players Film Co., and by coercion, Paramount Pictures Corporation ; (b) affiliation with certain independent producers; (c) the creation and exploitation of the Realart Pictures Corporation which the respondents held out to the general public as wholly independent and not affiliated with or controlled by said respondents ; (d) acquiring, with the aid of the other respondents, the control of numerous theater corporations operating motion picture theaters throughout the United States ; and (e) building or acquiring numerous theaters for the exhibition of respondents' motion pictures, exclusively, all in alleged violation of section 5 of the Federal Trade Commission act, and as to respondents Famous Players-Lasky Corporation, Adolphe Zukor, and Jesse L. Lasky, in alleged violation of section 7 of the Clayton Act. Status: In course of trial.

*Complaint No. 842.*--Federal Trade Commission v. Berkeley Machine Works ( Inc.). Charge: Unfair methods of competition in that cash commissions, gratuities, and lavish entertainment, including automobile parties, dinner and theater parties, lodging accommodations, and other forms of entertainment and amusements are offered and given to officers, agents, and employees of vessels, without the knowledge or consent of their employers, to induce them to have their vessels repaired by the respondent, in alleged violation of section 5 of the Federal Trade Commission act. Status: (Ante, complaint No. 626.)

*Complaint No. 852.*--Federal Trade Commission v. The Proctor & Gamble Co. and the Proctor & Gamble Distributing Co. Charge: Unfair methods of competition in that the respondents, certain of whose soaps and washing powders contain no naphtha, falsely designate said products as naphtha soap and naphtha washing powders, and further advertise their soap as of the highest grade because it is white and because it contains naphtha, which loosens the dirt, whereas said soap contains no naphtha, and the fact that it is white adds nothing to its cleansing value, thereby misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status: Before the commission for final determination.

*Complaint No 857.*--Federal Trade Commission v. S. F. Shepard, Rockwood Brown, A. L. Todd, R Allyn Lewis, R J. Wiswell, D. M. Leopold, H. P. Hanson, E.H. Eshleman, F. L. Moorman, and E. H. McArthur. Charge: The respondents are trustees for or associated in the promotion of the Burkley Oil

Co., Buck Crest Oil Co., Burk Bethel Oil Co., Gypsy Burk Oil Co., Burk Imperial Oil Co., and Burk Consolidated Oil Co. Unfair methods of competition are charged in that the respondents, to further the sale of the share stock of said unincorporated associations, issued and published numerous false and

misleading statements and concealed or withheld other material information relative to the organization, business, and properties of the said companies, thereby deceiving and misleading the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting respondent's brief.

*Complaint No. 863.*--Federal Trade Commission v. Central Railway Signal Co, Charge: Unfair methods of competition in that the respondent, which is a manufacturer of certain compounds, features, and parts for railway signal fusees, brought suit in equity against the Unexcelled Manufacturing Co. (Inc.) for alleged infringement of patents and notified a number of railway companies who were the principal purchasers of said fusees of the pendency of said suit, stating that other fusees on the market were infringements also, and making mention of a right to recover damages from the users of any such alleged infringing fusees, all of which was calculated to bring and had the tendency of bringing all railway signal fusees other than those manufactured by the respondent into suspicion among the railway companies, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting final argument.

*Complaint No. 865.*--Federal Trade Commission v. Henry H. Hoffman, R C. Russell, J. H. Cain, R V. Wilson, B. Baernstein, the Ranger-Burkburnett Oil Co., the Ranger-Comanche Oil Co., and the Union National Oil Co. Charge: The respondent individuals are promoters of the respondent corporation. Unfair methods of competition are charged in that they, in order to further the sale of the share stock of the said corporations, issued and published numerous false and misleading statements and concealed or withheld other material information relative to the organization, business, and properties of the said corporations, thereby deceiving and misleading the purchasing public in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting respondent's brief.

*Complaint No. 868.*--Federal Trade Commission v. Calumet Baking Powder Co. Charge: Unfair method of competition in that the respondent, for the purpose of furthering the sale of its baking powders, adopted the practice of publishing anonymously adverse, disparaging, and derogatory opinions, statements and comments as to the wholesomeness of self-rising flours, the use of which does not involve the addition of baking powder, such statements being not founded in fact, all for the purpose of deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting approval of stipulation.

*Complaint No. 871.*--Federal Trade Commission v. A. W. Perryman, doing business under the name and style Perry man Investment Co. ; A. W. Perry man, F. P. Penfleid, C. S. Thomas, individually and as trustees and officers of the Houston Oil & Refining Co., a trust ; W. L. Diehl, individually and as second vice president of the Houston Oil & Refining Co., a trust ; and William M. Huff, individually and as third vice president of the Houston Oil & Refining Co., a trust. Charge: The respondents are the promoters of the Houston Oil & Refining Co., a Texas trust. Unfair methods of competition are charged in that the respondents, for the purpose of furthering the sale of the share stock of the said oil company, issued and published numerous false and misleading statements and concealed or withheld other material information relative to the organization, business, property, and prospects of said corporation, thereby deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting briefs.

*Complaint No. 873.*--Federal Trade Commission v. Hewitt Brothers Soap Co. Charge: Unfair methods of competition in that the respondent advertises, brands, and labels its soap as "white naphtha," stating that it is made by a new process and of a combination of naphtha, coconut oil, and other cleansing ingredients, when, in fact, the said soap contains no naphtha, but contains instead a petroleum distillate other than naphtha, originally only to the extent of 1 per cent or less of the whole constituent ingredients, and substantially all lost by volatilization or evaporation before such soap reaches the ultimate consumer, thereby misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 880.*--Federal Trade Commission v. Douglas Fur Exploitation & Export Co. (Inc.) and

107 others. Charge: The complaint sets forth that, although the respondent Douglas Fir Exploitation & Export Co., a domestic corporation of the State of Washington, engaged in the manufacture and sale of lumber in interstate and foreign commerce, has filed papers with the Federal



Trade Commission under the Webb Export Trade Associations Act, by reason of its policy and plan of business it is not such an association within the meaning of said act. The 107 other respondents are stockholders and officers of the respondent company and are themselves engaged in the lumber business, representing about 85 per cent of the productive capacity of all American manufacturers, vendors, shippers, and dealers in Oregon pine, red fir, yellow fir, Columbian pine, Puget Sound pine, and British Columbia pine and the products thereof. Respondents are charged with having fixed the prices and terms at which they have agreed to sell their lumber and by various and divers means conspiring to hinder and obstruct competition in the sale and distribution of said lumber and lumber products, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting final determination by the commission.

*Complaint No. 881.*--Federal Trade Commission v. Citrus Soap Co. Charge: The respondent, engaged in the manufacture and sale of washing powders, soaps, and similar products, has adopted and employs a system for the maintenance and enforcement of uniform prices fixed by it for the resale of its products to retail dealers, refusing to sell to wholesale dealers who fail to observe and maintain said resale prices and requiring its vendees not to sell to other wholesalers except at resale prices fixed by respondent, in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

*Complaint No. 833.*--Federal Trade Commission v. Alfred Peats Co. Charge: The respondent, engaged in the sale of paints and painters' supplies, advertises and asserts that its "Clover Leaf Paint" consists of the purest grades of white lead, zinc, linseed oil, Japan drier, and is of an exceptional high grade, which has never failed to give the best satisfaction, when in fact the said paint consists largely of adulterants and fillers, mineral spirits, anal substitutes for pure linseed oil, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 884.*--Federal Trade Commission v. Henry Bosch Co. Charge: Unfair methods of competition in that the respondent, engaged in the sale of paints and painters' supplies, falsely advertises and asserts that as to its "Henry Bosch Co.'s Prepared Paint" every ounce of lead, zinc, oil, and Japan drier is of the highest grade and that it is impossible to produce any better paint, when in fact adulterants and fillers are substituted for white lead and zinc oxide and the volatile ingredient consists of mineral spirit, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 890.*--Federal Trade Commission v. Cream of Wheat Co. Charge: Unfair methods of competition in that the respondent engaged in the manufacture and sale of a cereal-food product known as "Cream of Wheat," has maintained and enforced a schedule of uniform prices for the resale of said product, refusing to sell to price cutters and otherwise enforcing said system of price maintenance, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting examiner's report.

*Complaint No. 899.*--Federal Trade Commission v. Joyce-Fruit Co. The respondent, engaged in the sale of dry goods, clothing, hardware, and groceries at wholesale and retail, offered a prize of \$10 worth of merchandise to the person producing the largest number of current mail-order catalogues, thereby procuring many catalogues of the National Cloak and Suit Co. and other mail order house competitors, which catalogues it retained for the purpose of unduly hindering the business of its mail-order house competitors which sell merchandise principally by means of catalogues in the hands of customers and prospective customers in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 902.*--The Chicago Tobacco Jobbers' Association, its officers and members, and the American Tobacco Co., respondents. Charge: The charge is unfair competition in that the association and its members agreed upon a schedule of fixed prices at which the members should resell tobacco products to their customers and that the American Tobacco Co. entered into an agreement with the association and its members to assist them in maintaining the prices fixed and agreed upon, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting final determination by the commission.

*Complaint No. 904.*--Commission v. Lease Motor Co. (Inc.) and Acoma Motors Co. ( Inc. ) . Charge:  
The respondent Lease Motor Co. is engaged in the business of repairing Ford motor cars and trucks and  
in assembling,  
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producing, and rebuilding "Mohawk" trucks, and its subsidiary, respondent Acoma Motors Co., (Inc.), acts as its sales agent. Unfair methods of competition in commerce are charged in that the respondent falsely advertise and represent their assembled trucks as new " Mohawk " trucks made in New York and describe the chassis thereof as the Mohawk chassis when in truth and in fact such trucks are not made in New York, the chassis thereof is a Ford chassis, and old, used, worn, and second-hand parts enter into said product, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting answer.

*Complaint No. 906.*--Cincinnati Tobacco Jobbers' Association, its officers and members, and the American Tobacco Co., respondents. Charge : The charge is unfair competition in that the association and its members agreed with the American Tobacco Co. upon a schedule of prices at which they should there after resell the tobacco products of that company, and that the American Tobacco Co. cooperated with the respondent association and its members in enforcing the maintenance of such fixed schedule of prices, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting final determination by the commission.

*Complaint No. 907.*--Cincinnati Tobacco Jobbers' Association, its officers and members, and the Liggett & Myers Tobacco Co., respondents. Charge: The charge is unfair competition in that the association and its members agreed with the Liggett & Myers Tobacco Co. upon a schedule of prices at which they should thereafter resell the tobacco products of that company, and that the Liggett & Myers Tobacco Co. cooperated with the respondent association and its members in enforcing the maintenance of such fixed schedule of prices, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting final determination by the commission.

*Complaint No. 911.*--Milwaukee Tobacco Jobbers' Association and P. Lorillard Co. (Inc.), respondents. Charge: The charge is unfair competition in that the association and its members agreed upon a schedule of fixed prices at which the members should resell tobacco products to their dealer customers and that the P. Lorillard Co. (Inc.) entered into an agreement with the association and its members to assist them in maintaining the prices fixed and agreed upon, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting briefs.

*Complaint No. 912.*--Milwaukee Tobacco Jobbers' Association and the American Tobacco Co., respondents. Charge: The charge is unfair competition in that the association and its members agreed upon a schedule of fixed prices at which the members should resell tobacco products to their dealer customers and that the American Tobacco Co. entered into an agreement with the association and its members to assist them in maintaining the prices fixed and agreed upon, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting briefs.

*Complaint No. 913.*--Commission v. Films Distributors League (Inc.), Eastern Feature Film Co., Favorite Players Film Corporation, Lande Film Distributing Corporation (of Ohio) , Lande Film Distributing Corporation (of Delaware), Supreme Photo Play Corporation, Favorite Film Co., Friedman Film Corporation, Alexander Film corporation, Supreme Film Co., Quality Film Corporation, Leo G. Garner, doing business under the trade name and style Reliance Film Exchange, M. Brown, doing business under the trade name and style Capital Film Exchange, William Alexander, Maurice Fleckles. Herman Rifkin. Charge: The respondents, distributors of motion-picture films, are members of the respondent Films Distributors League (Inc.). Unfair methods of competition in commerce are charged in that the respondents at the time of the production of the photo play entitled "The Three Musketeers" by the Douglas Fairbanks interests, with the purpose of trading on the popularity of said Douglas Fairbanks and on the demand created by advance advertising of his production, reissued the photo play "D'Artagnan," produced by the Triangle Film Corporation in 1915, after changing the name to "The Three Musketeers," advertised said reissue under its new title without designating it as a reissue, and in some instances by displaying in inconspicuous type a statement to the effect that the respondent's photo play was formerly entitled "D' Artangan," or was an adaptation or recreation of D' Artagnan, and in that

the respondents to further the deception that the said reissue was the Fairbanks production supplied for exhibition with the reissue other photo plays in which said Douglas Fairbanks did enact the leading role, all for the purpose of

misleading and deceiving the public, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting briefs.

*Complaint No. 914.*--Commission v. Twinplex Sales Co., a corporation, and Mrs. H. S. Gardner, H. S. Gardner, Jr., and Charles H. Gardner, individually and as copartners doing business under the trade name and style of Twinplex Sales Co., H. S. Gardner, individually and as trustee of said businesses for said copartners, and J. Bryant Reinhart and Thomas L. Fouke, individually and as employees and agents of said partnership. Charge: Unfair methods of competition in commerce are charged in that the respondents have fixed standard prices for the resale of their razor-stropping devices known as "Twinplex", stroppers, and employ cooperative means in the maintenance of said resale prices, listing dealers who fail to maintain the same, and refusing to further supply such offending dealers, thus tending to suppress competition, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 915.*--Commission v. Cutler-Hammer Manufacturing Co. Charge: Unfair methods of competition in commerce are charged in that the respondent practices discrimination in prices in the sale of its electric controllers by granting a greater rate of discount from the list price to those of its vendees who accept the respondent's "sole use contract" whereby the vendee agrees to purchase the respondent's controllers only, the effect of said practice being to substantially lessen competition and to create a monopoly, in alleged violation of section 2 and section 3 of the Clayton Act. Status: In course of trial.

*Complaint No. 916.*--Trigg, Dobbs & Co. and others. Charge: The respondents, Chattanooga Wholesale Tobacco Dealers, are charged with unfair competition that they entered into an agreement, understanding, and conspiracy by which they fixed a schedule of prices at which they would thereafter resell to their dealer customers, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting examiner's report.

*Complaint No. 917.*--The American Tobacco Co., Trigg, Dobbs & Co., and others, respondents. Charge: That the American Tobacco Co. and the other respondents, Chattanooga Wholesale Grocers and Wholesale Tobacco Dealers, entered into a combination, conspiracy, and understanding by which they fixed resale prices on American Tobacco Co.'s products, and that the American Tobacco Co. agreed with the other respondents to refuse to continue selling to such of the respondents as would resell its products at prices lower than those agreed upon, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting examiner's report.

