ANNUAL REPORT

OF THE

FEDERAL TRADE COMMISSION

FOR THE

FISCAL YEAR ENDED JUNE 30, 1925

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CONTENTS

	Page
Introduction	1
Changes in procedure and policies	1
Limitation on congressional inquiries	1
Report by divisions of work	3
Administrative division	3
Personnel	3
Fiscal affairs	5
Publications	7
Docket	8
Library	8
Quarters	8
Legal division	9
Federal Trade Commission act	9
Clayton Act	10
Summary	12
Methods of competition condemned	14
Special legal inquiries	18
Procedure and statistics on legal work	19
Preliminary inquiries	19
Applications for complaints	21
Complaints including orders to cease and desist	23
Dismissal of complaints	24
Representative complaints	27
Allied Chemical & Dye Corporation	29
Midland Steel Products Co	29
Hayes Wheel Co	30
Northwestern Traffic & Service Bureau	30
Abrasive Paper and Cloth Manufacturers' Exchange	30
National Leather & Shoe Finders' Association	31
Arkansas Wholesale Grocers' Association	31
Furniture cases	32
Grand Rapids Furniture Manufacturers Association	32
Misbranding of fabrics cases	33
Irish lace cases	33
Orders to cease and desist	33
Representative orders	35
Pittsburgh Coal Co. of Wisconsin	35
T. M. Sayman Products Co	35
Proctor & Gamble	36
Misrepresentation-Feather beds	36
Missouri-Kansas Wholesale Grocers' Association	36
Keeler Bros. & Co	37
Misrepresentation in the sale of butter	37
Misleading advertising-Correspondence school	38
Misrepresentation in production of motion pictures	38
False and misleading advertising--Sheffield plate	39

Report by divisions of work--Continued.
Legal division-Continued. Page
Court cases 39
Supreme Court 40
Claire Furnace Co 40
Grain cases 40
United States circuit courts of appeals 41
Swift case 41
Armour case 42
Western Meat Co 43
Thatcher Manufacturing Co 44
Utah-Idaho Sugar Co 46
Minneapolis Chamber of Commerce 46
Eastman Kodak Co 48
Sealpax Co 49
Q. R. S. Music Co 49
Hills Bros 50
Toledo Pipe Threading Machine Co 51
Chase & Sanborn 51
American Tobacco Co 52
Pacific States Paper Trade Association 52
Pure Silk Hosiery Mills 53
Proctor & Gamble Co 54
John C. Winston Co 54
Chicago Portrait Co 55
S. E. J. Cox 56
Butterick case 57
Dr. Herman Heuser 58
Courts of District of Columbia 58
Mannered Coal Co 58
Shade Shop 59
United States district courts 60
St. Louis Photo Engravers' Union No.10 60
United States v. Charles C. Butterfield 60
Legal work of the commission by fiscal years (tables 1 to 10) 61
Board of review 65
Trade-practice submittals 67
Engraved-effects printing 68
Use of terms "engraved" and "embossed" 69
Band-instrument manufacturers 70
Anti-hog-cholera serum and virus 73
Dissent of Commissioners Thompson and Nugent 77
Statement of Commissioner Hunt 78
Mending cotton 80
Economic division 81
Anthracite 83
Gasoline 85
Packer consent decree 86
Kitchen furnishings 87
Cotton-merchandising practices 89
War-time profits and costs of steel industry 90
Grain trade 91
Empire Cotton Growing Corporation 92

Report by divisions of work-Continued.
Economic division--Continued. Page
Wealth and income 92
Bread and flour 94
Electric power inquiry 94
Grain middlemen's profits 95
Cooperation with the legal staff 95
Export trade division 96
Operation of the export trade act 96
Section 6 (h) of the Federal Trade Commission act 100
Foreign trade complaints Investigated 105

EXHIBITS

1. New rules on procedure and policies 111
2. Letter to the President requesting opinion from the Attorney General as to legality of conducting certain investigations 112
3. Commissioners Nugent and Thompson's letter to the President 117
4. Attorney General's decision 118
5. Letter to Comptroller General as to availability of appropriation for performance of work under certain Senate resolutions 128
6. Comptroller General's reply 129
7. Wealth, debt, and taxation resolution (S. Res. 451) 131
8. Federal Trade Commission act 132
9. Provisions of the Clayton Act 138
10. Export trade act 142
11. Rules of practice before the Federal Trade Commission 144
12. Proceedings disposed of during the year 148
Orders to cease and desist 148
Cases dismissed 187
13. Proceedings pending July 1, 1925 222

ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION FOR THE FISCAL YEAR ENDED JUNE 30, 1925

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, 1924, to June 30, 1925. The commission was created by an act of Congress approved September 26, 1914, and was organized March 16, 1915. The present is the eleventh annual report to Congress.

On June 30, 1925, the commission consisted of Vernon W. Van Fleet, of Indiana, chairman; John F. Nugent, of Idaho, vice chairman; Charles w. Hunt, of Iowa; Huston Thompson, of Colorado and William E. Humphrey, of Washington.

CHANGES IN PROCEDURE AND POLICIES

On March 17 and April 30, 1925, the commission announced changes in its rules of procedure and policies (see p.111).

LIMITATION ON CONGRESSIONAL INQUIRIES

The act making appropriations for the Federal Trade Commission, approved March 3, 1925, contained the following provision:

> That no part of this sum shall be expended for investigations requested by either House of Congress except those requested by concurrent resolution of Congress, but this limitation shall not apply to investigations and reports in connection with alleged violations of the antitrust acts by any corporation.

On July 1, 1925, when the appropriations became available for the year, there were before the commission five certain resolutions of the Senate directing investigations and reports with respect to, viz, (a) wealth, debt, and taxation (see p.131); (b) bread and flour (see p. 112); (c) electric power and tobacco (see p.112); (d) trade associations (see p. 114); and (e) cooperative organizations (see p.114).

In view of the provisions of the appropriation act above quoted the commission, being in doubt as to its power to proceed with certain of the foregoing mentioned Senate resolutions, requested the President to ask the Attorney General of the United States for an opinion in the matter. Messrs. Nugent and Thompson dissented and addressed a separate letter to the President (see p. 117). The

commission's correspondence and the opinion of the Attorney General appear on page 112. The commission also requested an opinion from the Comptroller General of the United States. This correspondence and opinion appear on pages 128 and 129.

Work on the inquiry with respect to national wealth, debt, and taxation was definitely discontinued as of June 30, 1925, it being the unanimous opinion of the commission that this resolution was not authorized under the Federal Trade Commission act or the appropriation proviso.

Work with respect to the electric-power and tobacco inquiries was not discontinued but was carried forward in usual course, it being the unanimous view of the commission that this resolution was clearly authorized, except the second portion of the electric-power resolution relating to the expenditure of money to control the avenues of publicity on the question of public ownership. As to this portion the commission was of opinion that it was not authorized, and consequently no works was initiated with respect to it. Commissioners Nugent and Thompson dissented.

REPORT BY DIVISIONS OF WORK

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). For the administration of these acts the commission has been organized into four major divisions, I. e., administrative, legal, economic, 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

During the fiscal year there were several changes in the presidential membership of the commission, The term of office for which Mr. Nelson B. Gaskill was appointed expired September 25, 1924. He was given a recess appointment by the President, effective September 26, 1924, under which appointment he served, until February 24, 1925. The vacancy was filled, by the nomination by the President of Mr. William E Humphrey, of Washington, January 26, 1925, who was confirmed by the Senate February 23, 1925 (calendar day), and took oath of office and entered upon duty February 25, 1925. His appointment is for the term expiring September 25, 1931. Mr. Vernon W. Van Fleet was elected chairman of the commission for the year beginning December 1, 1924, succeeding Mr. Huston Thompson. Mr. John F. Nugent was elected vice chairman for the same period.

On June 30, 1925, the total personnel of the Federal Trade Commission was 314, with a total salary of $857,500. Of these employees 175 were under civil service and 139 held excepted positions. Of

the total personnel (314) 160 were administrative employees, 87 attorneys, 32 economists, and 29 accountants. Excluding the commissioners and secretary, the average salary for all employees was $2,604.87. The average salary for administrative employees was $1,746.87; for attorneys, $3,796.55; for economists, $3,535; for accountants, $2,737.24. There were 98 women employees.

During the year ended June 30, 1925, 36 employees, or 11 per cent, left the service of the commission and 36 new employees entered upon duty, leaving the number of employees at the close of business June 30, 1925 the same as at the close of business June 30, 1924. The number of employees coming under the provisions of the civil service retirement law was 197.