*Complaint No. 918.*--Commission v. Superior Woolen Mills. Charge: Unfair methods of competition in commerce are charged in that the respondent, engaged in retail business, falsely advertises that clothing is sold by it directly from the weaver to the wearer, and indicated by the display of its corporate name that it operates woolen mills and manufactures in its mills the materials used by it in the manufacture of the suits and garments sold by it, all for the purpose of misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting briefs.

*Complaint No. 922.*--Commission v. Michigan Wholesale Grocers' Association, its officers, executive committee, and members. Charge: Unfair methods of competition in commerce are charged in that respondents have adopted and carried out a policy and plan of coercing manufacturers to guarantee the respondent members against decline in price of commodities dealt in and to make their purchase from manufacturers so guaranteeing, thereby tending to restrict, diminish, and obstruct the sales and business of manufacturers of food products who do not guarantee against price decline, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 925.*--Commission v. Mid-American Oil & Refining Co. and J.H. Crites, Charge: The respondent individual is the promoter of respondent Mid-American Oil & Refining Co., a Texas trust. Unfair methods of competition in commerce are charged in that respondents, with the aid of certain subsidiaries known as Mid-American Syndicate, Mid-American Mexia Syndicate, and Mid-American

Stevens County Syndicate, published numerous false and misleading statements and representations relative to the organization, business, property, and prospects of respondent company and said syndicates to further the sale of the share stock of the respondent, and thereby deceived the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting final determination by the commission.

*Complaint No. 927.*--Commission v. Corn Products Refining Co. Charge: Unfair methods of competition in commerce are charged in that the respondent's practice of guaranteeing against decline in price, aided and abetted by its great financial resources, its domination of the markets for glucose and table sirups, and its control of market price of said commodities is a potential weapon for the ruin and elimination of respondent's competitors and has a dangerous tendency unduly to hinder competition in the table sirup industry, and to create a monopoly thereof in the hands of the respondent, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 928 (in consolidation with 82).*--Commission v. The American Photo-Engravers' Association and others, and the international Photo-Engravers' Union of North America, and others. Charge : Unfair methods of com-petition in commerce are charged in that the respondents conspired and agreed to adopt and maintain a scale of uniform prices for the sale of all photo-engraving products. The respondent, International Photo-Engravers' Union of North America and its local organizations threatened to call strikes or withdraw union employees from photo-engraving establishments that would not maintain said uniform scale of prices, it being understood between the respondents that the members of the respondent association would employ none but members of respondent union's local organization thereby and with the aid of other methods of enforcement of said agreement, regulating, controlling, and suppressing competition between manufacturers of photo-engraving products, making possible the establishment and maintenance of enhanced prices of such products, and hindering free competition, in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

*Complaint No. 930.*--Commission v. Right-Way Royalty Syndicate, E. L. Chapman, H. F. Mitchell, and A. J. Chapman. Charge: Respondent syndicate is an unincorporated Texas trust. The respondent individuals are trustees, officers, organizers, and promoters and constitute the board of trustees of said respondent syndicate. Unfair methods of competition are charged in that the respondents, to further the sale of syndicate securities have made and are still making numerous false, misleading, and deceptive statements concerning the business, management, operations, property, prospects, etc., of said syndicate, in violation of section 5 of the Federal Trade Commission act. Status : Awaiting final determination by the commission.

*Complaint No. 932.*--Commission v. Dispatch Petroleum Co., Porter Oakes, and James T. Chiles. Charge : Respondent company is a Texas joint-stock association and respondent individuals are promoters thereof. Unfair methods of competition in commerce are charged in that respondents, to further the sales of the share stock of said company, made numerous false and misleading statements and concealed essential facts as to the properties, prospects, and earnings of said company, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting briefs.

*Complaint No. 937.*--Commission v. McCord Manufacturing Co. (Inc.). Charge : It is charged that unfair methods of competition in commerce in the manufacture and sale of automotive equipment, including motor gaskets for use on cylinder heads, manifolds, etc., have been engaged in by respondent by endeavoring to accomplish the maintenance of standard resale prices by divers cooperative means and by favoring distributors who do maintain such prices and discriminating against distributors who fail to maintain such prices, in alleged violation of section 5 of the Federal Trade Commission act. Status: Ready for trial.

*Complaint No. 940.*--Commission v. Scotch Woolen Mills. Charge : Respondents are engaged in the manufacture of men's clothing and the sale thereof in interstate commerce to retail dealers doing business nuder the name of Scotch Woolen Mills, in many of which respondent or its stockholders have a beneficial interest. The respondent does not own nor is it interested in any woolen mills. Unfair methods of competition in commerce are alleged in that the use of the name Scotch Woolen Mills, when in fact the respondent has no such mills, tends to mislead and deceive the purchasing public to believe that purchases from the respondent are from the manufacturer of the cloth, in alleged

violation of section 5 of the Federal Trade Commission act. Status : Awaiting final determination by the commission.

*Complaint No. 941.*--Commission v. Keeler Bros. & Co., a corporation; the Columbia Securities Co., a corporation; the National Finance Co., a corporation ; George Keeler and Frank Keeler  
Charges : Unfair methods of completion are charged in that the respondents, engaged in the purchase and sale



of municipal, county, and school bonds, procured bonds, apparently valid, but in which had been fraudulently embodied provisions and terms which indicated increased commercial value, using in connection with the sale thereof false and misleading histories of the bonds, failing to disclose to purchasers and prospective purchasers the real facts of the issues, and thereby misleading the purchasing public to believe that the bonds sold by the respondents were valid obligations of the municipalities by which they had been executed, issued as by law provided in conformity with elections duly called and held, and that said purchasers would involve no risk of repudiation or expense of litigation to confirm validity or to enforce collection, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting final argument.

*Complaint No. 947.*--Commission v. Waldes & Co. (Inc.). Charge : The complaint relates that Waldes & Co., of Prague, Czechoslovakia, sold about 80 per cent of the snap fasteners that were marketed in the United States at the time of the outbreak of the World Wa, at which time the importation of products from Austria was discontinued by the American trade. During the World War many American corporations were organized for and began the manufacture and sale of snap fasteners in the United States. Unfair methods of competition are charged in that the respondent, organized under the laws of the State of New York in 1919, and engaged in the manufacture and sale of snap fasteners, under the brands "Kohinoor," "Revol," etc., established by its predecessor, Waldes & Co., of Prague, adopted and put into effect the practices of (a) exchanging its products for competitors' snap fasteners found on the shelves of jobbers and department stores, (b) subsequently selling at extremely low prices the snap fasteners so acquired, thereby demoralizing the market and causing many customers of its competitors to discontinue purchasing snap fasteners from said competitors, and (c) underselling its competitors by the sale of its products at less than the cost of production, all for purpose and with the intent of driving the American manufacturer of snap fasteners from the competitive field and to create a monopoly in the manufacture and sale of dress snap fasteners such as was formerly enjoyed by Waldes & Co., of Prague, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting examiner's report.

*Complaint No. 949.*--Commission v. Seth Thomas Clock Co. Charge : Unfair methods of competition are charged in that respondent, engaged in the manufacture and sale in interstate commerce of clocks, employs a system of fixing and maintaining standard prices for the resale of Its products, refuses to sell to jobbers, wholesalers, and retailers who fail to maintain said prices, and employs other cooperative means of insuring the observance of its retail price system, this tending to obstruct commerce and freedom of competition, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 952.*--Commission v. Pennsylvania, New Jersey, and Delaware Wholesale Grocers' Association, its officers, members of executive committee, and members. Charge : Unfair methods of competition in commerce are charged in that the respondents have adopted and carried out a policy and plan of coercing manufacturers to guarantee the respondent members against decline in price of commodities dealt in and to make their purchases from manufacturers so guaranteeing, thereby tending to restrict, diminish, and obstruct the sales and business of manufacturers who do not guarantee against decline in price, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 956.*--Commission v. Oakleed Oil Co., Mark Kleeden, and Julia K Threlkeld. Charge : Unfair methods of competition in commerce are charged in the sale of the share stock of respondent company In that the respondents have misrepresented the business, management, properties, and prospects of the said respondent oil company for the purpose of misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status: Suspended pending investigation by the Post Office Department.

*Complaint No. 958.*--Commission v. Ohio Dairy Co. Charge : Unfair methods of competition in commerce are charged in that respondent's practice of paying, temporarily, unduly high prices at selected competitive points, while at the same time paying lower prices at other points for the same grade, quality,

and quantity of cream and butterfat for the purpose of controlling or suppressing competition, tends to compel its competitors to cease buying at such points and artificially restrains competition in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting briefs.

*Complaint No. 960.*--Commission v. Texas-Mexia Drilling Syndicate; B. M. Hatfield, Sterling Syndicate, J. D. Johnson, Old Timers Oil Pool, Albert S. Leach, Co-operative Oil Interests, and C. R. Farmer. Charge : Unfair methods of competition in the sale of the share stock of the respondent syndicates and interests, are charged, in that the respondents have misrepresented the business, management, properties, and prospects of said respondent syndicates and interests for the purpose of misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status : Suspended pending criminal prosecution by the United States.

*Complaint No. 961.*--Federal Trade Commission v. M. F. Skidmore and Elmer L. Skidmore, partners, doing business under the names and styles of "Skidmore Pen Co.," "William Bolles Dollar Pen Co.," and "Toledo Gold Filler Fountain Pen Co." Charge : Unfair methods of competition in commerce are charged in that the respondents manufacture fountain pens to resemble the product of the Conklin Pen Co. and by simulating the brands and trade names of said Conklin pens tend to deceive and mislead the purchasing public into the belief that pens manufactured by respondents are Conklin pens, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting final argument.

*Complaint No. 962.*--Federal Trade Commission v. 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. 963.*--Federal Trade Commission v. Roller Oil & Refining Co. (Inc.), H. C. Roller, C. F. Gibbons, Percie C. Willie, E. H. Doud. Charge : Unfair methods of competition are charged in the sale of share stock of the respondent corporation in that the respondents have misrepresented the business, management, properties, and prospects of said corporation for the purpose of misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting final argument.

*Complaint No. 964.*--Federal Trade Commission v. Standard Oil Co. of New Jersey. Charge : Unfair methods of competition are charged in that the respondent acquired one-half or more of the stock or share capital of the Humble Oil & Refining Co., the effect of such acquisition being to substantially lessen competition between the said Humble Oil & Refining Co. and the respondent and its subsidiary, the Standard Oil Co. of Louisiana, to restrain commerce In those sections In which said companies are engaged in commerce and to create a monopoly in alleged violation of section 7 of the Clayton Act. Status: In course of trial.

*Complaint No. 967.*--Tobacco Products Corporation and Midwest Tobacco Jobbers' Association, respondents. Charge: That the respondent association and the Tobacco Products corporation entered into an agreement, understanding, and conspiracy by which they fixed the price at which the members of the respondent association should resell the products of the Tobacco Products Corporation, and that the Tobacco Products Corporation agreed to assist In the carrying out of the conspiracy by discontinuing the sale of its products to such members of the association as would sell such products at prices less than those fixed by the conspiracy, all in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

*Complaint No. 968.*--Scotten-Dillon Co. and Midwest Tobacco Jobbers' Association, respondents.

Charge: That the respondent Association and Scotten-Dillon Co. entered into an agreement, understanding, and conspiracy by which

they fixed the price at which the members of the respondent association should resell the products of Scotten-Dillon Co., and that Scotten-Dillon Co. agreed to assist in the carrying out of the conspiracy by discontinuing the sale of its products to such members of the association as would sell such products at prices less than those fixed by the conspiracy, all in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 969.*--The American Tobacco Co. and Midwest Tobacco Jobbers' Association, respondents. Charge: That the respondent association and the American Tobacco Co. entered into an agreement, understanding; and conspiracy by which they fixed the price at which the members of the respondent association should resell the products of the American Tobacco Co., and that the American Tobacco Co. agreed to assist in the carrying out of the conspiracy by discontinuing the sale of Its products to such members of the association as would sell such products at prices less than those fixed by the conspiracy, all in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 974.*--Federal Trade Commission v. Brooks Oil Co. and E. A. Benedict. Charge : Unfair methods of competition In commerce are charged in that the respondents, cooperating in the sale of house paint, have falsely represented, advertised, and labeled said product as "U. S. Quality Paint," the said paint in fact being a low-grade product not made for nor used by the United States Government and not made according to any Government specification or requirements, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting briefs.

*Complaint No. 976.*--Federal Trade Commission v. Goodall Worsted Co. and Albert Rohaut. Charge: Unfair methods of competition in commerce are charged in that the respondent corporation, a manufacturer of Palm Beach cloth, and its sales agent, the respondent Rohaut, fixed uniform and minimum prices, thereby tending to unduly restrain the natural flow of commerce and be sold to Jobbers and dealers and enforce said standard prices by the use of a license agreement with the manufacturers of Palm Beach clothing by refusing to sell such cloth to manufacture who fail to observe and maintain said resale prices, thereby tending to unduly restrain the natural flow of commerce and freedom of competition in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 984.*--The American Tobacco Co. and the Tobacco Jobbers' Association of Western Pennsylvania, its officers and members, respondents. Charge : That the respondent association and the American Tobacco Co. entered into a conspiracy, agreement, and understanding, by which they fixed resale prices of tobacco products of the American Tobacco Co. handled by the members of the respondent association, and that the American Tobacco Co. agreed to assist in the accomplishment of the conspiracy by agreeing to discontinue selling to such members of the association as would sell the products of the American Tobacco Co. at prices less than those fixed by the conspiracy, all in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 985.*---P. Lorillard Co. (Inc.), and the Tobacco Jobbers' Association of Western Pennsylvania, its officers and members, respondents. Charge : That the respondent association and the P. Lorillard Co. (Inc.) entered into a conspiracy, agreement, and understanding, by which. they fixed resale prices of tobacco products of the P. Lorillard Co. handled by the members of the respondent association, and that the P. Lorillard Co. (Inc.), agreed to assist in the accomplishment of the conspiracy by agreeing to discontinue selling to such members of the association as would sell the products of the P. Lorillard Co. (Inc.) at prices less than those fixed by the conspiracy, all in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 987.*--Federal Trade Commission v. The American Tobacco Co., a corporation; Tri-State Tobacco Jobbers' Conference, an unincorporated organization, its officers, T. W. Mahany, president, William J. Stern, secretary and manager, S. D. Ostrow, treasurer, their successors, and its members. Charge : Unfair methods of competition in commerce are charged in that respondents conspired and agreed to fix uniform prices for the sale and resale of cigars, cigarettes, and other tobacco products, thereby tending to restrict com petition and restrain the natural flow of commerce, in alleged violation

of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 988.*--Federal Trade Commission v. Paramount Royalty Syndicate and Lea R Ellis. Charge : Unfair methods of competition in commerce are charged in the sale of securities of respondent syndicate in that the respondents have misrepresented the organization, business, management, properties, and prospects of said respondent syndicate for the purpose of misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 990.*--Federal Trade Commission v. Missouri-Kansas Wholesale Grocers' Association, Peet Bros. Manufacturing Co., the Rub-No-More Co. Charge : The complaint charges unfair methods of competition in that the respondents adopted a plan of hampering, obstructing, and preventing the Procter & Gamble Distributing Co., which quotes equal prices to wholesalers and retailers, from selling soaps, soap products, and cooking fats to the members of the respondent association and wholesale grocers, and sought to coerce wholesalers into refraining from dealing in the said products of the Procter & Gamble Distributing Co., in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting briefs.

*Complaint No. 991.*--Federal Trade Commission v. Iowa-Nebraska-Minnesota Wholesale Grocers' Association, its officers, members of executive committee, and all of its members; Slocum-Bergen Co.; Gowan-Lenning-Brown Co.; Peet Bros. Manufacturing Co.; Jas. S. Kirk & Co.; and Cudahy Packing Co. Charge : The complaint charges unfair methods of competition in that the respondents adopted a plan of hampering, obstructing, and preventing the Procter & Gamble Distributing Co., which quotes equal prices to wholesalers and retailers, from selling soaps, soap products, and cooking fats to the members of the respondent association and wholesale grocers, and sought to coerce wholesalers into refraining from dealing in the said products of the Procter & Gamble Distributing Co., in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 992.*--Federal Trade Commission v. The Ohio Wholesale Grocers' Association Co., a corporation, and its stockholding members, and Peet Bros. Manufacturing Co., a corporation. Charge : Unfair methods of competition are charged in that the respondents adopted a plan of hampering, obstructing, and preventing The Procter & Gamble Distributing Co., which quotes equal prices to wholesalers and retailers, from selling soap, soap products, and cooking fats to the members of the respondent association and wholesale grocers, and sought to coerce wholesalers to refrain from dealing in the products of said Procter & Gamble Distributing Co., in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1000.*--Federal Trade Commission v. The Charles H. Elliott Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture of Jewelry, stationery, printing and engraving products suitable for use by schools, colleges, universities, and the student organizations thereof, offers and gives, without the knowledge and consent of the student organization, valuable gratuities to the students authorized to purchase said products as an inducement to buy respondent's products; offers and gives substantial and unwarranted reductions in price and valuable gratuities to induce said students to cancel contracts entered into with competitors of said respondent, and circulates false, misleading, and disparaging statements concerning its competitors, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting final determination by the commission.

*Complaint No. 1006.*--Federal Trade Commission v. Hill Bros. Charge : Unfair methods of competition are charged in that the respondents adopted and maintained a system of standard prices for the resale of certain brands of their roasted coffee, refusing to sell to dealers failing to observe the minimum resale prices and employing various cooperative means for the enforcement of the price list, thereby hindering and suppressing all price competition and tending to obstruct the natural flow of commerce, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 1007.*--Federal Trade Commission v. Canada Dry Ginger Ale (Inc.) and Canada Dry

Sales Corporation. Charge: Unfair methods of competition are charged in that the respondents, engaged in the manufacture or ginger ale in the United States and the sale thereof, have adopted and used labels simulating in color, design, wording, and general arrangement the well-known labels of the J. J. McLaughlin (Ltd.), manufacturers of Canadian ginger ale formerly sold in the United States by the respondent Canada Dry



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Sales Corporation, thereby misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial. Awaiting final determination by the commission.

*Complaint No. 1009.*--Federal Trade Commission v. Illinois Glass Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of glass bottles, entered into and carried out an agreement by the effect of which the respondent acquired the entire assets and capital stock of the Cumberland Glass Manufacturing Co., the More Jonas Glass Co., and the More Jonas Glass Co., thereby tending to substantially lessen competition, restrain commerce, and create a monopoly, in alleged violation of section 5 of the Federal Trade Commission act and section 7 of the Clayton Act. Status : At issue.

*Complaint No. 1010.*--Federal Trade Commission v. Pittsburgh Coal Co. of Wisconsin, Northwestern Fuel Co., Reiss Coal Co., Clarkson Coal & Dock Co., M. A. Hanna Coal & Dock Co., Carnegie Dock & Fuel Co., Berwind Fuel Co., Northern Coal & Dock Co., Great Lakes Coal & Dock Co., Pittsburgh & Ashland Coal & Dock Co., Northwestern Coal Dock Operators Association, its officers, directors, and members. Charge : Unfair methods of competition are charged in that the respondent companies, the largest distributors of anthracite and bituminous coal in the northwest territory, which comprises the States of Minnesota, Wisconsin, North Dakota, South Dakota, and parts of Iowa and Nebraska, entered into an agreement and conspiracy among themselves, through the respondent association and with others, to restrict, restrain, and suppress competition in the sale of coal by (a) abolishing commission to jobbers; (b) refraining from soliciting certain municipal business, recognizing such business as the prospect of the local retail dealer; (c) restricting certain contracts with retail dealers to cover public-utility business; (d) adopting uniform grading and cost-accounting methods for the standardization of coal sizes and costs; (e) refusing to sell to certain dealers not equipped with sheds and scales; (f) agreeing to uniform methods of accounting with retail dealers; (g) adopting uniform contracts with retail dealers and large consumers, prohibiting the diversion of coal except as authorized by the contract; (h) circulating lists of retailers to whom the respondents refuse to sell; (i) providing for the standardization and maintenance of uniform selling prices; (j) discriminating in price between the city of Duluth and the cities of St. Paul and Minneapolis; (k) selling at less than cost; (l) discriminating in price between wagon dealers and retail dealers equipped with yards and sheds; (m) arbitrarily reducing the price of coal to compel competitors to join the respondent association, all in alleged violation of section 5 of the Federal Trade Commission act and section 2 of the Clayton Act. Status : Awaiting examine's report.

*Complaint No. 1012.*--Ohio Wholesale Grocers' Association, Cleveland Tobacco Jobbers, and P. Lorillard Co. (Inc.) respondents. Charge : The charge is unfair competition in that the Ohio Wholesale Grocers' Association and a group of Cleveland, Ohio, tobacco jobbers, and P. Lorillard Co. (Inc.), entered into a conspiracy, agreement, and understanding, by which they fixed the prices at which the products of P. Lorillard Co. (Inc.), should be resold by the jobber respondents, and that P. Lorillard Co. (Inc.), agreed with the other respondents to assist in the carrying out of the conspiracy alleged, by refusing to sell to such of the respondents as would resell its products at prices less than those fixed by the conspiracy. All in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1013.*--Ohio Wholesale Grocers' Association, Cleveland Tobacco Jobbers, and American Tobacco Co., respondents. Charge : The charge is unfair competition in that the Ohio Wholesale Grocers' Association and a group of Cleveland, Ohio, tobacco jobbers and the American Tobacco Co. entered into a conspiracy, agreement, and understanding, by which they fixed the prices at which the products of the American Tobacco Co. should be resold by the jobber respondents, and that the American Tobacco Co. agreed with the other respondents to assist in the carrying out of the conspiracy alleged, by refusing to sell to such of the respondents as would resell its products at prices less than those fixed by the conspiracy. All in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1015.*--Federal Trade Commission v. William R Warner & Co. (Inc.). Charge : Unfair

methods of competition are charged in that the respondent, having established two scales of prices for its patient medicines, pharmaceuticals, and drug specialties designated, respectively, as jobbers'

prices and retailers' prices, makes a regular practice of selling its products at said jobbers' prices to certain selected wholesalers and retailers; at the same time and irrespective of quantity purchased charges the higher retailers' prices to other wholesalers and retailers, thereby discriminating between its two classes of customers and giving preferred wholesalers and retailers an unfair advantage over competitors, who are compelled to purchase the respondent's goods of the same quality and quantity at higher prices and on less advantageous terms, tending to hinder and lessen competition, in alleged violation of section 5 of the Federal Trade Commission act and section 2 of the Clayton Act. Status : At issue.

*Complaint No. 1016.*--Federal Trade Commission v. Edwin E. Ellis Co. (Inc.). Charge : Unfair methods of competition are charged in that the respondent engaged in the printing and selling of stationery, designates and advertises as "Process engraving" its method of printing in simulation of impressions made from engraved plates, thereby tending to mislead and deceive the purchasing public into the erroneous belief that the respondent's products are in fact "engraved," in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting briefs.

*Complaint No. 1018.*--Federal Trade Commission v. Toledo Pipe Threading Machine Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture of pipe-threading, boring and cutting tools and similar products, employs a system or policy whereby it has established and maintained standard prices for the resale of its products by jobbers and other distributors, refusing to sell its products to price cutters and employing other cooperative means for the enforcement of said resale prices, thereby tending to obstruct the free and natural flow of commerce and freedom of competition, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting final determination by the commission.

*Complaint No. 1019.*--Federal Trade Commission v. The Standard Register Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of manifolding or autographic registers and supplies therefor, publishes numerous false, misleading, disparaging, and unfair representations concerning its competitor, the Egly Register Co., falsely asserting that a court decision in favor of the respondent has had the effect of canceling all orders placed with said Egly Co.; threatening to bring and instituting suit for alleged infringement of patents, said suit and threat of litigation being not in good faith but for the purpose of intimidating the said Egly Co. and its customers; falsely representing its register as superior in quality; and circulating statements to the effect that the Egly Co. is more than six months in arrears with its orders, all for the purpose of injuring its competitor and in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting final determination by the commission.

*Complaint No. 1020.*--Federal Trade Commission v. The Armand Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of toilet preparations, employs a system of fixing and establishing certain specified standard prices for the resale of its products by jobbers, wholesalers, and retailers, refusing to sell to price cutters and employing other cooperative means for the enforcement of said system of resale prices, thereby tending to obstruct the natural flow of commerce and freedom of competition, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1021.*--Federal Trade Commission v. Hygrade Lamp Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of tungsten lamps, adopted and enforces a policy of requiring its jobbers to enter into an exclusive agreement whereby said jobbers agree to restrict their purchases to the respondent and to limit their Hygrade Lamp business to said jobber's exclusive territory, which is clearly defined in agreement, all in consideration of respondent's agreement to sell exclusively to said jobber in said exclusive territory, thereby hindering and suppressing competition in the jobbing of electric lamps, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1022.*--Federal Trade Commission v. Hygrade Lamp Co. Charge : Unfair methods of competition are charged in that the respondent, by the acquisition of the capital stock of the Lux Manufacturing Co., a competitor, tends to lessen competition and restrain commerce in the territory served by the Lux Co., in alleged violation of section 7 of the Clayton Act. Status : At issue.

*Complaint No. 1023.*--Federal Trade Commission v. International Shoe Co. Charge : It is charged that the respondent, by acquiring substantially all of the capital stock of the W. H. McElwain Co., theretofore engaged in the manufacture and sale of shoes in competition with the respondent, tends to lessen competition, restrain commerce, and create a monopoly, in alleged violation of section 7 of the Clayton Act. Status : Awaiting examiner's report.

*Complaint No. 1024.*--Federal Trade Commission v. Charles E. Cormier Rice Milling Co. (Inc.). Charge : Unfair methods of competition are charged in that the respondent engaged in buying and selling rice and having no rice mills of its own, indicates by the use of the word "milling" as a part of its corporate name that it is a miller of rice and that its customers therefore save the profits of all intermediate dealers, thereby tending to mislead and deceive the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No 1025.*--Federal Trade Commission v. Charles Tager, an individual trading under the name of Regat Sales Co. Charge : Unfair methods of competition are charged in that the respondent, by resorting to false, mis-leading, and deceptive representations as to the Marcel Manufacturing Co. and the Botts Marking Ink Co., distributors of Acme tacking machines and staples, persuades and induces customers and prospective customers who were using Acme tacking machines and staples to discontinue the use of said Acme machines in exchange for the respondent's Regat tacking machines, and to purchase large supplies of Regat staples, thus preventing said competitors from selling staples to their customers, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting final determination by the commission.

*Complaint No. 1027.*--Federal Trade Commission v. Panama Rice Milling Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the buying and selling of rice and having no rice mills of its own, indicates by the use of the word "milling" as a part of its corporate name that it is a miller of rice and that its customers therefore save the profits of all intermediate dealers, thereby tending to mislead and deceive the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 1028.*--Federal Trade Commission v. Guaranty Royalties Co., W. F. Rogers, W. L. Hughes, and A. C. Loughrey. Charge : Unfair methods of competition are charged in the sale of the stock of the respondent joint-stock association in that the respondents have made numerous false, misleading, and deceptive statements concerning the organization, management, properties, production, earnings, and prospects of the respondent company for the purpose of inducing the public to purchase said stock, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting answer.

*Complaint No. 1032.*--The American Tobacco Co., Conference of Wholesale Tobacco Dealers of Oregon, and others, respondents. Charge : The respondents joined in its complaint with the American Tobacco Co., groups of tobacco jobbers, and wholesale grocers located in numerous localities along the Pacific coast. The charge is that each group and the American Tobacco Co. conspired to fix resale prices on American Tobacco Co.'s products sold by the members of such groups, and that each of the groups agreed with each and every one of the other groups and with the American Tobacco Co. to adhere to the prices fixed by the American Tobacco Co. and each of such of the other groups, and that the American Tobacco Co. offered each of the groups to assist in the conspiracies by refusing to continue selling to such jobber as would resell its products at prices less than those fixed by the conspiracies aforesaid, all in alleged violation of the Federal Trade Commission act. Status : Awaiting examiner report.

*Complaint No. 1033.*--Liggett & Myers Tobacco Co., Conference of Wholesale Tobacco Dealers of Oregon, and others, respondents. Charge : The respondents joined in its complaint with the Liggett & Myers Tobacco Co. and groups of tobacco jobbers and wholesale grocers located in numerous localities along the Pacific coast. The charge is that each group and the Liggett & Myers Tobacco Co. conspired to fix resale prices on Liggett & Myers Tobacco Co.'s products sold by the members of such groups and that each of the groups agreed with each and every one of the other groups and with the Liggett & Myers Tobacco Co. to adhere to the prices fixed by the Liggett & Myers Tobacco Co. and each of such of the other groups, and that the Liggett & Myers Tobacco Co. and each of the groups to assist in the conspiracies by refusing to continue

selling to such jobber as would resell its products at prices less than those fixed by the conspiracies aforesaid, all in alleged violation of the Federal Trade Commission act. Status : Awaiting examiner's report.

*Complaint No. 1034.*--Liggett & Myers, Keystone Tobacco Jobbers' Association, its officers and members, and the Central Pennsylvania Tobacco Jobbers Association, its officers and members, respondents. Charge : The charge is unfair competition in that Liggett & Myers Tobacco Co. and the Keystone Tobacco Jobbers' Association by conspiracy fixed prices at which the members of that association should resell the products of the Liggett & Myers Tobacco Co.; that the Central Pennsylvania Tobacco Jobbers' Association entered into a similar conspiracy with the Liggett & Myers Tobacco Co.; that each association agreed to abide by the prices of the other association when its members sold into territory of the members of such other associations and that the Liggett & Myers Tobacco Co. agreed with both of the associations to assist in the carrying out of the several conspiracies by discontinuing to sell such members of the associations as would sell its products at prices less than those fixed by the conspiracies aforesaid. Status : At issue.