The Federal Trade Commission received during the fiscal year ending June 30, 1925, official notice from the Personnel Classification Board granting appeals for reallocation in 17 cases. At the close of the year other appeals were still pending.

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 2,194 original appointments in the little more than 10 years, and of this number 1,880 have left the service. This means that the commission has had about six times as many employees come and go as it now has on its rolls.

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

June 30, 1915	143	June 30, 1921	315
June 30, 1916	224	June 30, 1922	318
June 30, 1917	214	June 30, 1923	308
June 30, 1918	663	June 30, 1924	314
June 30, 1919	376	June 30, 1925	314
June 30, 1920	418		

The above table shows a war-time personnel promptly cut in half after the armistice and a practically stationary personnel for the past five years.

FISCAL AFFAIRS

Appropriations available to the commission for the fiscal year ended June 30, 1925, under the executive and sundry civil act, approved June 7, 1924, amounted to $1,010,000. This includes an item of $50,000 for salaries of commissioners and $18,000 for printing and binding, leaving $940,000 for the general work of the Commission.

Expenditures for the year plus outstanding liabilities amounted to $1,007,948.51, which left an unexpended balance of $2,051.49. Of this amount $133.86 represented the unexpended balance of appropriation for printing and binding. The remainder, $1,917.63, represents the unexpended balance of the lump-sum appropriation.

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

Appropriations and expenditures

	Amount available	Amount expended
Federal Trade Commission, 1925:		
Salaries, commissioners	$50,000.00	$50,000.00
Printing and binding	20,000.00	14,003.09
All other authorized expenses	940,000.00	932,477.58
Total, fiscal year 1925	1,010,000.00	996,480.67
Unexpended balances:		
1924	53,950.54	20,942.30
1923	1,854.20	Cr. 19.88
1920		Cr. 35.00
	1,065,804.74	1,017,368.09

It is estimated that the outstanding liabilities of the commission as of June 30, 1925, amount to $11,467.84, payment of which will be made from the unexpended balance of the appropriations, “Federal Trade Commission,” 1925.

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

Statement of costs of the Federal Trade Commission for the fiscal year ended June 30, 1925

	Office	Field	Total
Administrative	$264,520.39		$264,520.39
Economic	229,121.17	$33,915.69	263,036.86
Legal:			
Chief counsel	174,835.28	47,006.98	221,842.26
Chief examiner	193,393.05	38,219.90	231,612.95
Board of review	20,653.59		20,653.59
Export trade	12,232.57	1,351.47	13,584.04

Grand total	894,756.05	120,494.04	1,015, 250.09

Detailed statement of costs of the Federal Trade Commission for the fiscal year ended June 30, 1925

Item	Office	Field
Annual leave	$74,649.13	
Applications for complaints	50,923.69	$12,490.60
Board of review	21,394.75	
Bread inquiry	61,460.97	18,973.67
Briefs	90.71	
Cement	372.26	
Clayton Act, sec. 7, general investigation	76.72	211.29
Coal-trade inquiry	1,821.14	
Communications	3,586.36	
Complaints, formal	161,015.11	62,559.92
Computing-machine work	1,093.51	
Cotton-merchandising practices	4,403.62	1,788.85
Cotton-trade inquiry]	670.93	Cr. 17.60
Court costs	1,606.72	122.23
Court leave	305.73	
Decline in wheat prices	10.68	
Docket section	18,748.43	
Drafting complaints:	1,520.13	
Economic research	492.58	
Economic supervision	17,064.16	
Electric-power industry	1,683.62	30.44
Empire cotton-growing corporations	180.29	
Equipment	2,852.43	
Export trade	10,711.12	1,322.39
Fertilizers	18.00	
Fiscal affairs	10,443.72	
Flour milling	534.13	
Gasoline inquiry	67.83	
General administration, commissioners, etc	76,877.90	
Grain and produce exchanges	13,478.69	
Heat and light	273.27	
House-furnishings investigation	4,305.71	122.59
Injunction proceedings against the commission	83.93	
Inquiry into terminal-grain-elevator profits	308.43	505.31
Labor	3,221.81	
Legal supervision	48,353.31	1,025.22
Library section	7,171.76	
Mail and files section	10,094.08	
Medical attendant	1,469.39	
Messengers	10,698.51	
Military leave	831.89	
Milk products	33.68	
Miscellaneous economic	844.32	
Miscellaneous legal	118.09	
National-wealth inquiry	87,231.16	12,469.35
Packers' decree	3,907.35	
Personnel section	9,186.70	
Petitions for mandamus	282.84	
Preliminary inquiries	28,781.95	6,885.66
Printing and binding	16,616.91	
Publications section	15,360.08	
Purchases and supplies section	5,480.16	
Rents	9,641.38	
Repairs	146.54	
Research division	15.46	
Sick leave	18,363.30	
Special briefs	6.34	
Special legal work for the commissioners	6.05	
Steel	188.20	
Stenographic Section	54,216.75	320.31
Study of procedure	335.13	
Supplies	9,741.46	
Time excused by Executive or commission's order	4,753.29	
Tobacco	3,934.78	1,327.56
Trade associations		26.42
Trade practice submittal	276.19	329.93

Transportation of things	240.19	
Travel expense, Washington (D. C.) car tokens	80.00	
	894,756.05	120,494.04
Total office expenses		894,756.05
Total cost		1,015,250.09

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

Total cost for the year ended June 30, 1925	$1,015,250.09
Less transportation issued	43,576.57
New total	971,673.52
Plus transportation paid	45,671.63
New total	1,017,345.15
Increase of compensation (bonus)	22.94
Expenditures for the year ended June 30, 1925	1,017,368.09

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	1,462,187.32	156,678.60
1919	1,753,530.75	1,522,331.95	231,198.50
1920	1,305,708.82	1,120,301.32	186,407.80
1921	1,032,005.67	938,659.69	93,345.98
1922	1,026,150.54	956,116.50	70,034.04
1923	974,480.32	970,119.66	4,360.66
1924	1,010,000.00	977,018.28	32,981.72
1925	1,010,000.00	1,008,998.80	1,001.20

PUBLICATIONS

The following publications were issued during the fiscal year ended June 30, 1925:

Cotton Merchandising Practices, June 7, 1924, 38 pages (printed as Senate Document 194).

Cotton Trade, Part 2, October 15, 1924; 230 pages (printed as Senate Document 100).

House Furnishings Industries, Volume 3 (Kitchen Equipment and Domestic Appliances), October 6, 1924; 347 pages.

Annual Report for the Fiscal Year ended June 30, 1924, December 1, 1924; 236 pages.

Cooperation in Foreign Countries, December 2, 1924; 202 pages.

Packer Consent Decree, December 8, 1924; 44 pages (printed as Senate Document 219).

Empire Cotton Growing Corporation, January 27, 1925; 30 pages (printed as Senate Document 226).

Decisions, Findings, and Orders of the Federal Trade Commission, Volume] (February 14 to November 4, 1923); June 30, 1925; 628 pages.

Grain Trade, Volume VI (Prices of Grain and Grain Future), September 10, 1924; 374 pages.

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, 1924, 4,021 copies of reports of the

commission were sold by the Superintendent of Documents for $1,189.95. The figures for the fiscal year 1925 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 19.

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 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 and trade lists, 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 encyclopedias and reference books that are commonly found in law libraries. The distinctive feature, however, is a file of records and brief of antitrust cases, which were acquired without expenditure.

Care is exercised to limit the purchase of books and periodicals to supply only those needed constantly and immediately in the commission's work. The commission is far removed from other Government law libraries and must have available sufficient volumes to answer the ordinary requirements of the legal and economic force. The Library of Congress and the department libraries are freely drawn upon to supplement the commission's limited collection.

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, San Francisco, and Seattle. 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 eases 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.

Whenever the commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition in commerce, and if it shall appear to the commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least 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 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.

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 he 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 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 he 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.

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, 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.

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 purchase? 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.

Section 7.--Corporate stock acquisitions:

That no corporation engaged in commerce shall acquire, directly or in-directly, 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 it, 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 three separate and independent branches--the chief counsel and staff, the chief examiner and staff, and the board of review. 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 examiner 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. The board of review is an advisory body consisting of five attorneys. Its duties are to review the records in cases received by it and to render to the commission a full report upon the facts and the law, with its recommendation. Before recommending a complaint, the board is required to grant a hearing.

SUMMARY

To measure the legal work is difficult. Many cases present simple facts representing types, such as misbranding, with respect to which the law is established (Winsted Hosiery case in the Supreme Court) and readily applied. In other groups--for instance, cases of conspiracies 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, accountants, 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 Motion Picture case, might require the taking of 20,000 pages of testimony and the receipt and consideration of innumerable 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 sup-

plemented by the recitation of representative cases. It can be said that under the laws which it administers the commission was called upon during the year to handle 3,162 separate legal matters relating in large part to unfair competition in foreign and domestic trade. It disposed of 2,268 such matters. This left on hand undisposed of at the end of the fiscal year 894 legal matters.

A summary of the legal record for the year reads:

Preliminary inquiries.--There were 234 preliminary inquiries on hand at the beginning of the year; 1,623 were received during the year, making a total of 1,857 on hand. Of these, 1,671 were disposed of and 186 undisposed of at the close of the year.

Applications for complaints.--There were 565 applications for complaints pending at the beginning of the year; 340 were docketed during the year, and there were 4 rescissions of previous action, making a total of 909 for disposition during the year. Of these, 421 were disposed of, 118 by the docketing of complaints and 303 by dismissal of the application, leaving 488 pending at the close of the year.

Complaints.--There were 264 complaints on hand at the beginning of the year; 132 were issued during the year, making a total of 396 on hand during the year. Of these, 176 were disposed of by the issuance of 73 orders to cease and desist and by the dismissal of 103 complaints. This left on hand 220 complaints undisposed of at the end of the year.

Court cases.--There were 22 cases in the courts at the beginning of the fiscal year, and 22 were taken to the courts during the year, making a total of 44. Of these, 26 were disposed of, leaving 18 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 61 to 65.

Since its organization in 1915 to date the commission has received 10,255 preliminary inquiries, docketed 3,931 applications for com plaints, issued 1,329 complaints and 708 orders to cease and desist, and dismissed 401 complaints. Of these 708 orders to cease and desist, 62 have been taken to courts.

The result of changes in the commission's procedure announced March 17, 1925, is indicated by the following table covering the period from that date to June 30, 1925, inclusive:

APPLICATIONS

Total number of applications dismissed	135
Applications dismissed without stipulation	131
Applications dismissed after stipulation	5
Applications ordered to be handled by stipulation	55
Applications ordered to complaint	42

COMPLAINTS

Total number of complaints dismissed	59
Complaints dismissed without stipulation	47
Complaints dismissed after stipulation	12
Total number of orders to cease and desist issued	27

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 by 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' pro ducts, their business, financial credit, etc.

The use of false or misleading advertisements.

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

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

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

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

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

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

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

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

Preventing competitors from procuring advertising space in news papers 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 wholesalers and retailers to maintain resale prices on products fixed by the manufacturer.

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

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

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, making unauthorized changes in proposed municipal bond issues, corrupting public officials or employees and forging their signatures, and using numerous other grossly fraudulent, coercive, and oppressive practices in dealing with small municipalities.

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

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

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

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

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

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

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

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

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

(6) 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 or are calculated to result in the observance of uniform prices or practices for the products dealt in by them, with consequent restraint or elimination of competition;

such as use of various kinds of so-called standard cost systems, price lists or guides, exchange of trade information, etc.

Securing business through undertakings not carried out and through 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 con tract and promissory note represented as simply an order on approval, securing agents to distribute the seller's products through promising to refund the money paid by them should the product prove unsatisfactory, and through other undertakings not carried out.

(2) Securing business by advertising a "free-trial" offer proposition, when as a matter of fact only a "money-back" opportunity is offered the prospective customer, etc.

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

During the year the chief examiner conducted an investigation of the American Tobacco Co. and the Imperial Tobacco Co. (Ltd.). This investigation was made pursuant to Senate Resolution 329

(68th Cong. 2d sess.), which required the submission of a report to the President. The phases of the tobacco industry covered by the inquiry were (1) the present degree of concentration and relationship between the two companies involved, and (2) the methods employed by these companies with respect to cooperative tobacco marketing associations. At the request of the parties under inquiry, hearings were held upon a preliminary report. This retarded the completion of the final report, which was pending at the close of the year.

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 an application for the issuance of a complaint.

During the year here reported upon the commission w as called upon to handle 1,857 preliminary inquiries, this number being made up of 234 on hand at the beginning of the fiscal year and 1,623 received during the year. Of this number, 1,215 were disposed of to the satisfaction of the parties upon summary review by the chief examiner at small cost to the Government and 456 by the docketing of applications for complaints. This left 186 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 1925, inclusive.

TABLE I.--*Preliminary investigations*

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925
Pending beginning of year	0	4	12	32	19	29	61	68	147	102	191
Instituted during year	119	265	402	611	843	1,197	1,070	1,223	1,234	1,568	1,612
Total for disposition	119	269	474	643	862	1,136	1,131	1,291	1,381	1,670	1,803
Closed after investigation	3	123	259	292	298	351	500	731	897	1,157	1,270
Docketed as applications for complaints	112	134	153	332	535	724	563	413	382	322	357
Total disposition during year	115	257	442	624	833	1,075	1,063	1,144	1,279	1,479	1,627
Pending end of year	4	12	32	19	29	61	68	147	102	191	176

SUMMARY

Instituted to June 30, 1925	10,255
Dismissed after investigation	5,942
Docketed as applications for complaint	4,127
Total disposition to June 30, 1925	10,069
Pending July 1, 1925	186

The table shows a. steady increase of from 119 in 1915 to 1,623 in 1925, or an increase of 1,264 per cent in 11 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 presents 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. 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.

The chief examiner passes upon the investigating attorney's report and indicates his approval or disapproval. If he concludes that the case is one whereon a formal complaint should issue, he sends the file directly to the board of review for its attention. If, however, he concludes that the case should be dismissed, or that, under the amended rules of March 17, 1925, the accused concern should be given an opportunity to sign a stipulation agreeing to discontinue the unfair practice, he sends the file directly to the commission. If the commission agrees with the recommendation for dismissal it acts accordingly, and thus such cases are expedited.

As to the other class of cases referred by the chief examiner directly to the commission, it decides whether the case properly falls within the rules permitting stipulation; and if so, it authorizes and directs the chief examiner's office to prepare the papers and conduct the necessary correspondence to secure signatures to the stipulations.

The board of review reviews the record of such cases as come to it from the chief examiner's office with recommendation for complaint. The board considers all cases in the light of the new rules of procedure announced March 17, 1925, and before recommending complaint accords to the proposed respondents a hearing before the

board for the purpose of submitting any facts or considerations pertinent to] the issues for the information of the board and the commission in deciding the case. The hearings before the board are informal.

After the board has completed its consideration of a ease and made its report, the file is then sent to an individual commissioner, who reviews the entire record and presents the case to the full com mission with his recommendation. A majority vote controls.

During the year here reported upon the commission was called upon to handle 909 applications for complaints. Of this number 565 were carried over from the previous year, 340 were docketed during the year, and 4 were rescissions of previous action. Of this total number of 909 the commission disposed of 421 during the year. Of these, 303 were dismissed after investigation, for the reason that the facts developed did not call for the exercise of the remedial powers granted to thee commission and 118 applications for complaints developed facts based upon which complaints issued. This left 488 pending at close of year.

These figures indicate that while the commission was able to dispose of but 46 per cent of the applications for complaints it was called upon to handle during the year, it made a material advance. The last annual report showed the commission about two years behind in this phase of its work; an analysis of the figures herein will show it now only about one year behind.

On June 30, 1925, there were 78 applications fore complaints which had been on hand for an average period of eight months.