*Complaint No. 1035.*--Larus Bros. Co., Keystone Tobacco Jobbers' Association, its officers and members, and the Central Pennsylvania Tobacco Jobbers' Association, its officers and members, respondents. Charge : The charge is unfair competition in that Larus Bros. Co. and the Keystone Tobacco Jobbers' Association, by conspiracy, fixed prices at which the members of that association should resell the products of Larus Bros. Co.; that the Central Pennsylvania Tobacco Jobbers' Association entered into a similar conspiracy with Larus Bros. Co.; that each association agreed to abide by the prices of the other association when its members sold into territory of the members of such other association's and that Larus Bros. Co. agreed with both of the associations to assist in the carrying out of the several conspiracies by discontinuing to sell such members of the associations as would sell its products at prices less than those fixed by the conspiracies aforesaid. Status : At issue.

*Complaint No. 1036.*--Federal Trade Commission v. The American Tobacco Co., a corporation; Keystone Tobacco Merchants' Association, an unincorporated organization, its officers, J. C. Lindner, president; E. A. Stroud, vice president; I. Finkelstein, treasurer; W. F. Smulyan, secretary; their successors, and its members; Central Tobacco Jobbers' Association of Pennsylvania, an unincorporated organization, its officers G. H. Stallman, president; Jacob L. Hauer, vice president; W. Clyde Shissler, secretary and treasurer; their successors, and its members. Charge : Unfair methods of competition are charged in that the respondents conspired and agreed to fix uniform prices for the sale and resale of cigars, cigarettes, and other tobacco products, the respondent, the American Tobacco Co., refusing to sell its products to those who did not maintain said standard resale prices or resold said products to price-cutting sub-jobbers and retailers, all for the purpose and with the effect of restricting competition and restraining the natural flow of commerce in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1037.*--Federal Trade Commission v. P. Lorillard Co. (Inc.) a corporation; Keystone Tobacco Merchants' Association, an unincorporated organization; its officers, J. C. Lindner, president; E. A. Stroud, vice president; T. Finkelstein, treasurer : W. F. Smulyan, secretary; their successors and its members; Central Tobacco Jobbers' Association of Pennsylvania, an unincorporated organization, its officers, G. H. Stallman, president; Jacob L. Hauer, vice president; W. Clyde Shissler, secretary and treasurer; their successors and its members. Charge : Unfair methods of competition are charged in that the respondents conspired and agreed to fix uniform prices for the sale and resale of cigars, cigarettes, and other tobacco products, the respondent, P. Lorillard Co. (Inc.) refusing to sell its products to those who did not maintain said standard resale prices or resold products to price-cutting subjobbers and retailers, all for the purpose and with the effect of restricting competition and restraining the natural flow of commerce in violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1038.*--Federal Trade Commission v. Standard Oil Co. of Kentucky, a corporation, F. T. Hurner, Gulf Refining Co., a corporation, F. D. Jones, the Texas Co.'s a corporation, H. G. Thompson, Tampa Automobile Dealers' Association, its officers, directors, and members, Tampa Retail Gasoline Dealers' Association, its officers, directors, and members. Charge : Unfair methods of

competition are charged in that the respondent associations and their numbers conspired and agreed to fix prices and margins of profit for the

sale of gasoline and for the enforcement of said prices solicited and obtained the cooperation of the respondent oil companies and their local agents, the individual respondents, the last-named group of respondents refusing to sell and deliver gasoline on usual and customary terms and conditions to those gasoline dealers who would not enter into and abide by the agreement fixing prices and margins of profit, all of which tends to reduce and divert the natural flow of commerce and to suppress and restrict the freedom of competition, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting final argument.

*Complaint No. 1039.*--Federal Trade Commission v. American Electric Heater Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of electrical appliances, established certain specified wholesale and retail prices at which Its "American Beauty" Iron should be sold by dealers, refusing to sell to price cutters and employing other cooperative means for the enforcement of its standard resale prices, thereby hindering and suppressing competition and obstructing the free and natural flow of commerce. in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1040.*--Federal Trade Commission v. F. M. Stamper Co. Charge : Unfair methods of competition are charged In that the respondent, engaged in the purchase and sale of poultry, eggs, and cream, has adopted and maintains the practice of paying higher prices for poultry and eggs at one of its buying stations than it pays for such produce at other buying stations, thereby compelling competing buyers to discontinue purchasing produce In the territory In which higher prices are paid by the respondent and tending to substantially lessen competition and create a monopoly in said territory, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting final determination by the commission.

*Complaint No. 1044.*--Federal Trade Commission v. Pacific Commercial Co. and Exporters' and Importers' Association of the World. Charge : Respondents are charged with having accepted orders and received payment from foreign customers for first-class new automobile chassis, and through negligence or collusion have caused or permitted to be substituted for the goods ordered secondhand, inferior, or worthless goods, which unfair method of competition has the tendency to Injure and damage the reputation of respondents' competitors who truthfully fulfill their contracts, in alleged violation of section 5 of the Federal Trade Commission act as extended by the provisions of section 4 of the Webb Act. Status : At issue.

*Complaint No. 1045.*--Federal Trade Commission v. Daniel Platt, doing business under the name of Waterman Ink Pencil Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in assembling and selling ink pencils and fountain pens, simulates the trade name and marking employed by the L. E. Waterman Co., well known as the manufacturer of Waterman's Ideal Fountain Pens, and in that the respondent claims to be a manufacturer of Ink pencils, with a factory in the Borough of Brooklyn, when in fact said respondent has no interest in any factory for the manufacture of such articles, all for the purpose of misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting answer.

*Complaint No. 1046.*--Federal Trade Commission v. Joseph Feldman and Gertrude Feldman, doing business under the name and style of Roxford Knitting Mills. Charge : Unfair methods of competition are charged in that the respondents, engaged in the business of buying and selling knitted goods, simulate the name and marking employed by the long-established Roxford Knitting Co., of Philadelphia (now Roxford Florine Co. (Inc.)), and in that the respondents, having no knitting mills of their own, falsely indicate by the use of their trade name that they are manufacturers of knit goods and that their customers therefore save the profits of all intermediate dealers, thereby tending to mislead and deceive the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting answer.

*Complaint No. 1047.*--Federal Trade Commission v. American Shellac Co. (Inc.). Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of paints, varnishes, shellacs, and shellac substitutes, manufacture a varnish composed of shellac gum and shellac gum substitutes, cut in alcohol, which it labels and advertises as "white shellac" and "orange

shellac” without indicating that said varnish contains gum other than shellac gum, thereby tending to mislead and deceive the pur-



chasing public as to the quality of said varnish in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 1048.*--Federal Trade Commission v. Holeproof hosiery Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of hosiery, employs a system or policy whereby it establishes certain specific standard resale prices, at which certain of its products shall be resold by retail dealers, refuses to sell to price cutters, and employs other cooperative means for the maintenance of said standard prices, thereby tending to obstruct the free and natural flow of commerce and freedom of competition, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1050.*--Federal Trade Commission v. Federal Bond & Mortgage Co. Charge : Unfair methods of competition are charged in that respondent, engaged in the sale of bonds, promissory notes, and similar obligations and securities, give prominence in its advertising matter to the word "Federal," which is a part of its corporate name, refers to its bonds as "Federal bonds" employees the slogan "Federal bonds are better bonds," and in printing its bonds simulates the size, design, color, etc., of the bonds issued by the United States Government and displays prominently the words "United States of America" and "Federal," thereby tending to mislead and deceive the purchasing public to believe the respondents bonds are those of the United States Government or are bonds made and issued under its supervision and sponsored by it, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 1051.*--Federal Trade Commission v. Manhattan Shirt Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of shirts, underwear, and pajamas, em-ploys a merchandising plan or policy by which it establishes certain specified standard resale prices at which its product shall be resold by retailers, refuses to sell to price cutters, and employs other cooperative means for the enforcement of said standard prices, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1052.*--Federal Trade Commission v. Johnson Process Glue Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the business of manufacturing and selling glue and other kindred products, has been offering and giving substantial sums of money and other things of value to employees of printing, bookbinding, publishing, and other establishments using glue, and without the knowledge or consent of the respective employers, to influence said employees to purchase or recommend the purchase of respondent's products, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 1053.*--Federal Trade Commission v. The Worrell Manufacturing Co. Charge : Unfair methods of competition are charged in that respondent, engaged in the sale of insecticides, disinfectants, and sanitary appliances, offers and gives goods and merchandise as premiums or gratuities to public officials in charge of Government departments, boards, and administrative offices purchasing supplies for public institutions, as an inducement to purchase respondent's products, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1054.*--Federal Trade Commission v. Phillips-Jones Corporation. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture of sundry articles of men's wear, fixed a specified uniform resale price at which it requires its retailers to retail its "Van Heusen" collar and has since employed a system of enforcing the observance of said standard resale price, refusing to sell to price cutters and employing other cooperative means of price maintenance, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting examiner's report.

*Complaint No. 1000.*--Federal Trade Commission v. John C. Winston Co. Charge : The complaint relates that the respondent others "Winston's Cumulative Loose Leaf Encyclopedia" free of charge on condition that the customer will furnish letters of recommendation concerning the merits of the said encyclopedia and will subscribe to the so-called "Cumulative Loose Leaf Annual Service," accompanying said encyclopedia, at \$49, payable within one year in monthly installments. Unfair methods of competition mire charged in that the respondent's representation that the slim of \$49 is for the so-called "Cumulative Loose Leaf Annual Service" is false and misleading as such sum is greatly in



excess of the price at which the respondent can furnish said service to bona fide purchasers and is sufficient to compensate the respondent for the encyclopedia delivered "free" together with accompanying service; and in that the respondent misrepresents the value of the said encyclopedia and annual service, claiming that the true price is \$154 and that said publications are available at a special reduced price of \$49 to a limited number of persons only, the special price being for advertising purposes, whereas the \$49 price is in fact that at which its publications are regularly sold, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting final determination by the commissioner.

*Complaint No. 1061.*--Federal Trade Commission v. Smith-Kirk Candy Co. Charge : Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of a chocolate and candy confection containing no ice cream, labels its product as "Chocolate Ice Cream Bar" and pictures a child holding in its hand an ice cream cone, thereby misleading and deceiving the public to believe that its confection contains ice cream, and is of the nature of the chocolate coated ice cream bars popularly known as "Eskimo Pie," "Polar Cake Ice Cream," and "Guernsey Alaska Bars," the size and shape of which are simulated by the respondent in the manufacture of its product, in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

*Complaint No. 1064.*--Federal Trade Commission v. Blue Valley Creamery Co. Charge: The respondent is engaged in the manufacture of butter and obtains its cream or butterfat from farmers by the direct shipment plan involving the use of cans or containers which are the sole property of the farmer and which are accepted for shipment by the transportation companies without record of shipment other than the shipping instructions attached to each can. Unfair methods of competition are charged in that the respondent adopted the plan of substituting for all other tags or shipping instructions found on the cans, including those intended to insure the safe return of the can to the owner, its undetachable tags or plates bearing the permanent shipping instructions "When full ship to Blue Valley Creamery Co.," thereby making it difficult for farmers to ship cream to competitors and bringing about the receipt by the respondent of cream intended for its competitors, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 1065.*--Federal Trade Commission v. Samuel Katz and Samuel Davidson, doing business under the name and style of Katz & Davidson. Charge : Unfair methods of competition are charged in that the respondents label and describe their shirts, made from materials manufactured in the United States, as "English broadcloth," thereby tending to mislead the purchasing public into the belief that the material used in the manufacture of respondents' shirts is the favorably known cotton fabric manufactured in England and sold under the name "English broadcloth," in alleged violation of section 5 of the Federal Trade Commission. Status: at issue.

*Complaint No. 1066.*--Federal Trade Commission v Jacob Busch Charge: unfair methods or competition are charged in that the respondent's practice of stamping as "Sheffield" his silver-plated ware which is not manufactured in Sheffield England and which is of a quality inferior to that of the silver and silver-plated ware commonly known as Sheffield silver or Sheffield silver plate, tends to mislead and deceive the purchasing public as to the value and quality of his wares, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting approval of stipulation.

*Complaint No. 1067.*--Federal Trade Commission v. Ontario Silver Co. Charge : Unfair methods of competition are charged in that the respondent's practice of stamping as "Sheffield" his Silver-plated ware which as not manufactured in Sheffield, England, and which is of a quality inferior to that of the silver and silver-plated ware commonly known as Sheffield silver or Sheffield silver plate, tends to mislead and deceive the purchasing public as to the value and quality of his wares, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting approval of stipulation.

*Complaint No. 1068* --Federal Trade Commission v. Samuel E. Berstein (Inc.). Charge: Unfair

methods of competition are charged in that the respondent's practice of stamping as "Sheffield" its silver-plated ware which is not manufactured in Sheffield, England, and which is of a quality inferior to that of the silver and silver-plated ware commonly known as Sheffield silver

or Sheffield silver plate, tends to mislead and deceive the purchasing public as to the value and quality of its wares, in alleged violation of Section 5 of the Federal Trade Commission act. Status : Awaiting approval of stipulation.

*Complaint No. 1070.*--Federal Trade Commission v. The American Tobacco Co., a corporation; New England Tobacco Conference, its officers and officers of its various sections and the members thereof. Charge : Unfair methods of competition are charged in that the respondents conspired and agreed to fix uniform prices for the sale and resale of cigars, cigarettes, and other tobacco products, the respondent the American Tobacco Co. refusing to sell its products to those who did not maintain said standard resale prices or resold said products to price-cutting subjobbers and retailers, all for the purpose and with the effect of restricting competition and the natural flow of commerce, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1071.*--Federal Trade Commission v. P. Lorillard Co. (Inc.), a corporation; New England Tobacco Conference, its officers and officers of the various sections and the members thereof. Charge : Unfair methods of competition are charged in that the respondents conspired and agreed to fix uniform prices for the sale and resale of cigars, cigarettes, and other tobacco products, the respondent, P. Lorillard Co. (Inc.), refusing to sell its products to those who did not maintain said standard resale prices or resold said products to price-cutting subjobbers and retailers, all for the purpose and with the effect of restricting competition and the natural flow of commerce, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1072.*--Federal Trade Commission v. Joseph P. Manning Co. Charge : Unfair methods of competition are charged in that respondent, doing business as a "Cash and Carry Tobacconist," discriminates in price between different purchasers of tobacco and tobacco products, not because of difference in grade, quality, or quantity, but with the purpose, intent, and effect of forcing competitors out of business or to force said competitors to agree to maintain certain prices established by the respondent and other wholesalers, thereby tending to substantially lessen competition in the territory served by the respondent, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1073.*--Federal Trade Commission v. The C. T. Sweet Co., a corporation. Charge : Unfair methods of competition are charged in that the respondent, engaged in the sale of ship chandlery, offers and gives sums of money and other things of value to employees mind representatives of steamship owners without the knowledge or consent of such owners as aim inducement to influence said employees and representatives to purchase from the respondent, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1074.*--Federal Trade Commission v. Interstate Fuel Co., a corporation, White Ash Coal Co., a corporation. Charge : Unfair methods of competition are charged in that the respondents, engaged in the purchase and sale of coal offer and advertise their coal as "Mt. Olive" coal, when, in fact, the respondent's coal is not mined in the Mount Olive (Ill.) district and has a market value which is lower than that of the product of the Mount Olive names against which the respondents compete, thereby misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting final argument.