The following table gives a record of the work on applications for complaints during, the entire history of the commission, from 1915 until 1925, inclusive:

TABLE 2.--*Applications for complaint*

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1926
Pending beginning of year	0	104	130	188	280	389	554	467	458	572	555
Docketed during year	112	134	153	332	535	724	426	382	416	377	340
Previous dismissals rescinded	0	0	0	0	0	0	0	0	0	5	4
Total for disposition	112	238	283	520	815	1,113	980	854	880	954	909
Dismissed for lack of merit	8	108	79	160	301	339	357	287	181	246	303
To complaints during year	0	3	16	80	125	220	156	103	121	143	118
Total disposition during year	8	108	95	240	426	559	514	390	302	389	421
Pending end of year	104	130	188	280	389	554	466	458	572	565	488

SUMMARY

Docketed to June 30, 1925	3,931
Dismissed (net)	2,357
To complaints	1,086
Total disposition to June 30, 1925	3,443
Pending July 1, 1925	488

Like the preliminary inquiry, the applications for complaints docketed have steadily increased from 112 in 1915 to 340 in 1925, an increase of 204 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 1924 and the fiscal year 1925. The table follows:

	1924	1925
Appropriation of values created by competitor's expenditures	4	5
Bogus independents	0	2
Boycott	0	1
Bribery	3	3
Combination or conspiracy in restraint of trade	10	5
Disparagement of competitor's goods or business	8	5
Enticement of competitor's employees	2	1
Espionage	4	1
False and misleading advertising	201	156
Interference with competitor's source of supply or business	14	6
Misbranding	120	130
Misrepresentation	10	47
Passing off of name and goods	60	36
Price cutting	2	2
Price fixing	12	13
Resale maintenance	27	19
Sec. 2, Clay ton Act (price discrimination)	3	2
Sec. 3, Clayton Act (tying and exclusive contracts)	6	4
Sec. 7, Clayton Act (corp orate mergers)	10	13
Threats and intimidation	4	3
Lottery		12
Fraudulent shipments		4
Pooling or patents		2
Exclusive dealing		2
Miscellaneous	23	12

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 ea complaint. The commission must have, in the language of the statute, a reason to believe that the law has been violated and that the public interest is involved 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 and. answer is a public record, and with the issuance of a complaint the formal docket is set up, which is open for public inspection after answer of the respondent is filed or time for filing has expired. 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 thee 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 there after. 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, thee 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 thee 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 thereafter the commission reaches a decision either sustaining the charges in the complaint or dismissing the complaint. If the complaint be sustained, 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 necessity for the taking of testimony and the briefing and argument of the cease, unless the respondent desires to be heard upon the law alone.

Complaints to the number of 132 were issued by the commission during the year. In addition to these there were 264 complaints on hand and undisposed of at the beginning of the year, making a total of 396 separate complaints requiring the attention of the commission in the fiscal year. During the same period the commission disposed of 176 complaints, 73 by the issuance of orders to cease and desist and 103 by dismissal, leaving a total of 220 complaints on hand with which to start the fiscal year beginning July 1, 1925.

DISMISSAL OF COMPLAINTS

Up to June 30, 1925, the commission had dismissed 401 complaints. While the commission rarely includes its reasons in an order of dis-

missal, a study of the records indicates the following elements given weight:

Controlling court decisions	71
Dismissed without prejudice	49
Respondent out of business	35
Practice discontinued	33
Practice discontinued by stipulation	9
Practice as used by respondent not unfair	42
Insufficient public interest	29
Lack of interstate commerce	28
Disposed of by civil litigation	7
Lack of proof	61
Faulty pleadings	2
Miscellaneous	20

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 subject, they should be given 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. Thirty-five 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 42 cases the complaints were dismissed because the practice condemned had been discontinued and in 29 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-eight cases have been dismissed for lack of interstate commerce, because it could not be proved that the acts complained of were done in interstate commerce, thus heaving the commission without juris-

diction. 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 witnesses. 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 1925, inclusive:

TABLE 3.--Complaints

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925
Pending beginning of year	0	0	5	10	85	133	287	312	257	232	264
Docketed during year	0	5	9	154	135	308	177	111	144	154	132
Previous dismissals rescinded	0	0	0	0	0	0	0	0	0	1	0
Previous orders to cease and desist rescinded											
Consent	0	0	0	0	0	0	0	0	0	5	0
Total for disposition	0	5	14	164	221	441	465	423	402	392	396
Dismissed during year	0	0	1	7	13	44	37	75	87	36	103
Orders to cease and deist entered during year	0	0	3	72	74	110	116	91	82	92	73
Total disposition during year	0	0	4	78	88	154	153	166	170	128	176
Pending end of year	0	5	10	86	133	287	312	257	232	264	220

SUMMARY

Docketed to June 30, 1925	1,329
Dismissed (net)	401
Orders to cease and desist (net)	708
Total disposition to June 30, 1925	1,109
Pending July 1, 1925	220

For the 11-year period this table shows an increase in complaints issued from 5 in

1916 to 132 in 1925. It shows an increase in orders to cease and desist in the same period from 0 in 1915 to 73 in 1925.

A complete list of complaints disposed of during ring the y ear is found on page 148 and a list of pending cases on page 222.

A large majority of the 132 complaints issued during the year charged unfair methods of competitions, as this charge was made in 126 complaints. Violation of section 7 of the Clayton Act by

acquisition of stock of a competing concern was charged in 7 complaints. There were 3 complaints, charging violation of the Webb Export Trade 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.

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:

False and misleading advertising.
Misrepresentation.
Misbranding.
Passing off of goods.
False claim of being a manufacturer.
Price fixing.
Fraud in export trade.
Securing contracts by fraud.
Coercion.
Intimidation.
Commercial bribery.
Appropriating competitor's design.
Enticing competitor's employees.
Illegal possession of customers' lists.
Resale price maintenance.
Refusal to sell.
Acquisition of stock.
False claim of being importer.
Boycott.
Conspiracy to injure competitor.
Inducing breach of contract.
Patent infringement false claim.
Passing off of name.
Appropriation of name.
Price enhancement.
Division of territory.
Combination in restraint of trade.
Acquisition of physical assets.
Fictitious price mark.
False claim of Government approval.
False measurement.
False claim of city approval.
Simulation of trade-mark.
Disparagement.
Lottery.
Simulation of trade name.
Monopoly.
Espionage.
Tampering with competitor's machine.

REPRESENTATIVE COMPLAINTS

The methods, schemes, and devices used by unscrupulous business concerns in seeking to deceive and defraud the public and in seeking to eliminate or gain an unfair advantage of competitors, are coextensive with and are restricted only by the limitations of the human mind. Schemes and methods oftentimes most ingenious are devised and put into operation for the sole purpose of injuring or defrauding the public and destroying competition. It is one of the important duties of the commission to detect these schemes and devices and to compel the discontinuance of such practices as soon as they are detected in order that the public may be relieved from further imposition and fraud and in order that competition, the foundation upon which our entire economic structure rests, may not be impaired or destroyed.

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The application of these various schemes and devices is not confined to any one or any few commodities, and the commission in the performance of its duties, as imposed by statute must and does consider and pass upon cases involving practically all the commodities entitled to place within the meaning of the term "Commerce."

In the course of the performance of its duties the commission is daily called upon to protect the public against the business excesses of producers, manufacturers, and middlemen and to shield honest business concerns from the destructive force of dishonest. and unfair competition.

In addition to the above cases, which are based upon dishonesty and fraud, the commission handles a large group of cases in which dishonesty and fraud do not appear. In this group may be placed certain of the cases arising under the Clayton Act, as well as some of the cases arising under section 5 of the Federal Trade Commission act. This latter group are merely mala prohibita as distinguished from the former group, which are mala in se.

Honest and law-abiding business is not subject to the jurisdiction of the commission; not until a concern, as in the first group mentioned, indulges in dishonest or unfair business practices, or, as in the second group mentioned, violates the law, does this commission gain jurisdiction to order or compel a discontinuance, modification, or moderation of its business activities.

As a result of the aid accorded by the commission to producer, middleman, and consumer alike, the consuming public is protected against all, honest business is protected against dishonest business, and dishonest business is either destroyed or, if it mends its ways, it is protected against itself and the certain consequences of its excesses and abuses.

Herewith are presented brief summaries of the charges contained in a few of the complaints issued by the commission during the past fiscal year. These complaints are fairly representative cases.

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 filed their answers denying the allegations of the complaints. The cases will be determined only after evidence has been taken and arguments made to the commission.

Allied Chemical & Dye Corporation (sec. 7, Clayton Act).-- The complaint in this case charges the Allied Chemical & Dye Corporation with violation of section 7 of the Clayton Act, in that it was organized for the purpose of acquiring, and did acquire, substantially all of the stock or share capital of five competing companies each of which was engaged in the manufacture of chemicals and coal-tar products essential in the manufacture of dyes and dyestuffs. Each of the corporations so acquired was the largest in the United States in its particular field of the chemical industry. The corporations acquired were the Barrett Co., the Solvay Process Co., General Chemical Co., Semet-Solvay Co., and the National Aniline & Chemical Co.

The complaint alleges that the effect of the acquisition by the respondent company of the stock or share capital of the companies named was--

(*a*) To substantially lessen competition between the companies named.
(*b*) To restrain commerce in the commodities produced by said companies, and
(*c*) To tend to create in the respondent a monopoly in chemicals and coal-tar products essential in the production of dyes and dyestuffs.

Midland Steel Products Co. (sec. 7, Clayton Act) .--The commission's complaint issued on February 21, 1925 charges the Midland Steel Products Co. with violation of section 7 of the Clayton Act. The complaint alleges that the company was organized for the purpose of acquiring, and did acquire, all the capital stock of the Parish & Bingham Corporation and the Detroit Pressed Steel Co. Prior to and at the time of the acquisition of this stock by respondent company, Parish & Bingham Corporation and Detroit Pressed Steel Co. were in active competition with each other in the sale of automobile frames. Parish & Bingham Corporation sold and supplied to manufacturers of automobiles in the United States about 35 per cent of the total number of automobile frames produced in the United States, and the Detroit Pressed Steel Co. sold and supplied about 10 per cent of the total frames produced in the United States.

The complaint further alleges that the effect of the acquisition of this stock was to substantially lessen competition between the two named companies, to restrain interstate commerce in the sale and distribution of automobile frames, and to tend to create in the respondent a monopoly in the manufacture and sale of automobile frames.

A second count in the complaint charges a violation of section 5 of the Federal Trade Commission act, in that the Midland Steel

Products Co. acquired all the property, assets, and business of Parish & Bingham Co. and of the Detroit Pressed Steel Co., and that by reason of such acquisition competition was unduly hindered and the acquisition tended to create in the hands of respondent a monopoly in the manufacture and sale of automobile frames.

Hayes Wheel Co. (sec. 7, Clayton Act).--The Hayes Wheel Co. is the largest manufacturer of automobile wheels in the United States. During the year 1922 it manufactured approximately 37 per cent of all the automobile wheels manufactured in the United States.

In January, 1923, the Hayes Wheel Co. acquired all the capital stock of one of its competitors--to wit, the Imperial Wheel Co. The complaint charges that the effect of the acquisition of such stock was to substantially lessen competition between the two companies, to restrain commerce in the sale of automobile wheels, and to tend to create a monopoly in the sale and distribution of automobile wheels, all in violation of the provisions of section 7 of the Clayton Act.

Northwestern Traffic & Service Bureau et al. (sec. 5, Federal Trade Commission act).--The complaint in this case charged a violation of section 5 of the Federal Trade Commission act. It is charged that the members of the Northwestern Traffic & Service Bureau are retail coal dealers located in Minnesota, North Dakota, South Dakota, Iowa, Nebraska, and Kansas; that they conspired and cooperated among themselves to prevent the distribution in interstate commerce of coal to consumers in the territory named by any means or through any channel other than through the retail dealers who are members of the bureau. The bureau has about 1,800 members, and the purpose and effect of this conspiracy and cooperation enabled the dealers in their respective communities to control the price of coal to the consumer without interference from outside interstate competition.

The complaint charges that the respondents in carrying out the object of their conspiracy engaged in a wide variety of practices, including boycotts, threats, intimidation , etc.

Abrasive Paper and Cloth Manufacturers' Exchange (sec. 5, Federal Trade Commission act).--The commission's complaint in this case alleges that the above exchange, its officers, and 10 members manufacture and sell about 90 per cent of all the abrasive manufactured and sold annually in the United States; that for a period of 10 years last past they have been and still are engaged in an unlawful combination and conspiracy affecting interstate commerce in abrasive throughout the United States; that the conspiracy was entered into for the purpose of fixing uniform prices, terms, and discounts at and upon which the abrasives manufactured by the

respondents should be sold and for the purpose of stifling and suppressing competition in the sale and distribution of abrasives in interstate commerce.

Respondents, in order to bring about the object and purpose of the conspiracy agreed upon uniform prices, established a uniform method of cost accounting as a basis of computing the uniform prices, established uniform methods of computation whereby the prices at which new abrasives and new types and sizes of abrasives are fixed and made uniform, adopted uniform discounts and terms of sale, exchanged price lists and other data, and by various other means and methods.

National Leather & Shoe Finders' Association et al. (sec. 5, Federal Trade Commission act).--The respondents in this case are national and local associations scattered throughout the United States. The complaint charges them with combining and conspiring to suppress competition in interstate commerce in the sale of leather and other materials used in the repairing and dressing of shoes and in shoe-repair service to the general public. The complaint charges that respondents, in order to bring about the objects and purposes of the conspiracy and combination, established uniform prices and discounts for manufacturers and wholesalers; entered into agreements to use a uniform cost accounting system; confined distribution, by agreement to certain so-called "legitimate dealers"; prevented so-called "illegitimate dealers" from obtaining goods; fixed uniform and enhanced prices for shoe findings to the trade; and established uniform and enhanced prices for shoe repairing to the general public. It is further charged that the policies of the association were enforced by coercion.

The complaint charges that the effect of this conspiracy and combination was to suppress competition, in price and otherwise, in the sale and distribution of shoe findings and to enhance prices therefor; to compel dealers to sell shoe findings at prices dictated by respondents and to prevent dealers from selling shoe findings at such less prices as they may be willing to accept; to restrict distribution of shoe findings to the so-called "legitimate channels"; to suppress competition among shoe repairers and to enhance the cost of shoe repairing to the general public throughout the United States.

Arkansas Wholesale Grocers' Association et al. (sec. 5, Federal Trade Commission act).--The Arkansas Wholesale Grocers' Association , its members, and certain other companies are charged with having combined to coerce and compel manufacturers shipping products in interstate commerce to deal only with "regular" jobbers and to refrain from dealing with chain stores or other retail organizations. They are also charged with cooperating to maintain uniform prices in order to bring, about the objects and purposes of

the alleged cooperative scheme. Respondents are charged with intimidation, threats of boycott, and boycott against manufacturers who sold to dealers classified by respondents as "irregular"; they are also charged with persecuting and harassing the so-called "irregular" dealers by making and publishing statements disparaging the business methods and financial responsibility of such dealers and other similar methods, including black lists.

The furniture cases.--A group of cases--18 in number--were instituted against large retail furniture dealers in New York , Philadelphia, and Chicago charging them with various unfair methods of competition in violation of section 5 of the Federal Trade Commission act. Most of the cases involved the unfair and unlawful use by the respondents of the words "Grand Rapids" in trade or corporate names, in advertisements, or otherwise in connection with their businesses.

The case of Grand Rapids Furniture Manufacturers Association et al. mentioned hereinbelow is fairly representative of the cases included with this group.

Grand Rapids Furniture Manufacturers Association et al.--Respondents in this case (Jacques Greenberger and others) conduct an enormous retail furniture business with headquarters in New York. They sell and distribute their furniture in interstate commerce. This concern handles practically no furniture made at Grand Rapids, Mich., and it is in no wise connected with any Grand Rapids manufacturer or manufacturers.

The complainant charges that, notwithstanding these facts, the respondents, for the purpose of deceiving the public into the erroneous belief that they were a "Grand Rapids concern " and were selling " Grand Rapids furniture,." adopted and use the name above mentioned. The complaint recites a large number of schemes or devices used by the respondents for the purpose of deceiving the public into the above-mentioned erroneous belief, and charges then' with advertising, offering for sale, and selling great quantities of furniture made at points other than Grand Rapids, Mich., as and for Grand Rapids furniture.

The complaint further alleges that Grand Rapids furniture has a certain reputation and good will throughout the United States and that great numbers of the consuming public demand and prefer Grand Rapids furniture. The advertising, offering for sale, and selling by the respondents of furniture not made at Grand Rapids, Mich., as and for Grand Rapids furniture was injurious to and destructive of the businesses, of competitors who had for sale genuine Grand Rapids furniture, and it diverted business from otherwise injured competitors who did not sell Grand Rapids furniture, but who did not falsely represent their furniture to be of Grand Rapids

manufacture. The acts and practices of respondents were in violation of section 5 of the Federal Trade Commission act because of the deception and fraud practiced upon the public and because of the manifest unfairness to honest dealers.

Complaints were also issued by the commission against the Arnold Electric Co., manufacturers of electrically driven mixing machines; the Chero-Cola Co., manufacturers of soft drinks; Landers, Frary & Clark Co., manufacturers of electric heating and cooking appliances; and a large number of other concerns, charging them with adopting and enforcing resale price maintenance systems in violation of section 5 of the Federal Trade Commission act.