*Complaint No. 1076.*--Federal Trade Commission v. Nashua Manufacturing Co. and Walter Bayliss, Robert Amory, and Charles L. Crehore, copartners, doing business under the name and style of Amory, Browne & Co. Charge : Unfair methods of competition are charged in that the respondent company, a manufacturer of pure cotton blankets, and the remaining respondents, its sales agents, advertise and label their cotton blankets which contain no wool with the term "Woolnap" printed in large bold-faced type to which were added the words "pure cotton" or "a perfect blend of the world's finest cotton" in smaller and less conspicuous type, and in that similar cotton blankets were sold and labeled as "Wool finish,"

thereby tending to mislead the purchasing public to believe such cotton blankets were composed wholly or in part of wool, inn alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 1080.*--Federal Trade Commission v. Wisconsin Cooperative Creamery Association, its officers, directors, and members, et al. Unfair methods of competition are charged in that the respondent association and the respondent cooperative creameries, the members of said association, combined and conspired to hinder, obstruct, and prevent the sale and distribution of oleomargarine, circulating a resolution urging the elimination of butter substitutes and by persuasion and threats of loss of patronage inducing dealers to agree to discontinue the sale of oleomargarine, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting briefs.

*Complaint No. 1081.*--Federal Trade Commission v. International Ice Cream Company ( Inc.). Charge : Unfair methods of competition are charged in that the respondent sold its ice cream in Pittsfield and North Adams, Mass., at a price far below the usual and customary price, below the price charged by it in other territories, and below cost. with the purpose and intention of suppressing the competition of the Country Maid Ice Cream Co. and of eventually for forcing said competitor out of business, in alleged violation of section 2 of the Clayton Act and section 5 of Federal Trade Commission act. Status: Awaiting examiner's report.

*Complaint No. 1082.*--Federal Trade Commission v. Coast States Oil Co., a corporation, J. C. Van Slyke, L. Chair Van Slyke, W. H. Labofish, J. W. Hood. Charge : Unfair methods of competition are charged in that the respondent, to further the sale of the corporate 'ate stock of the respondent corporation, made numerous false, misleading, and deceptive statements as to the properties, prospects, and management of said corporation, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1083.*--Federal Trade Commission v. Garnett 5. Zorn and II. Voltze, doing business under the trade name and style of S. Zorn & Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the sale of grain, adulterated oats by the addition of water and screening and charged customers on the basis of the total weight of the shipment multiplied by the unit price of oats of the grade order, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1084.*--Federal Trade Commission v. Graham Brothers Soap Co. Charge : Unfair methods of competition are charged in that the respondent labels, advertises and sells a number of Its soaps under various misleading names which important nature, qualities, and characteristics not possessed by sum id soaps, 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. 1085.*--Federal Trade Commission v. North Dakota Wholesale Grocers' Association, its officers and members. Charge : Unfair methods of competition are charged in that the respondents have agreed to confine the distribution of groceries and allied products to "regular" and "legitimate" channels of trade to wit : From the producer or manufacturer to the wholesaler, from the wholesaler to the retail dealer; and to fix uniform wholesale price and to prevent price cutting, the said agreement, enforced by intimidation , coercion and boycotting, tending to suppress and hinder competition and to obstruct the natural flow of commerce, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting examine's report.

*Complaint No. 1086.*--Federal Trade Commission v. Inecto ( Inc.). Charge : Unfair methods of competition are charged in that the respondent, in advertising its liquid human hair dye known as "Inecto-Rapid," makes numerous false and misleading statements as to the qualities, properties, uses and popularity of said hair dye, thereby misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status At issue.

*Complaint No. 1087.*--Federal Trade Commission v. E. O. Olson, trading as Worthington Creamery. & Produce Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the purchase and sale if dairy products, has offered and given competitor's employees increased salaries, commissions, compensations or other valuable consideration for the purpose of inducing said employees

to terminate their contracts of employment with respondent's and by offering increased rentals and other valuable consideration have induced lessors to violate and terminate their contracts of lease of buildings to respondent's competitors, all for the purpose of destroying or appropriating the patronage, property or business of competitors, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting briefs.

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*Complaint No. 1089.*--Federal Trade Commission v. The Three-In-One oil Co. Charge : Unfair methods of competition are charged in that the respondent employs a system for the maintenance and enforcement of certain specified uniform prices fixed by it at which its shall be resold by wholesale and retail dealers, respectively, and uses cooperative means of accomplishing the maintenance of said retail prices, thereby tending to restrain the natural flow of commerce and freedom of competition, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1092.*--Federal Trade Commission v. The Illinois and Wisconsin Retail Coal Dealers' Association, its officers and members Charge : Unfair methods of competition are charge in that the respondents have undertaken to prevent the distribution of coal through other than so-called regular channels and to prevent so-called irregular dealers, cooperative purchasing associations, and consumers from obtaining coal at wholesale prices and from other than regular dealers, effecting the enforcement of said undertaking by the issue of disparaging statements seeking to injure the business of offending wholesalers, and by other equivalent cooperative means thereby tending to hinder competition and to obstruct the natural flow of commerce, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1093.*--Federal Trade Commission v. David Bernsteen, Republic Products Co. Charge : The respondent Bernsteen was engaged formerly in the sale of lubricating oils under the trade name "Great Lakes Refining Co." and in the sale of paints under the name "Republic Paint & Lead Works," one of his products being "Paramount auto oil." The said businesses were acquired by the Klein Manufacturing Co. from at receiver for respondent, Bernsteen. Unfair methods of competition are charged in that respondents simulated the trade names acquired by the Klein Manufacturing Co. and by reason of sold simulation of names prevent the aforesaid manufacturing company from enjoying the benefits of its purchase, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting final determination by the commission.

*Complaint No. 1094.*--Federal Trade Commission v. Joseph S. Weinstock.. Charge: Unfair methods of competition are charged in that the respondent's practice of stamping as "Sheffield" or "Sheffield plate" his silver-plated ware which is not manufactured in Sheffield, England, and which Is of a quality inferior to that of the wares commonly known his Sheffield silver or Sheffield silver-plate, tends to mislead and deceive the purchasing public as to the value and quality of the respondent's wares in alleged violation of section 5 of the Federal Trade Commission act. Stratus : Awaiting answer.

*Complaint No. 1095.*--Federal Trade Commission v. DeGolyer Varnish Works. Charge: Unfair methods of competition are charged in that the respondent, in marketing a composition of shellac gum and a large quantity of shellac gum substitutes, labels, brands, and advertises said product as "White shellac" or "Orange shellac" without indicating adulteration, thereby tending to mislead and deceive the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act.. Status : Awaiting final determination by the commission

*Complaint No. 1096.*--Federal Trade Commission v. Waterproof Paint & Varnish Co. Charge : Unfair methods of competition are charged in that the respondent sells certain of its products as "Government waterproof paint" and "Government waterproof varnish" when in fact the respondent is in no way connected with the United States Government and does not manufacture its products in accordance with any formula or specification of said Government, thereby tending to mislead and deceive the purchasing public as to the value and quality of said paints and varnishes, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting approval of stipulation.

*Complaint No. 1097.*--Federal Trade Commission v. H. O. Rogers Silver Co., a corporation. Charge : Unfair methods of competition are charged In that the respondent's practice of stamping as "Sheffield" or "Sheffield, made in U. S. A.," its silver-plated ware which is not manufactured in Sheffield, England, and which is of at quality inferior to that of the wares commonly known as "Sheffield silver" or "Sheffield silver plate" tends to mislead and deceive the purchasing public as to the value named quality of its ware

in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1098.*--Federal Trade Commission v. (1) California Retail Fuel Dealers' Association, its officers and executive committee and members; (2) Retail Coal and Wood Dealers' Association of Alameda County, Stockton

Retail Coal Dealers' Association, Richmond Retail Fuel Dealers' Association, Sacramento Retail Fuel Dealers' Protective Association, San Jose Feed and Fuel Dealers' Protective Association, San Francisco Retail Coal Dealers' Association Peninsula Fuel Dealers' Association, Southern California Fuel and Feed Dealers' Association, all members of and constituting (1), their respective officers and members; (3) sundry wholesale coal companies, members of (1), the State association; named (4) sundry retail dealers who are members of (1), though not of any one of the local associations named in (2). Charge : Unfair methods of competition are charged, namely, unduly obstructing and hindering competition and depriving customers of the advantages in price, etc., which they would obtain from the natural flow of commerce in coal under conditions of free competition and further by causing procedures and wholesalers to feel constrained to confine the distribution of coal in California to channels selected and approved by respondents thus preventing cooperative associations and so-called irregular dealers from securing coal at wholesale or from any other source than from the so-called regular dealers and at the retail prices fixed by respondents (a "regular" retail dealer being an association member who engages in the sale of coal or wood as a regular business, buying to sell again; who owns and operates a yard, keeps an office, and displays a sign; has at stock of coal and proper scales to weigh the same--others are "irregular"), by price fixing by the respective local associations, the observation by all of the prices fixed within the respective territories covered thereby, punishment for nonobservance, refusal of respondent wholesalers to supply coal to other than regular dealers, attempting to persuade and, that failing, to coerce and compel other wholesalers and producers by boycott, threats of boycott, and other means of intimidation not to sell except to "regular" dealers, and by other cooperative means, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting examiner's report.

*Complaint No. 1100.*--Federal Trade Commission v. American Snuff Co. Charge: Unfair methods of competition are charged in that the respondent adopted and enforced a system of uniform prices for the resale of its products, refusing to sell to price cutters and employing other cooperative means and methods to compel the maintenance of its resale prices, thereby tending to suppress competition and to deprive the consuming public of advantages in price which they would obtain under conditions of free competition, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1101.*--Federal Trade Commission v. Oneida Community (Ltd.). Charge: Unfair methods of competition are charged in that the respondent employs a system of fixing and maintaining specified standard prices for the resale of its silver-plated flatware and uses numerous cooperative means and methods for the enforcement of said standard prices, thus tending to obstruct the free and natural flow of commerce and to establish an arbitrary price, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting examiner's report.

*Complaint No. 1102.*--Federal Trade Commission v. White Silver Co. Charge : Unfair methods of competition are charged in that the respondent, engages in the manufacture and sale of silver-plated tableware, tends to mislead and deceive the purchasing public by stamping its product as "Quadruple plate" thereby indicating that its wares have been plated four times or bear at four-fold thickness of silver plating when in fact the respondent's products are stated to be of the most thinly plated and least durable quality or variety of silver-plated commodities, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1103.*--Federal Trade Commission v. Pacific Coast Steel Co., Columbia Steel Co., Llewellyn Iron Works, Judson Manufacturing Co., Southern California Iron & Steel Co. Steel mill & Foundry Supply Co. Charge: Unfair methods of competition are charged in that the respondent manufacturing companies entered into an undertaking to suppress all competition in the purchase of scrap iron and steel, of which they are the only users in the Pacific Coast States, mammal pursuant thereto organized the respondent Steel Mill & Foundry Supply Co. to buy sufficient scrap and steel to satisfy the requirements of the respondent manufacturers, thereby making possible the purchase of said raw materials at prices far below the fair market value thereof and effecting or practical monopoly in the purchase of

said commodities, in an alleged violation of section 5 of the Federal Trade Commission act. Status :  
Awaiting examiner's report.

*Complaint No. 1104.*--Federal Trade Commission v. Adolph Greenpan, Irvine Greenpan, and Saul Goodman, partners, doing business under the trade name and style Lewis Feather Bed & Pillow Co. Charge : Unfair methods of Competition are charged in that the respondents, engaged In the purchase and sale of feather beds and pillows and having 110 factory of their own, mislead and deceive the purchasing public by depicting in catalogs the exterior and interior view of a factory claimed to be that of the respondent, and by representing and advertising that they sell direct to the consumer at factory prices, thus eliminating the middleman's profits, and in that the respondents falsely represent that their present prices are much lower than prices previously charged, and that certain of their commodities are of different grades and qualities, all in fact said commodities are all of the same grade and quality, all in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

*Complaint No. 1105.*--Federal Trade Commission v. Rosenberg & Gordon (Inc.), Park Bros. & Rogers Charge : Unfair methods of competition are charged in that certain collar buttons made of silver-plated base metal were stamped " Sterling silver" by the respondent manufacturers, pursuant to the. order of the respondent jobbers Rosenberg & Gordon (Inc.), and in that said buttons were sold as "Sterling silver" by said jobbers, all in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting approval of stipulation.

*Complaint No. 1106.*--Federal Trade Commission v. Lapat Knitting Mill, a corporation, and Sobel Hosiery Co. (Inc.) a corporation. Charge : Unfair methods of competition are charged in that the respondent manufacturer, Lapat Knitting Mill, and the respondent distributor, Sobel Hosiery Co. (Inc.) labeled, represented, and sold certain hosiery, made in part of a knit cotton fabric, as "Pure silk hosiery of quality," thereby misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting answer.

*Complaint No. 1107.*--Federal Trade Commission v. M. G. Berg and Stanton S. Sanson, partners doing business under the trade name and style Hercules Hosiery Mills. Charge : Unfair methods of competition are charged In that the respondents, engaged in the purchase and sale of hosiery, and having no factory of their own mislead and deceive the purchasing public by illustrating trade literature with exterior and interior views of a factory claimed to be that of the respondents, by the display of their trade name, and by representing and advertising that they sell direct to the consumer at factory prices, thus eliminating the middleman's profits, and in that they represent and sell their "seamless" hosiery as "fashioned" hosiery, all in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1108.*--Federal Trade Commission v Colorado Wholesale Grocers' Club, its officers and members; L. F. Hickman, individually and as president of said club; M. E. Warner individually and as secretary of said club; J. S. Brown Mercantile Co.; Colorado Merchandise Brokers' Association, Its officers and members; R M. Simons, Individually and as president of said association; G. A. Morris, Individually and its secretary of said association; C. R Hurd Brokerage Co. Charge: Unfair methods of competition are charged In that the respondents have undertaken to prevent competing dealers in food-stuffs and groceries doing business In the territories served by respondent whole sale dealers and selling said commodities both at wholesale and retail from securing same direct from the manufacturers at prices accorded wholesale dealers, giving force and effect to their agreement by threats of boycott and by intimidation and coercion and other equivalent cooperative means, thereby tending to obstruct the natural flow of commerce, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1109.*--Federal Trade Commission v. James McCord Co., Waples-Platter Grocer Co., Carter Grocery CQ., C. G. Quillian. Charge : Unfair methods of competition are charged in that the respondent entered into a. combination and undertaking to prevent one H. Lederman and other dealers not engaged in selling exclusively at wholesale to retail dealers from obtaining further supplies direct from the Reynolds Tobacco Co. at prices accorded the wholesale trade and thereupon cooperated in an endeavor to coerce said Reynolds Tobacco Co. by threats of boycott and by other forms of intimidation

into refusing to further supply its products at such prices to the said H Lederman and other dealers, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

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*Complaint No. 1110.*--Federal Trade Commission v. 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 or the Federal Trade Commission act. Status : At Issue.