Misbranding of fabrics cases.--During the fiscal year the commission issued a large number of complaints against various concerns charging them with false branding and misrepresentation in the sale of fabrics. Among this class of cases are many charging concerns with using the words “Silk,” “Art silk,” “Novelty silk,” “ Sylk” in describing or offering for sale hosiery or other fabrics not composed of the silk of the silkworm. Other cases charge concerns with representing fabrics to be of wool when such fabrics were either wholly or in very large part composed of cotton or some other substance or substances other than wool.

Irish lace cases (sec. 5, Federal Trade Commission act) .--The commission issued its complaint against a large number of importers and manufacturers charging them with violation of section 5 of the Federal Trade Commission act in that they offered for sale and sold throughout the United States as Irish lace, lace made in and imported from China. This Chinese lace is of the same pattern, design, and general appearance as genuine Irish lace, but is inferior in quality and value. It is charged that the importers and manufacturers deceived, misled, and defrauded the consuming public by selling the inferior Chinese product as and for genuine Irish lace.

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 --, the commission during the year here reported upon issued 73 separate orders to cease and desist. All of the 73 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. As in past y ears, 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 1925

Respondent	Location	Product
American Feather Bed & Pillow Co	Nashville, Tenn	Feather beds, pillows.
American shellac Co. (Inc.)	New York, N Y	Varnishes.
Ash Co., Abraham	do	Silver-plated ware.
Batlin, Louis	do	Do.
Bernsteen, David, et al	Cleveland, Ohio	Lubricating oil.
Blue Valley Creamery Co	Chicago, Ill	Cream, dairy products.
Boni & Liveright (Inc.)	New York, N. Y	Books.
Bosch Co., Henry	Chicago, Ill	Paints, painters' supplies.
Bramu Packing Co	do	Cooking oil.
California Grape Growers Exchange	New York, N.Y.	Grapes.
Chase & Sanborn	Boston, Mass	Tea, Coffee.
Civil Service School (Inc.)	Washington, D.C.	Civil service school.
Cream of Wheat Co	Minneapolis, Minn	Cereals (Cream of Wheat)
De Golyer Varnish Works	Troy. N. Y	Varnishes, shellac.
Dobe, F. W	Chicago, Ill	Drafting school.
Edwin Cigar Co. (Inc.)	New York, N. Y	Cigars.
Ellis Co. (Inc.), Edwin E	Buffalo, N. Y	Engraved effects.
Federal Bond & Mortgage Co	Detroit, Mich	Securities.
Films Distributors League (Inc.), et al	New York, N. Y	Films (motion picture)
Fliegelman. H. F	Philadelphia, Pa	Furniture.
Glidden Co. et al	Cleveland, Ohio	Paints, varnishes.
Hagen Import Co. of New Jersey	Camden, N. J	Malt extract.
Hall, jr. (Inc.). James B	New York, N.Y.	Cigars.
Heddon's Sons, James	Dowagiac, Mich	Fishing tackle.
Hercules Hosiery Mills	Philadelphia, Pa	Hosiery.
Hills Bros	San Francisco, Calif	Coffee.
Holeprool Hosiery Co	Milwaukee, Wis	Hosiery.
Ideal Baby Shoe Co	Chicago, Ill	Shoes.
Interstate Fuel Co. et al	St. Louis, Mo	Coal.
Jacobson & Sons, F	New York, N. Y	Shirts.
Johnson Process Glue Co	do	Glue.
Katz & Davidson	do	Shirts.
Keeler Bros & Co. et al	Denver, Colo	Bonds.
Lapat Knitting Mill (Inc.) et al	Easton, Pa	Hosiery.
Leavitt, Louis	Brooklyn, N. Y	Paints.
Lewis Feather Bed & Pillow Co	Nashville, Tenn	Feather beds, pillows.
Mahaffey Bros & Hendricks	Linesville, Pa	Engraved effects,
Marinello Co	La Crosse, Wis	Toilet preparations.
May Hosiery Mills	Burlington, N. C	Hosiery.
Missouri-Kansas Wholesale Grocers' Association et al.	Kansas City, Mo	Soap.
Murphy, J W	Burlington, Iowa	Magazine (Saturday Evening Post).
Nashua Manufacturing Co. et al	Boston, Mass	Blankets.
National Remedy Co. et al	Maumee, Ohio	Stock and poultry medicine.
New England Manufacturing Co	New York, N. Y	Cotton and linen goods.
New York Twine Mills Co. (Inc.)	do	Cordage.
Nu Grape Co. of America	Birmingham Ala	Beverages.
Ozark Creamery Co	Neosho, Mo	Butter.
Peats Co Alfred	Chicago, Ill	Paints, painters' supplies.
Pittsburgh Coal Co. of Wisconsin et al	Minneapolis, Minn	Coal.
Proctor & Gamble Co. et al	Cincinnati Ohio	Soap, washing powder.
Puritan Silk Corporation	Chicago, Ill	Silk fabrics.
Regat Sales Co	New York, N. Y	Tacking machines, staples.
Reliance Varnish Co. et al	Louisville, Ky	Varnishes.
Rosenblatt, Samson	New York, N. Y	Baking powder.
Sandow Tool Co	do	Machinists' tools.
Sayman Products Co., T. M	St. Louis, Mo	Soaps, perfumes, medicinal preparations.
Seligsohn, Samuel	Philadelphia, Pa	Men's clothing.
Skidmore Pen Co	Toledo, Ohio	Fountain pens.
Smith-Kirk Candy Co.	do	Candy.
Standard Oil Co. of Kentucky et al	Louisville, Ky	Gasoline.
Superior Woolen Mills	do	Men's clothing.
Toledo Pipe Threading Machine Co	Toledo, Ohio	Pipe-threading tools and machines,
United States Steel Corporation et al	New York, N. Y	Iron and steel products.
Waldes & Co. (Inc.)	Long Island City, N.Y.	Dress snap fasteners.
Waterproof Paint & Varnish Co	Watertown, Mass	Paints, varnishes.
Weinstock, Joseph S	New York, N. Y	Silver-plated ware.
Western Silver Works (Inc.)	do	Do.
Winston Co., John C	Philadelphia, Pa	Books.
Winter & Co. et al, J. C	Red Lion, Pa	Cigars.

Wisconsin Cooperative Creamery Association et al,	Madison, Wis	Oleomargine.
Worthington Creamery & Produce Co	Worthington, Minn	Dairy products.

REPRESENTATIVE ORDERS

A number of representative cases have been selected to indicate the nature of the orders to cease and desist issued during the year. These cases are described below.

Pittsburgh Coal Co. of Wisconsin.--The commission entered its order in this case on March 19, 1925, and a modified order on June 20. The unfair methods of competition which were charged in the complaint and prohibited by the order were 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 them-selves 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.

Resale price maintenance--T. M. Sayman Products Co. case.--This company for many years had been engaged in the business of manufacturing and selling soaps, toilet articles, perfumes, medicines, liniments, and allied products. The findings as to the facts were based upon a stipulation in lieu of testimony, and the order of the commission directed the company to cease and desist from carrying into effect its resale price maintenance policy by (l) entering into agreements with its customers whereby the latter undertook to resell its products at prices fixed and determined by it; (2) requesting customers to report the names of dealers failing to observe such prices; (3) causing dealers to be listed as "undesirable who are not to be supplied with respondent's products until they have given satisfactory assurance of their purpose to maintain the desig-

nated resale prices; (4) by employing salesmen or agents to assist in this plan by reporting dealers who do not observe such prices; (5) by utilizing numbers or symbols marked, stamped, or perforated upon the Wrappers or containers of respondent's products with a view to ascertaining the names of dealers who sell said products at less than the suggested prices.

Proctor & Gamble case.--This company and its sales subsidiary are engaged in the manufacture and sale of a soap, soap powder, and soap chips, designated, respectively, as "P. & G. The White Naphtha Soap," "Star Naphtha Washing Powder," and "P. & G. The White Naptha Soap Chips." These products contain no naphtha, but, instead, a petroleum distillate consisting of kerosene, which, upon manufacture, amounted to one-half of 1 per cent by weight arid 1 per cent, respectively, in the case of the two first-named products, but was subject to complete or partial loss by volatilization subsequent to manufacture and prior to sale in the normal course of trade to the consuming public, and was not present in these three products in an amount sufficiently substantial to enhance their value and cleansing power upon their use by the public. It also advertised these products extensively throughout the United States, emphasizing particularly the cleansing quality because of the naphtha content. The commission entered its order on August 6, 1924, and the company, availing itself of its statutory right, filed a petition for review in the United States Circuit Court of Appeals for the Sixth Circuit. The case had been briefed and was argued on October 6 of this year.

Misrepresentation--feather beds.--The Lewis Feather Bed & Pillow Co., a partnership, engaged in business at Nashville, Tenn., was the respondent in this case. This company having no factory of its own, purchased its supplies of feather beds and pillows from the manufacturers thereof and by misrepresentation and false advertising misled and deceived the purchasing public into believing that they were selling direct to the consumer at factory prices, thus eliminating the middleman's profits. It also described its products as being of different grades and qualities, and offered and sold the same under different trade names and labels at varying prices, when the fact was that the products so described did not differ in any respect in either grade or quality. The commission's order which forbade these practices was entered on February 9, 1925.

Missouri--Kansas Wholesale Grocers' Association case.--This association, as the name implies, is composed of wholesale grocers located and doing business in the western half of Missouri and throughout the State of Kansas. Its membership consisted of upward of 75 wholesale concerns and represented about 80 per cent of all the wholesalers located within the territory above mentioned. The com-

mission's complaint Charged that the respondents adopted a plan of hampering, obstructing, and preventing the Proctor & Gamble Co , which quoted equal prices to both wholesalers and retailers, from selling soap, soap products, and cooking fats to the members of the respondent association and wholesale grocers and coercing wholesalers to refrain from dealing in the products of the said Proctor & Gamble Co. Testimony was taken before a trial examiner and the case duly briefed and argued before the commission, and, on May 9, 1925, the commission entered its order to cease and desist.

Keeler Bros & Co. case--Unfair competition in the purchase and sale of bonds.--The moving spirits in this case were Frank W. Keeler and George E Keeler, and they operated under the name of the company just given and also through the Columbia Securities Co. and the National Finance Corporation. The unfair methods of competition charged by the commission in its complaint were that the respondents--who were engaged in the purchase and sale of municipal, county, and school bonds--procured bonds which were on their face Valid, but in which had been fraudulently embodied provisions and terms indicating increased commercial value, using in connection with the sale of such bonds false and misleading histories thereof, and failing to disclose to purchasers and prospective purchasers the real facts in connection with the issues of securities offered for sale. The buying public was misled into believing that the bonds sold by these respondents were valid obligations of the municipalities by which they had been executed and that they were issued in accordance with law; and, furthermore, that such purchasers would involve, themselves in no risk of repudiation or expense of litigation to confirm the validity or to enforce collection on such bonds. The commission's order, which was entered on July 26, 1924, was very comprehensive and ordered the individuals and companies named to cease and desist from either combining, federating, and conspiring together or acting separately and individually, directly or indirectly, from engaging in any of the practices specified above.

Misrepresentation in the sale of butter.--To meet the demand of the consuming public for small quantities of butter, a custom had long prevailed whereby creamery companies shipped and sold butter in sizes weighing, respectively, 4 ounces, 8 ounces, and 1 pound, the standard carton in which said units were placed by said companies being such as to contain 1 full pound. In each such carton is placed either four of the 4-ounce, two of the 8-ounce, or one of the full-pound units. These units before being placed in the carton by the creamery companies are separately dressed in an unmarked wrapper, and the butter so shaped, wrapped, and packed is distributed through wholesale dealers or jobbers and also by the creamery companies di-

rect to the retailers. The Ozark Creamery Co., the respondent in this proceeding, instead of the customary and Standard units of weight just referred to, packed, Shipped, and Sold butter in units weighing 3 ½, 7, and 14 ounces, and to further carry out such deceptive practice this company used cartons which were equal in Size and which, by similarity of dress and design, otherwise simulated the cartons in which the full-weight units were sold. By this practice this concern placed in the hands of the retailers a means which enabled them to commit a fraud on the consuming public by removing these units from the correctly marked cartons for sale as standard-weight units of butter. The company, while ostensibly complying with the law by marking the exact weights on the outer wrapper or carton, was charged by the commission with knowledge that, customarily, this outer wrapper was not seen by the purchaser of the separate small units. The commission entered its order on February 3, 1925.

Misleading advertising--correspondence school.--The commission on September 2, 1924, issued its complaint against F. W. Dobe, an individual, with his place of business in Chicago, Ill., and engaged through correspondence courses in teaching the art of mechanical drafting to persons located in various States of the United States. The respondent, in order to secure pupils for his course of instruction, caused various false and deceptive statements to be inserted in different magazines , periodicals, and newspapers of general circulation throughout the United States. Among such statements were (a) that respondent was then chief draftsman of the Engineers' Equipment Co., which company acted as consulting engineer and furnished designs for large mechanical plants and buildings, etc.; (b) that the prescribed course of instruction furnished by respondent to his pupils would qualify them as capable draftsmen earning $250 or more per month; and other statements to the same effect. The commission's order was entered on February 6, 1925.

Misrepresentation in the production of motion pictures.--The commission, under date of March 23, 1925, entered its order directing M. Brown, doing business under the name of Capital Film Exchange, William Alexander, Herman Rifkin, and the Films Distributors' League (Inc.), their agents, servants, and employees, to cease and desist from directly or indirectly advertising, selling, or leasing any reissued motion-picture photo play under a title other than that under which such photo play was originally issued and exhibited unless the former title of such photo play and the fact that theretofore it had been exhibited under such former title was clearly, definitely, distinctly, and unmistakably stated and set forth both in the photo play itself and in any and all advertising matter used in connection therewith. What called forth the commission's complaint and order was the action of the respondents at the time of

the production by the Douglas Fairbanks interests of a photo play entitled "The Three Musketeers" with the purpose of trading on the popularity of said Douglas Fairbanks and on the demand created by advanced advertising of his production in reissuing the photo play "D'Artagnan," produced for the Triangle Film Corporation in 1915, after changing the name to "The Three Musketeers," and advertising said reissue under its new title without designating it as a reissue.

False and misleading advertising--Sheffield plate.--During the year the commission issued a number of orders in cases involving false and misleading advertising in the sale of silverware and silver plated ware. It appeared that the city of Sheffield, England, and Vicinity constituted that country's largest producing area of silverware and silver-plated ware and the center of its silver industry, and that products there made had come to be highly regarded by the trade and public, and the words "Sheffield silver," "Sheffield plate," and "Sheffield silver-plated ware," when applied to such products, had come to denote to a substantial portion of the public that the products so designated had been manufactured in Sheffield, England, and were of the quality which had become associated with that name and industry. The respondents against whom orders were issued, who were all dealers in silver-plated ware by the electroplating process, sold their products with the words "Sheffield," "Sheffield plate," and other combinations of words, including the word "Sheffield," impressed or stamped thereon, notwithstanding the fact that the same were of domestic origin and not of that quality associated with the word "Sheffield" as above set forth. The effect of this practice was to induce the purchase of these products thus misrepresented as to quality and origin, by a substantial portion of the trade and public in preference to the products of competitors dealing in silver-plated ware manufactured in Sheffield, England, and of those dealing in products not there manufactured and not so designated.

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. Since its organization the commission has issued 708 orders to cease and desist and appeals have been taken in 62 cases.

COURT CASES

The pages immediately following contain brief descriptions of the court cases in which the commission was involved during the year. It will be noted that these cases total 27-2 in the United States Supreme Court, 21 in the United States circuit courts of appeals, 2 in the courts of the District of Columbia, and 2 in the United States district courts.

CASES IN UNITED STATES SUPREME 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 on the ground 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.

On April 20, 1925, the Supreme Court directed reargument and restored the case to the calendar for November 2, 1925.

The grain cases--Investigation 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 from 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.

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. Briefs were prepared and filed, the case argued, and on March 16, 1925, decision was rendered affirming the decision in the lower court.

CASES IN UNITED STATES CIRCUIT COURTS OF APPEALS

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 Cos., "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, where, after argument, the order to cease and desist previously issued by the commission was sustained in every particular. As a basis for its appeal Swift & Co. contended that the statute (sec. 7 of the Clayton Act) was unconstitutional unless the court should read into it certain additional requirements--to wit, that the competition between the absorbing and absorbed companies prior to

consolidation was substantial and that the effect of the acquisition was injurious to the public. The court in sustaining the act and in approving and sustaining the commission's order in the case stated in part:

If, as petitioner's counsel concedes, the section is free from "constitutional objection," and if the powers and activities of its ministerial agency " (the Federal Trade Commission) are properly "circumscribed," the query arises to what circle should such powers be confined?