*Complaint No. 1111.*--Federal Trade Commission v. Dwinell Wright Co. a corporation. Charge : Unfair methods of competition are charged in that the respondent, engaged in the importation and sale of teas and coffees, employs a system of fixing and maintaining certain specified uniform prices at which its products will be resold by wholesaler jobbers to retailers and by retailers to the consuming public, using various cooperative methods of maintaining the said established resale system, and thereby tending to hinder and suppress competition and top obstruct the free and natural flow of commerce, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1113.*--Federal Trade Commission v. McKesson & Robbins (Inc.), Schieffelin & Co., The Druggists Circular (Inc.). Change: Unfair methods of competition are charged in that the respondents conspired and cooperated to obstruct and eliminate competition in the sale and distribution of drugs, druggists' sundries, and supplies by causing advertisements of competitors of the first-named respondents to be refused and rejected by trade publications, and as to the respondent wholesalers by preventing and forestalling competitors from purchasing in commerce commodities dealt in by said respondents, and by injuring and destroying the business reputation, credit, and insurance of competitors, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting examiner's report.

*Complaint No. 1114.*--Federal Trade Commission v. M. Golden and N. Lichter, partners doing business under the trade name and style Shawmut Knitting Mills. Charge : Unfair methods of competition are charged in, that the respondents engaged in the manufacture and sale of knitted scarfs and sweaters simulate the trade name and trade-mark of the long-established and favorably known Shawmut Woolen Mills, a manufacturer of silk, cotton, and woolen fabrics, thereby tending to mislead and deceive the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting briefs.

*Complaint No. 1115.*--Federal Trade Commission v. 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 an 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 respondent's 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 employment 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 to exchange patents covering the 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 license the time covered by existing' patents owned by their or under which they are licensed, all



in alleged violation of section 5 of the Federal Trade Commission act.. Status : At issue.

*Complaint No. 1116.*--Federal Trade Commission v. Eastern Federation Farm Machinery Dealers, its officers and members; the officers, boards of directors, and members of its constituent organizations; Wright & Wilkinson (Inc.), a corporation, its officers, including Grant Wright, its president and treasurer, and editor of Its publication, "The Eastern Dealer." International Harvester Co., a corporation ; Emerson-Brantingham Company, a corporation; Moline Plow Co. (Inc.), a corporation; Oliver Chilled Plow Works, a corporation. Charge : Unfair methods of competition are charged in that the respondents entered into an unlawful agreement, understanding and conspiracy to fix and maintain prices at which agricultural implements and farm machinery should be sold in certain territories, refusing to sell, purchase from, or otherwise deal with those persons, partnerships, or corporations who continue to sell to dealers who are termed "irregular" by the respondent associations and corporations, thereby tending to restrain competition among manufacturers and retail dealers, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue

*Complaint No. 1117.*--Federal Trade Commission v. Kelasey Wheel Co. (Inc.); Jacob Mattern & Sons (Inc.); Standard Tire & Rubber Co.; William H. Johnson, trading as Jonson Wheel Co.; H. O. Norris, trading as R W Norris & Sons Co.; Motor Rim & Wheel Manufacturing Co. ; The Motor Rim Manufacturers Co. ; Keaton Tire & Rubber Co. Charge : Unfair methods of competition are charged in that the respondent manufacture and the respondent distributors have combined and cooperated to maintain and enhance prices and suppress competition in the distribution and sale of their automobile wheels and parts by means of a system of fixed retail prices and trade discounts in connection with restrictive territorial contracts and arrangements, employing cooperative methods for the maintenance of said prices and arrangements, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1118.*--Federal Trade Commission v. Missouri State Retail Coal Merchants Association, also known as the Mid-West Retail Coal Association, its officers and members. and J. B. Sanborn & Co. Charge : Unfair methods of competition are charged in that the respondents have undertaken and cooperated to prevent fine distribution of coal, ion the territory served by respondent association members, by any means other than through the so-called regular channels control led by members of the respondent association (who qualified for membership therein by reason of the fact that they are regularly engaged in business of selling coal, coke, or other fined and have facilities and stock sufficient to meet the reasonable demand of the public), and to prevent irregular dealers, cooperative associations and other consumers from obtaining coal hot wholesale prices or from any source other than the so-called regular dealers, thereby obstructing and hindering competition on the sale of coal in the territory served by the respondents and depriving consumers of the advantage in price which they would obtain from the natural flow of commerce under conditions of free competition, in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

*Complaint No. 1119.*--Federal Trade Commission v. John Blocki & Son (Inc.) ; A T. Renck and Ada A. Renck, partners doing business under the name and style A. & A. Renck ; B. F. Coleman and Maunde .W Humphrey, partners doing business under the name and style Coleman & Humphrey ; Opal Eckhoff, Martha Abel, Bess Freeman, Mary Elizabeth Hall, Tress Welsh. Charge: Unfair methods of competition are charged In that the respondent John Blocki & Son (Inc.) engaged in the manufacture of perfumes and toilet articles and the sale thereof to respondent distributors, fixed specified uniform prices for resale of its products, and In cooperation with said distributors employed a system of enforcing and maintain said resale prices ; and in that the respondent took into its employ certain employees and distributors of the Franco-American Hygienic Co., a competitor sales company which had theretofore been supplied with the respondent's products to be sold under the trade name "Franco-American," and thereupon sold the Blocki products to the public as and for the goods of said competitor, also seeking to induce the customers of said competitor to abandon the use of the products of the competitor company and to adopt

and ruse the products of the respondent manufacturer, to this end making numerous false, misleading, and unfair

representations as to said competitor, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1120.*--Federal Trade Commission v. Boston Automobile Dealers' Association (Inc.), its officers and members. Charge : Unfair methods of competition are charged in that the respondents have combined and cooperated to agree upon and fix uniform maximum allowances for used automobiles taken by respondent members in trade as partial compensation for new cars sold and to cause all dealers in the territory served by respondents, whether or not members of said association, to abide by and observe said fixed prices, the effect of said acts and practices belong to suppress competition and to deny to the purchasers of automobiles the advantages in price which they would obtain under free and unobstructed competition, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1121.*--Federal Trade Commission v. B. J. Goldstein, doing business under the trade name and style of Ajax Fire Engine Works. Charge : The respondent purchased a large number of Fyr-Fyter chemical fire extinguishers which had been made for and sold to the United States Government for use in France at the time of the World War and reimported into the United States, and which by reason of the lapse of time had become deteriorated and defective. Unfair methods of competition are charged in that the respondent advertised and offered said fire extinguishers at \$3.75 each, together with a statement to the effect that the regular retail price of said extinguishers was \$12 without stating or setting forth the facts as to said extinguishers, their age and condition, thereby tending to mislead and deceive the purchasing public and to injure the business and good will of the Fyr-Fyter Co., in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 1122.*--Federal Trade Commission v. Glidden Co. and Forest City Paint & Varnish Co. Charge : Unfair methods of competition are charged in that the respondent affiliated corporations sold paint under the name "U. S. marine paint," when in fact neither of the respondents is in any way connected with the United States Government and said products are not made for or according to any specification of said Government or the United States Navy, 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. 1123.*--Federal Trade Commission v. Real Silk Hosiery Mills, a corporation. Charge : Unfair methods of competition are charged in that the respondent makes numerous misleading statements through its salesmen and advertisements as to the production and quality of its hosiery, falsely representing that such hosiery is "fashioned" and indicating that it is wholly composed of silk, when in fact the top, toe, and heel are made of cotton and the sole is made of a mixture of cotton and silk, all in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1124.*--Federal Trade Commission v. Zellerbach Paper Co., Western Newspaper Union Carpenter Paper Co. of Utah. Charge : Unfair method of competition are charged in that the respondents, engaged in the sale of paint and paper products at wholesale, combined and cooperated to suppress competition and to enhance prices in the territory served by them by fixing uniform, minimum prices at which their products are to be sold, said fixed prices being revised from time to time to meet varying conditions of business but where so revised remaining uniform and the same for each respondent, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 1125.*--Federal Trade Commission v. Mack, Miller Candle Co. Change: The respondent is engaged in the manufacture and sale of candles, including "altar" candles, for use in religious ceremonies. The complaint relates that 50 per cent of the ingredients of said altar candles are required to be beeswax under the laws, rules, regulations, and customs of certain religious denominations and churches. Unfair methods of competition are charged in that certain of the respondent's candles, purported to be "altar" candles but containing beeswax to an amount which is no more than 15 per cent

of their total content, are falsely labeled, advertised, and represented to be in compliance with rules, laws, regulations, regulations, and customs of certain religious denominations and churches as to beeswax content, the respondent 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. 1126.*--Federal Trade Commission v. Jean Jordcau ( Inc. ). Charge: Unfair methods of competition are charged in that the respondent engaged in the manufacture and sale of compound for removing hair from the human body, commonly known as a depilatory, makes false and misleading assertions to the effect that said product removes or kills the roots of the hair, thus preventing regrowth, when in fact said depilatory does not destroy the roots of the hair nor prevent its regrowth, thereby tending to mislead and deceive the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial

*Complaint No. 1127.*--Federal Trade Commission v. 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 Jaques 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 Jaques Manufacturing Co., in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 1128.*--Federal Trade Commission v. Bohmer Coal Co., Victory Coal & Mining Co. Charge : Unfair methods of competition are charged in that the respondents by the use of the trade name “Victory coal” for their product, tend to mislead and deceive the purchasing public in the belief that the coal produced and sold by the respondents is identical with the coal produced by the long-established and favorably known Victory Collieries Co., a competitor of the respondents, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1129.*--Federal Trade Commission v. Joseph Gilbert and John Gilbert, partners, doing business under the trade name and style American Feather Bed & Pillow Co. Charge : Unfair methods of competition are charged in that the respondents, engaged in the sale of feather beds, pillows, and allied products and having no factory of their own, falsely represent and assert that they manufacture the articles in which they deal and sell them direct to the consumer at factory prices, thus eliminating the profits of all middlemen, and in that they misrepresent their commodities as of different grades and qualities when in fact the commodities thus represented to be of different grades are all of the same grade and quality, all in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

*Complaint No. 1130.*--Federal Trade Commission v. Riverside Rice Milling Co. (Inc.). Charge : Unfair methods of competition are charged in that the respondent, being engaged in the purchase of the rice it sells and having no rice mill of its own, tends to deceive the purchasing public by the use of the word “milling” in its corporate name, misleading the purchasing public into the belief that the respondent is a miller of rice and thereby saves its customers the profits of all intermediate dealers, in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

*Complaint No. 1131.*--Federal Trade Commission v. Cosmopolitan Silver Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture of silver-plated ware in the city of New York and in the sale thereof, stamps its silverware with the words “Sheffield,” “Sheffield plate,” or other similar designations containing the word “Sheffield,” thereby tending to create the false impression that its silver-plated ware was manufactured in Sheffield, England, and is of the high quality associated with the terms “Sheffield silver” and “Sheffield plate,” in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1132.*--Federal Trade Commission v. Firestone Steel Products Co., Jacob Mattern & Sons (Inc.), Motor Rim Manufactures Co., Motor Rim & Wheel Manufacturing Co., Keaton Tire & Rubber Co., Standard Tire & Rubber Co., Standard Tire & Rubber Co., Phineas Jones & Co., Eastern Rim & Wheel Co., And H. O. Norris, trading as R. W. Norris & Sons Co. Charge: Unfair methods of competition are charged in that the respondent manufacturer. Firestone Steel Products Co., and its distributors, the remaining respondents, have combined and cooperative to maintain and enhance prices

and suppress competition in the distribution and sale of their automobile wheel rims and rim parts by means of a system of fixed retail prices trade discounts in connection with restrictive territorial contracts and arrangements employing cooperative methods for the maintenance of said prices and arrangements, in alleged violation of section 5 of the Federal trade Commission act. Status: At issue.

*Complaint No. 1133.*--Federal Trade Commission v. Edwin A. Ames, trading as Ostermoor & Co. Charge : The respondent, in the sale of its felt mattresses attaches to each mattress a brand or label carrying pictorial representation, or depletions of complete and incomplete Ostermoor mattresses with superimposed layers of cotton felt protruding therefrom. Unfair methods of competition are charged in that said depictions are false, deceptive, and misleading, designed to deceive and mislead the purchasing public into the belief that they were made from and are truthful portrayals of the Ostermoor mattress as offered to the public, and that the cotton felt layers commonly known as "hats" are of great number and possessed of great resilience and elasticity, when in fact said depictions were made from a model specially constructed by the respondent and are grossly exaggerated and inaccurate depictions of the content and quality of the mattresses sold by the respondent, and in that the respondent's advertising matter is similarly false and misleading, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 1134.*--Federal Trade Commission v. P. H. Hanes Knitting Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of underwear, fixes and maintains certain specified uniform prices for the resale of its products by wholesale dealers, refusing to supply price-cutting dealers and employing various other cooperative means for the enforcement of its system of resale prices, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1135.*--Federal Trade Commission v. Samuel Seligson. Charge : Unfair methods of competition are charged in that the respondent, engaged in the purchase of men's clothing for resale, falsely advertises that he manufactures his clothing, thereby tending to mislead and deceive the purchasing public into the belief that the respondent owns, controls, or operates a clothing factory and that consumers buying from the respondent are buying from the manufacturer and saving the profits of middlemen, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1136.*--Federal Trade Commission v. Patent Cereals Co. Charge : Unfair methods of competition are charged In that the respondent, engaged in the manufacture of dry paste from corn and the sale thereof to paper hangers and bookbinders, fixed certain standard prices for the resale of its product by wholesalers and subjobbers, refusing to sell to price clutters and employing other cooperative means for two maintenance of said standard resale prices, thereby tending to restrain the natural flow of commerce and freedom of competition, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1137.*--Federal Trade Commission v. James B. Hall, jr. (Inc.), a corporation. Charge : Unfair methods of competition are charged In that the respondent, engaged in the manufacture of cigars in New York, N. Y., falsely advertises its product as manufactured from tobacco grown on the island of Cuba on plantations owned by the respondent and at a saving of from 50 to 80 per cent to the purchaser, and in that it uses the word "Havana" and labeling said cigars, thereby furthering the deception, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1138.*--Federal Trade Commission v. Edwin Cigar Co. (Inc.), a corporation. Charge : Unfair methods if competition are charged In that the respondent, engaged in the manufacture of cigars in New York, N. Y., falsely advertises its product as manufactured from tobacco grown on the Island of Cuba on plantations owned by the respondent at a saving of more than 50 per cent to the purchaser, and in that it uses the word "Havana" in labeling said cigars, thereby furthering the deception, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1139.*--Federal Trade Commission v. H. F. Fliegelman, Charge : Unfair methods of competition are charged in that the respondent, engaged In the purchase and resale of furniture and having no factory of his own, falsely advertises and sells his product as "direct from factory to you," thereby tending to mislead the purchasing public into the belief that purchases made from the respondent are from the manufacturer of said furniture and at a saving of middlemen's profits, in alleged violation of section

5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1140.*--Federal Trade Commission v. Cleveland Metal Products Co. Charge : Unfair methods of competition are charged in that the respondent enforces a merchandising system by which certain specified uniform



prices are fixed and maintained for the resale of its stoves and heaters by retail dealers, the respondent refusing to supply price cutters and employing cooperative methods for the enforcement of said standard resale prices, thereby tending to suppress competition and to deprive ultimate purchasers of the advantages they would obtain from the natural and unobstructed flow of commerce in such commodities, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1141.*--Federal Trade Commission v. Standard Oil Co. of Kentucky. Charge : Unfair methods of competition are charged in that the respondent enforces a merchandising system by which certain specified uniform prices are fixed and maintained for the resale of its stoves and heaters by retail dealers, the respondent refusing to supply price cutters and employing cooperative methods for the enforcement of said standard resale prices, thereby tending to suppress competition and to deprive ultimate purchasers of the advantages they would obtain from the natural and unobstructed flow of commerce in such commodities, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1142.*--Federal Trade Commission v. Samson Rosenblatt. Charge: The complaint relates that the Jacques Manufacturing Co. sold its K. C. baking powder to the United States Government for use in France during the World War, and that so much of said baking powder as remained unused was sold by the United States Government as Army surplus property. Unfair methods of competition are charged in that the respondent, having purchased large quantities of said surplus baking powder, which had become deteriorated in quality and effectiveness, advertised and resold the K. C. baking powder under the label of the Jacques Manufacturing Co. and without in any manner disclosing that said product was deteriorated thereby tending to mislead and deceive the purchasing public and to prejudice and injure the business and good will of the Jacques Manufacturing Co., in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting briefs.

*Complaint No. 1143.*--Federal Trade Commission v. P. Perlmutter and C. W. Quigley, partners doing business under the trade name and style P. and Q. Furniture Store. Charge : Unfair methods of competition are charged in that the respondents, engaged in the purchase and resale of furniture and having no factory of their own, sell and advertise said furniture as from "factory direct to you," thereby tending to mislead the purchasing public to believe that in dealing with the respondents they are buying direct from the manufacturer and saving the profits of middlemen, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1144.*--Federal Trade Commission v. Joseph Byrne, doing business under the trade name and style Perfumers' Journal and Essential Oil Recorder. Charge : Unfair methods of competition are charged in that the respondent, in the publication of his perfumery trade journal, simulates the name of a like publication of one Louis S. Levy, long established and favorably known to the perfumery trade, thereby tending to mislead and deceive the trade into the belief that respondent's trade journal is the same as that published by said Louis S. Levy, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1145.*--Federal Trade Commission v. Northwestern Traffic & Service Bureau (Inc.), its officers, directors, and subscribers, and Northwestern Publishing Co. and its president. Charge : Unfair methods of competition are charged in that the respondents, by cooperating in the enjoyment of various unfair, intimidating, and coercive measures in behalf of their subscribers, heretofore affiliated as the Northwestern Retail Coal Dealers Association, and with the said respondent publishing company's trade journal "The Coal Dealer," tend to constrain producers and wholesalers of coal to confine distribution to so-called regular channels selected and approved by the respondents and to prevent the sale of coal to independent consumers, thereby obstructing and hindering competition, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1146.*--Federal Trade Commission v. Ideal Baby Shoe Co. Charge: Unfair methods of competition are charged in that the respondent manufacture of children's shoes, by the use of its

corporate name, tends to mislead and deceive the trade and public into the belief that its business is identical with the long established and favorably known business conducted by one Adra L. Day under the trade name "Ideal Baby Shoe Co.," in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

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*Complaint No. 1147.*--Federal Trade Commission v. John Moir, William T. Rich, Harry L. Jones, Fred A. Flood, Warren F. Kimball, Charles R. Butler, Calton Moseley, and Henry T. Brown, partners doing business under the trade name and style of Chase & Sanborn. Charge: Unfair methods of competition are charged in that the respondents, engaged in the sale of coffees and teas to wholesale and retail dealers, established certain specified prices for the resale of their products by retailers, refusing to sell to price cutters, and employing other cooperative means for enforcing said standard resale prices, thereby hindering and suppressing competition and obstructing the free and natural flow of commerce, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 1148.*--Federal Trade Commission v. Harriet Hubbard Ayer (Inc.). Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of perfumes, cosmetics, and allied products, fixed specified uniform prices for the resale of its products by retailers, enforcing the observance of said standard resale prices by refusing to sell to price cutters, and by the employment of cooperative means of price maintenance, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 1149.*--Federal Trade Commission v. Marinello Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of cosmetics and allied products commonly called toilet articles, adopted a system of fixing standard prices for the resale of its products, refusing to sell to price cutters and employing cooperative means for the enforcement of said standard resale prices, thereby tending to deprive the ultimate purchasers of advantages in price which they would obtain from the natural and unobstructed flow of commerce, in alleged violation of section 5 of the Federal Trade Commission Act. Status : In course of trial.

*Complaint No. 1150.*--Federal Trade Commission v. Morton F. Baum, an Individual doing business under the trade name and style Michigan Sample Furniture Co. Charge : Unfair methods of competition are charged in that the respondent retailer falsely advertises that its furniture is sold at manufacturers' prices, thereby tending to mislead the purchasing public into the belief that middlemen's profits are saved to the respondent's customers, and in that the respondent advertises and offers certain of his furniture as "walnut" when in fact said furniture is made of woods other than walnut and in imitation of genuine walnut wood, all in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1151.*--Federal Trade Commission v. Robert Lewis, an individual doing business under the trade name and style Great Eastern Wholesale Furniture Co. Charge : Unfair methods of competition are charged in that the respondent retailer falsely advertises that his furniture is sold at wholesalers' prices, thereby tending to mislead the purchasing public into the belief that middlemen's profits are saved to the respondent's customers; and in that the respondent advertises and offers certain of his furniture as "walnut" when in fact said furniture is made of woods other than walnut and in imitation of genuine walnut wood, all in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1152.*--Federal Trade Commission v. M. Goldberg, an individual doing business under the trade name and style "Factory-to-You Furniture Store." Charge : Unfair methods of competition are charged in that the respondent retailer advertises and sells his furniture as from "Factory-to-You" when in fact the respondent is not a manufacturer but purchases for resale, and in that the respondent advertises certain of his furniture as "mahogany" or "walnut" or "genuine leather" when in fact said furniture is made of woods other than mahogany or walnut or is covered or upholstered with material other than leather, and in imitation of genuine mahogany, walnut, or leather respectively, thereby tending to mislead and deceive the purchasing public as to price and quality, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1153.*--Federal Trade Commission v. The National Association of Stationers & Manufacturers of the United States, its officers and members, et al. Charge : Unfair methods of competition are charged In that the respondent associations of stationery manufacturers and dealers entered into a combination and conspiracy with the purpose, intent, and effect of discouraging, stifling,

and suppressing competition in the wholesale and retail stationery trade and of enhancing the prices of such goods by (a) establish

ing and maintaining a National Catalogue Commission for the preparation and distribution of lists of standard minimum retail prices; (b) establishing and maintaining local committees to further the purposes of the National Catalogue Commission; (c) inducing manufacturers to adopt the recommendations of the National Catalogue Commission and to increase their list prices, enlarge trade discounts and standardize resale prices; (d) endeavoring to compel the adoption of said minimum prices and standard retailers' discounts (e) securing the adoption of standard cost-keeping methods which have the effect of inflating costs as a basis for the gross margins to be secured and the resale prices to be recommended; (f) encouraging refusal to sell to price cutters; (g) by inducing dealers to boycott manufacturers not in harmony with the policies of the respondents and give preference to cooperating manufacturers; (h) circulating false and derogatory statements concerning the quality of goods and business methods of those who refuse to adopt the respondents' recommendations; (i) inducing manufacturers to refuse to sell to the so-called irregular dealers, transient dealers and brokers; (j) endeavoring to eliminate competition between the various branches of the trade and discriminating in favor of manufacturers who abstain from selling direct to consumers; (k) gathering and disseminating information in aid of the enforcement of the aforesaid policies and excluding from membership in the respondent association all retailers not in harmony with said policies, all in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1154.*--Federal Trade Commission v. L. Pinacus and Benjamin Blanstein, partners doing business under the trade names Louben Furniture Co. and the Big G Furniture Warehouse. Charge: Unfair methods of competition are charged in that the respondent retailers falsely indicate that they are fine manufacturers of the furniture which they in fact buy for resale, and in that they advertise certain of their furniture as "mahogany" or "walnut" or "genuine blue leather" or "imperial leather," when in fact said furniture is made of woods other than mahogany or walnut or is covered or upholstered with materials other than leather, said materials being in imitation of genuine mahogany, walnut, or leather, respectively, thereby tending to mislead the purchasing public as to price and quality, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1155.*--Federal Trade Commission v. Western Silver Works ( Inc.). Charge : Unfair methods of competition are charged in that the respondent's practice of using the word " Sheffield " or " Sheffield plate " in designating its silver-plated ware which is not manufactured in Sheffield, England, nor of the quality of genuine Sheffield silver and Sheffield plate, tends to mislead and deceive the purchasing public as to the value and quality of said product, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1156.*--Federal Trade Commission v. Hemill Silverware Co. Charge : Unfair methods of competition are charged in that the respondent's practice of using the word " Sheffield " or " Sheffield plate " in designating its silver-plated ware which is not manufactured in Sheffield, England, nor of the quality of genuine Sheffield silver and Sheffield plate, tends to mislead and deceive the purchasing public as to the value and quality of said product, in alleged violation of section 5 of the Federal Commission act Status : At issue.

*Complaint No. 1157.*-Federal Trade Commission v. Benedict Manufacturing Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of silver-plated ware, stamps its products with the words "Quadruple plate," thereby tending to create the false impression that its ware have been coated or plated four times and to induce the purchase of its product in preference to competitors' commodities of similar quality not misrepresented, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1158.*-Federal Trade Commission v. W. A. L. Silver Manufacturing turning Co. Charge: Unfair methods of completion are charge in that the respondent, engaged in the manufacture of silver-plated ware in the City of New York, stamps its silverware with the words " Sheffield," " Sheffield plate," on' other similar designations containing the word "Sheffield," thereby tending to create the false

impression that its silver-plated ware was manufactured in Sheffield, England, and is of the high quality associated with genuine Sheffield silver and Sheffield plate, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1159.*--Federal Trade Commission v. T. Weisenfreind and B. Lieberman, partners, doing business under the trade name and style Century Silver Manufacturing Co. Charge: Unfair methods of competition are charged in that the respondents, engaged in the manufacture of silver-plated ware in the city of New York, confuse and mislead the purchasing public by stamping their wares with such designations as "Sheffield," "Sheffield plate," "Quadruple plate," "Guaranteed Dutch silver," any and all of which are misrepresentative of the manufacture, quality, and value of the respondent's products in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1160.*--Federal Trade Commission v. A.L. Wagner Manufacturing Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture of silver-plated ware in the city of New York, stamps its silverware with the words "Sheffield," or other similar designations containing the word "Sheffield," thereby tending to create the false impression that its silver-plated ware was manufactured in Sheffield, England, and is of the high quality associated with genuine Sheffield silver and Sheffield plate, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1161.*--Federal Trade Commission v. Abraham Ash, doing business under the trade name and style Abraham Ash Co. Charge : Unfair methods of competition are charge in that the respondent by designating his silver plated ware as "Sheffield plate made in U. S. A." falsely indicates that said product is of the quality associated with Sheffield silver and Sheffield plate made by the silversmiths of Sheffield, England, thereby tending to mislead and confuse the purchasing public, int alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1162.*--Federal Trade Commission v. The Rialto Silver Plated Ware Co. (Inc.). Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture of silver-plated with in the city of New York, stamps its silverware with the words are "Sheffield," "Sheffield plate," or other similar designations containing the word "Sheffield," thereby tending to create the false impression that its silver-plated ware was manufacture in Sheffield, England, and is of the high quality associated with genuine Sheffield silver and Sheffield plate, in alleged violation of section 5 of the Fed Federal Trade Commission act. Status At issue.

*Complaint No. 1163.*--Federal Trade Commission v. Keystone Metal Spinning & Stamping Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture of silver-plated ware in the city of New York, confuses and misleads the purchasing public by stamping its wares with such designations as "Sheffield," "Sheffield plate," and "Quadruple plate," nanny and hall of which are misrepresentative of the manufacture, quality, and value of the respondent's products, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1164.*--Federal Trade Commission v. The Best Foods (Inc.) The Nucoa Butter Co., a corporation. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of a substitute for butter, contracts for the safe of its product and the prices to be charged therefor on the condition that the purchaser thereby shall not deal in similar products manufactured by competitors, thereby tending to create a monopoly in alleged violation of section 3 of the Clayton Act, and in that it employs a system of fixing and maintaining specified standard resale prices, refusing to sell to price cutters and using cooperative methods for the maintenance of said prices, also granting resale privileges in certain territories and providing free advertising and the service of specialty salesmen on agreement by its customers that competitors' products will not be dealt in, thereby tending to hinder and obstruct net competition, in alleged violation of section 5 of the Federal Trade of the Commission act. Status : In course of trial.

*Complaint No. 1165.*--Federal Trade Commission v. James A McCafferty Sons Manufacturing Co. (Inc.). Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of paint and paint products, advertises and sells one of its products as "Gold seal combination white lead," when in fact said product contains no sulphate or carbonate of lead in amount

greater than 3 per cent of the total ingredients of said product, thereby tending to mislead and deceive the purchasing public as to the quality of said product, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.



*Complaint No. 1166.*--Federal Trade Commission v. Louis Leavitt. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of paint products, advertises and sells one of his products as "Gold seal combination white lead," when in fact said product contains no sulphate or carbonate of lead in amount greater than 1 per cent of the total ingredients of said product, thereby tending to mislead and deceive the purchasing public as to the quality of said commodity, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1167.*--Federal Trade Commission v. Robert F. Mackenzie Co. Charge : The complaint relates that the respondent) manufactures and markets an assort assortment of candies labeled "Lucky Reds," said candies to be sold at retail at 1 cent each. Included in its packages are bars of candy, advertised as of 5 and 10 cent value, constituting prizes to be secured wholly by lot by the makers of the 1 cent purchases, the said prizes to be given to those who by chance purchase a candy with a red center of which there are a few in every box. Unfair methods of competition are charged in that the respondent by thus supplying and providing said lottery tends to induce the public to purchase chase its candies in preference to those of its competitors because of the chance of thereby obtaining free of charge the candy constituting the prize, in alleged violation of section 5 of the Federal Trade Commission on act. Status : At issue.

*Complaint No. 1168.*--Federal Trade Commission v. Quaker Oats Co. Charge : Unfair methods of competition are charged in that the respondent, in the sale of its animal feed products, discriminates between its preferred jobbers and retailers and ordinary jobbers and retailers by requiring such ordinary jobbers and retailers to pay certain arbitrary sums of money, known as "overages," in excess of regular list prices, which overages are thereupon given to the preferred jobbers and retailers as a subsidy without the knowledge and consent of the ordinary jobbers and retailers who by reason of said practice are compelled to maintain fixed resale prices, the respondent by reason of said discrimination in price tending to suppress competition and to create a monopoly in the sale of said products, In alleged violation of section 5 of the Federal Trade Commission act and section 2 of the Clayton Act. Status : Awaiting answer.

*Complaint No. 1169.*--Federal Trade Commission v. The Ralston Co. Charge : Unfair methods of competition are charged in that the respondent in the sale of its animal feed products discriminates between its preferred jobbers and retailers and ordinary jobbers, and retailers by requiring such ordinary jobbers and retailers to pay certain arbitrary sums of money, known as "overages," in excess of regular list prices, which overages are thereupon given to the preferred jobbers and retailers as a subsidy without the knowledge and consent of the ordinary jobbers and retailers who by reason of said practice are compelled to maintain fixed resale prices, the respondent by reason of said discrimination in price tending to suppress competition and to create a monopoly in the sale of said products, in alleged violation of section 5 of the Federal Trade Commission act and section 2 of the Clayton Act. Status : At issue.

*Complaint No. 1170.*--Federal Trade Commission v. M. C. Peters Mill Co. Charge : Unfair methods of competition are charged in that the respondent, in the sale of its animal feed products, grants its "straight list prices" to those jobbers and retailers only who agree to purchase and sell respondent's products exclusive of all other products of similar or competitive nature, and discriminates between its preferred jobbers and retailers and ordinary jobbers and retailers by requiring such ordinary jobbers and retailers to pony certain arbitrary sums of money, known as "overages," in excess of regular list prices, which overages are thereby given to the preferred jobbers and retailers as a subsidy without the knowledge and consent of the ordinary jobbers and retailers who by reason of said practice are compelled to maintain fixed resale prices, the respondent by reason of said discrimination in price tending to suppress competition and to create a monopoly in the sale of said products, in alleged violation of section 5 of the Federal Trade Commission act and sections 2 and 3 of the Clayton Act. Status : Awaiting answer.

*Complaint No. 1171.*--Federal Trade Commission v. The Larowe Milling Co. Charge : Unfair

methods of competition are charged in that the respondent in the sale of its animal feed products discriminates between its preferred jobbers and retailers and ordinary jobbers and retailers by requiring such ordinary jobbers and retailers to pay certain arbitrary sums of money, known as "over

ages," in excess of regular list prices which overages are thereupon given to the preferred jobbers and retailers as a subsidy without the knowledge and consent of the ordinary jobbers and retailers who by reason of said practice are compelled to maintain in fixed resale prices, the respondent by reason of said discrimination in price tending to suppress competition and to create a monopoly in the sale of said products, in alleged violation of section 5 of the Federal Trade Commission act and section 2 of the Clayton Act. Status : Awaiting answer.

*Complaint No. 1172.*--Federal Trade Commission v. Crescent Manufacturing Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of food and grocery products, has adopted a merchandising system of fixing and maintaining certain specific uniform prices for the resale of its products, refusing to supply price-cutters and employing cooperative means and methods to compel the maintenance of said fixed retail prices, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1173.*--Federal Trade Commission v. Ferdinand Jacobson, Joseph C. Jacobson, Harry S. Jacobson, Moses Jacobson, and Samuel Jacobson, partners doing business under the name and style F. Jacobson & Sons. Charge: unfair methods of competition are charged in that the respondents label and sell their men's shirts, made from materials manufacture in the United States, as "English broadcloth," thereby tending to mislead the purchasing public to believe that the respondents' shirts are manufactured from English broadcloth imported from England, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting answer.

*Complaint No. 1174.*--Federal Trade Commission v. Clayton on F. Summy Co. Charge : Unfair methods of competition are charged in that the respondent marks its sheet music with fictitious and exaggerated retail prices, thereby tending to mislead and deceive the uninformed public as to the actual value of the respondent's product, in alleged violation of Section 5 of the Federal Trade Commission act. Status : In course of trial.

*Complaint No. 1175.*--Federal Trade Commission v. W. J. Rooks, G. W. Rooks, J. R. Fox, C. T. Wass, I. W. S. Sunberg, R. D. Rooks, James F. Quinn, and U. S. Oil Company (Inc.). Charge: Unfair methods of competition are charged in that the respondents have offered and given sums of money to employees of purchasers of textile oils and allied products, without the knowledge and consent of the employers and principals, as inducements to such employees to recommend the products of the respondent corporation and secure the purchase thereof by their employers and principles in preference to the like commodities of competitors of the respondent corporation, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1176.*--Federal Trade Commission v. Waverly Oil Works Co. Charge : Unfair methods of Competition are charged in that the respondent brands and labels its petroleum in distillates as "Tur-min-time" and "Min-seed-oil," thereby tending too mislead the purchasing public to believe that said products contain turpentine or linseed respectively, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1177.*--Federal Trade Commission v. H. R. Mallinson & Co. (Inc.), a corporation. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of textiles or fabrics composed, in whole or in part, of silk, sells certain of its products which contain more or less wool or other materials not silk, under trade names or brands which tend to mislead the purchasing public into the belief that said products are composed entirely of silk, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting answer.

*Complaint No. 1178.*--Federal Trade Commission v. T. M. Sayman Products Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture of medicinal preparations, soaps, perfumes and allied products has adopted a merchandising system of fixing and maintaining certain specific uniform prices for the resale of its products, refusing to supply price-cutters and employing cooperative means and methods to compel the maintenance of said fixed resale prices,

in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

*Complaint No. 1179.*--Federal Trade Commission v. Federal-Friedrich Chemical Co., a corporation.  
Charge : Unfair methods of competition are charged in that the respondent, engaged in the sale of toilet preparations

containing no lemon juice or citric acid or properties tending to produce bleaching or whitening, labels and advertises its products by featuring prominently the word "lemon" and implies that said products contain lemon juice or citric acid, thereby tending to mislead the purchasing public as to the quality and properties of said toilet preparations, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting answer.

*Complaint No. 1180.*--Federal Trade Commission v. Holly Sugar Corporation, Southern California Sugar Co., Santa Ana Sugar Co., Alameda Sugar Co., and S. W. Sinsheimer. Charge : It is charged that the respondent, S. W. Sinsheimer, is ineligible to act as director of any two or more of the respondent corporations and that his service in that capacity constitutes a violation of section 5 of the Clayton Act. Status : At issue.

*Complaint No. 1181.*--Federal Trade Commission v. Holly Sugar Corporation. Charge : It is charged that the respondent by acquiring the stock or share capital of the Southern California Sugar Co., Santa Ana Sugar Co., and Alameda Sugar Co., tends to substantially lessen competition, to restrain commerce, and to create in monopoly in commerce in beet sugar, in alleged violation of section 7 of the Clayton Act. Status : At issue.

*Complaint No. 1182.*--Federal Trade Commission v. Holly Sugar Corporation, Southern California Sugar Co., and E. A. Carlton. Charge : It is charged that the respondent E. A. Carlton, is ineligible to act as director of both the respondent corporations and that his service in that capacity constitutes violation of section 5 of the Clayton Act. Status: At issue.

*Complaint No. 1183.*--Federal Trade Commission v. Philip Carey Manufacturing Co., Philip Carey Co., Waring Underwood Co., Pioneer Asphalt Co., Western Elaterite Roofing Co. Charge : Unfair methods of competition are charged in that the respondents, in the manufacture or sale of asphalt paving joints, entered into a combination and undertaking to suppress competition by entering into uniform license agreements and by establishing and observing uniform prices for the sale of said product, thereby denying purchasers the advantages in price which they would enjoy under conditions of natural and normal competition, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1184.*--Federal Trade Commission v. Philip Carey Manufacturing Co., Philip Carey Co. Charge: Unfair methods of competition are charged in that the respondent's practice of entering into exclusive contracts whereby competitors bind themselves not to deal in the products of any competitor of respondents tends to substantially lessen competition in the sale of asbestos and asphalt products, and asphalt paving joints particularly, and to create a monopoly of such commerce in the hands of the respondents, in alleged violation of section 5 of the Federal Trade Commission act and section 3 of the Clayton Act and in that the respondents make disparaging statements concerning competitors' products, business methods, and financial responsibility, practice espionage, threaten and intimidate customers of competitors, thereby causing them to break existing contracts, and threaten infringement suits without intention of bringing such suits, said persecution and harassment against competitors being calculated and intended to prevent sales of said competitors paving joints, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1185.*--Federal Trade Commission v. Tivoli-Union Co., John C. Cavos. Charge : Unfair methods of competition are engaged in that the respondents, engaged in the sale of a malt beverage named "Flag-Staf malt beverage, simulate the trade name, brand, and labels of the Falstaff Corporation, long established and favorably known as a manufacturer of malt beverages, thereby tending to mislead the purchasing public into the belief that the respondent's beverage is identical with that of the beverage manufactured by the said Falstaff Corporation, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting answer.

*Complaint No. 1186.*--Federal Trade Commission v. the Good-Grape Co., corporation. Charged: Unfair methods of competition are charged in that the respondent engaged in the manufacture

and sale of a sirup for beverages, labels and advertises its product with the name "Good-Grape," and otherwise indicates that it is composed of the juice of the natural fruit of the grape when in fact said product is not made of the juice of the grape, thereby tending to mislead the purchasing public as to the quality of its product and to stifle and suppress competition in the sale of beverages made in whole or in part of juice from the natural fruit of the grape and to divert the trade from truthfully marked goods,

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in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1187.*--Federal Trade Commission v. Franklin Coal Co. Charge : Unfair methods of competition are charged in that the respondent sells its coal as "Mt. Olive coal" and "Mt. Olive district coal" thereby tending to mislead the consuming public to believe that the respondent's coal is the favorably known product of the Mount Olive district, in the State of Illinois, when in fact the respondent's coal is not derived from said Mount Olive district, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting answer.

*Complaint No. 1188.*--Federal Trade Commission v. James Heddon's Sons, a corporation. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture of fishing tackle, artificial bait, and allied products, enforces merchandising system adopted by it of fixing and maintaining certain specific prices of the resale of its products, refusing to supply price cutters and employing cooperative means and methods for the enforcement of said resale prices, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting answer.

*Complaint No. 1189.*--Federal Trade Commission v. Interwoven Stocking Co. Charge : Unfair methods of competition are charged in that the respondent adopted a merchandising system of fixing and maintaining certain associated uniform prices for the resale of its hosiery, refusing to supply price cutters and employing cooperative means and methods for the enforcement of said resale prices, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting answer.

*Complaint No. 1190.*--Federal Trade Commission v. U. S. Sanitary Specialties Corporation. Charge: Unfair methods of competition are encouraged in that respondent causes to be sent to competitors and to customers of competitors letters of warning advising the recipients that the manufacture, sale or use of competitors' products is an infringement of respondent's patent and threatening to institute legal proceedings unless recipients discontinue the manufacture, sale or use of said competing products, in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting answer.

*Complaint No. 1191.*--Federal Trade Commission v. Furniture Manufacturers' Show Rooms (Inc.). Charge : Unfair methods of competition are charged in that respondent, engaged in the purchase and resale of furniture and having mill factory of his own, sells and advertises such furniture as "direct from the factory," thereby tending to mislead the purchasing public to believe that in dealing with the respondent they are buying direct from the manufacturer and saving the profits of middlemen, and in that respondent represents and sells as mahogany, furniture made of woods other than mahogany, all in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

*Complaint No. 1192.*--Federal Trade Commission v. Kritzer (Inc.). Charge : Unfair methods of competition are charged in that respondent engaged in the resale of furniture which he has purchased, for the most part, from manufacturers other than those of Grand Rapids, Mich., by using the trade name "Furniture manufacturers warehouse" and falsely advertising that he is a sales agent for furniture manufacturers of Grand Rapids, Mich., tends to mislead the purchasing public to believe that in dealing with the respondent they are buying direct from the manufacturer and saving the profits of middlemen, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting answer.

*Complaint No. 1193.*--Federal Trade Commission v. Grand Rapids Smiles Co. Charge : Unfair methods of competition are charged in that respondent, engaged in the resale of furniture which he has purchased for the most part. from manufacturers other than those of Grand Rapids, Mich., by using the trade name "Grand Rapids Sales Co." and falsely advertising that he is no sales agent for furniture manufacturers of Grand Rapids, Mich., tends to mislead. the purchasing public into the belief that in dealing with the respondent they are buying direct from the manufacturer and saving the profits of middlemen, in all alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting answer.

*Complaint No. 1194.*--Federal Trade Commission v. M. H. Powers Co. (Inc.). Charge : Unfair methods of competition are charged in that respondent, engaged in the resale of furniture with he has

purchased for the most part from  
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manufacturers other than those of Grand Rapids, Mich., falsely advertises that the is a sales agent for furniture manufacturers of Grand Rapids, Mich., thus tending to mislead the purchasing public into the belief that in dealing with respondent they are buying direct from the manufacturer and saving the profits of middlemen, in alleged violation of section 5 of the Federal Trade Commission act. Awaiting answer.

*Complaint No. 1195.*--Federal Trade Commission v. Nathan Tannebaum, trading as Capitol Furniture Distributing Co. Charge: Unfair methods of competition are charged in that respondent, engaged in the resale of furniture which he has purchased for the most part from manufacturers other than those of Grand Rapids, Mich., falsely advertises that he is a sales agent for furniture manufacturers of Grand Rapids, Mich., together with statements to the effect that furniture buyers save 40 to 50 per cent by buying direct from the manufacturer, thus tending to mislead the purchasing public into the belief that in dealing with respondent they are buying direct from the manufacturer and saving the profits of middlemen, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting answer.

*Complaint No. 1196.*--Federal Trade Commission v. Wisconsin Wholesale Grocers' Association, James D. Godfrey, individually and as president of said association; M. J. Brew, individually and as first vice president of said association; Mitchell James, individually and as second vice president of said association; Francis E. Dewey, individually and as treasurer of said association; Francis J. Reckert, individually and as secretary of said association; Glass-Turbusi Co.; Otto L. Kuehn & Co. Charge: Unfair methods of competition are charged in that respondents have agreed to confine the distribution of groceries and allied products to "regular" and "legitimate" channels of trade, to wit, from the producer or manufacturer to the wholesaler, from the wholesaler to the retail dealer, and to fix uniform wholesale prices and to prevent price cutting, the said agreement, enforced by intimidation, coercion, and boycotting, tending to suppress and hinder competition and to obstruct the natural flow of commerce, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting answer.

*Complaint No. 1197.*--Federal Trade Commission v. Northern Jobbers Club, Walter H. Gander, individually and as president of said club, Leland James, individually and as secretary-treasurer of said club, Glass-Turbush Co., Otto L. Kuehn & Co., the Zinke Co., Bemis Hooper Hays Co., F. B. Ives Co., S. C. Shannon Co., J.-F Rappl Co., the Capps Co., Wilson Mercantile Co., Marshfield Grocer Co., Booth Newton Co., James Bros. Co., Frank C. Schilling Co., Brelling Ines Co., National Grocer Co., Gannon Grocery Co., Roach & Seeber Co., the Peninsular Wholesale Grocery Co., Carpenter-Cook Co. Charge: Unfair methods of competition are charged in that respondents have agreed to confine the distribution of groceries and allied products to "regular" and legitimate "channels of trade, to wit, from the producer or manufacturer to the wholesaler, from the wholesaler to the retail dealer, and to fix uniform wholesale prices and to prevent price cutting, the said agreement, enforced by intimidation, coercion, and boycotting, tending to suppress and hinder competition and to obstruct the natural flow of commerce, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting answer.

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