We are still dealing with words of general meaning and make no progress. Must Congress act only when the child has grown to the stature of a giant? If authority exists to curb--or to dissolve--a corporation when it has reached the trust stage, may Congress not take steps to arrest the corporation's growth before the final stage has been reached? Is our national-defense policy based upon an impending conflict or a desire to prevent one? In order to build the Panama Canal the mosquito was eliminated before the yellow fever appeared. The Government may, under the commerce clause of the Constitution, forbid every contract "which is reasonably calculated to injuriously affect the public interest." Atlantic Coast Line v. Riverside Mills, 219 U. S. 202. It may act to anticipate or prevent an unfortunate situation as well as deal with one that existed.

Subsequent to the rendering of the decision Swift & Co. filed its petition for rehearing, and at the close of the fiscal year the case was awaiting the decision of the court on that petition.

The Armour case--A further instance of stock acquisition in violation of the Clayton Act.--The commission's complaint in this case 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 company appealed from the order and filed its petition for review with the circuit court at Chicago. Subsequently the case was reopened by order of the court for the taking of additional testimony. The additional testimony was taken and argument was had before the commission on the additional evidence so submitted. A supplemental transcript of the record was filed with the court on December 31, 1924. By stipulation the printing of the record, briefs, and oral argument are being held in abeyance pending the decision of the same court on the petition for rehearing in the Swift case.

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., thereby strengthening its hold. * * * That the direct result of the transaction was the complete elimination of the theretofore 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.

Subsequently the Western Meat Co. petitioned for rehearing of the case. The petition was allowed, briefs filed, and the case reargued on February 2, 1925.

On February 17, 1925, the court rendered its decision modifying its previous decision and consequently modifying the order of the commission. Upon the rehearing of the case the court directed its atten-

tion to that portion of the order providing "that in such divestment no stock or profit above mentioned to be so divested shall be sold and transferred directly or indirectly to any stockholder, officer, director, employee, or agent of, or anyone connected directly or indirectly with or under the influence of respondent or any of its officers, etc.

The court in its decision after the rehearing of the case held that the authority of the commission was limited to commanding the of-fending corporation to desist from holding stock in the other corporation and that the commission's authority did not extend so far as to enable it to prevent the acquisition by the Western Meat Co. of the " plant and property of the Nevada Packing Co."

Judge Ross, in a dissenting opinion, stated:

> I adhere to the views expressed in and by the opinion and judgment rendered by this court when this case was last under consideration, and therefore dissent from the modifications now made of that opinion and judgment. It is I think, in effect. leaving theretofore active and substantial competition between the parties entirely eliminated, with the return of stock worth only the paper on which it is printed.

The limitation placed upon the authority of the commission by the decision of the court after reargument being in direct and irreconcilable conflict with the decisions rendered by other circuit courts in similar cases, and the commission being of the opinion that to permit the Western Meat Co. to acquire the plant and properties of the Nevada Packing Co. would leave the Western Meat Co. in the same controlling position (with respect to the elimination of competition) as if it held the capital stock of such company, and would make the act of stock divestiture an empty gesture, and being of the belief that a principle of great importance to the public was involved, petitioned the United States Supreme Court for writ of certiorari. That court, on June 1, 1925, granted the petition, and the case at the close of the fiscal year awaits brief and argument in the Supreme Court.

The Thatcher Manufacturing Co. case--Another instance of an alleged violation of section 7 of the Clayton Act.--The Thatcher company 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 violation of section 5 of the Federal Trade Commission act and section 7 of the Clayton Act.

The commission, after hearings, entered its order as follows:
That the Thatcher Manufacturing Co.--

(1) Cease and desist from the ownership, operation, management, and control of the assets, plants, properties, rights, and privileges which were at the time of their acquisition in the ownership, possession, management, and control of the Essex Glass Co., the Travis Glass Co., and the Lockport Glass Co., together with all improvements and additions made to such assets, plants, and properties up to the date of this order, and

(2) Divest itself of all capital stock of the Woodbury Glass Co. now held and owned by it, and all right, title, interest, and credit therein.

Subsequent to the issuance of the order recited above the Thatcher company gave notice of its intention not to abide by the decision and order of the commission. The commission, therefore, on March 31 1924, filed in the United States Circuit Court of Appeals for the Third Circuit its application for enforcement of the order. Briefs were filed and on December 2, 1924; the case was argued.

With reference to paragraph 1 of the commission's order, the court in its decision stated:

> The order of the commission in so far as it relates to the stock and total assets and properties of the Essex Glass Co., the Travis Glass Co., and the Lockport Glass Co. Is approved and its enforcement directed.

With reference to paragraph 2 of the commission's order, the court said:

> We are, therefore, of the opinion that the evidence does not sustain the coin-mission's finding that the respondent's acquisition of the stock of the Woodbury Glass Co. substantially lessened competition between corporations, restrained commerce, and tended to create a monopoly.

Subsequent to the rendering of this decision the Thatcher company filed petition for rehearing, and rehearing was denied June 2, 1925. The commission on April 28, 1925, filed its motion to rectify the decree, the commission contending that the decree was indefinite and did not fix a time within which the Thatcher company should make compliance. The court corrected the decree by requiring the Thatcher company to submit, within 30 days, a plan for the performance of the terms of the decree. The court made provision, however, for a stay until October 16, 1925, to enable the Thatcher company to apply to the Supreme Court for writ of certiorari, and in the event the petition for certiorari is filed before that date the stay is extended to such time as the Supreme Court shall have disposed of the matter.

The Utah-Idaho Sugar Co. case--Suppression of competition in 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. Cullen--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 competitors.

(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 producing 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.

The commission, as required by statute, filed a transcript of the record (which consisted of 13,428 pages of testimony and approximately 6,000 pages of exhibits) with the court.

Subsequent to the filing of the transcript the court ordered the petitioners to prepare and serve a condensed narrative of the transcript. Counsel for petitioners (Utah-Idaho Sugar Co.) sought (by motion) a modification of the order concerning the preparation and service of the condensed narrative. This was opposed by the commission, and the motion was denied. In compliance with the court's order, all the petitioners except Wooley prepared and served on the commission a condensed narrative of the record. This condensed narrative consists of four bound volumes, a total of 1,433 pages.

Petitioner Wooley having failed to prepare and serve a condensed narrative, the commission filed a motion to dismiss within the time specified by the court his petition for review. Wooley Opposed this motion, briefs were filed, and the question arising upon the motion was argued. No decision has as yet been rendered, the court taking the matter under advisement.

Minneapolis Chamber of Commerce case.--The commission's complaint in this case charged respondents with engaging in a confederation and conspiracy to maintain a monopoly of the grain trade at Minneapolis and the immediate surrounding territory, and that in

order to carry out the monopoly and destroy the business of its competitors, the chamber of commerce and its organization were used as a medium through which the unfair methods of competition were accomplished by its members in violation of section 5 of the Federal Trade Commission act.

The commission's order to cease and desist was subsequently issued 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 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 required 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 (he cooperative plan of marketing grain.

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 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, 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 to a 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.

Petition for review was filed in the United States Circuit Court of Appeals for the Eighth Circuit seeking review and vacation of the order to cease and desist issued by the commission in the case. The case was argued on May 25, 1925, and now awaits the decision of the court.

Eastman Kodak Co. case.--The commission's complaint charged Eastman Kodak Co. and 17 other corporations and individuals with having used unfair methods of competition in interstate commerce in violation of section 5 of the Federal Trade Commission act. The complaint alleged that the Eastman Kodak Co. up to 1920 manufactured and sold approximately 94 per cent of all cinematograph film used in the United States and manufactured and sold approximately 96 per cent of all the cinematograph film produced in the United States; that between 1920 and 1921, due to competition by American importers, the Eastman company's sales decreased to approximately 81 per cent of the total sales in the United States. It was further alleged that the Eastman Kodak Co. conspired and confederated to hinder and restrain this competition and to monopolize the manufacture and sale of such film throughout the United States. It was alleged that many of the respondents named were induced or coerced into joining the conspiracy, and that as a result of the conspiracy the Eastman company acquired, and at the time the complaint was issued by the commission the Eastman Kodak Co. had, a virtual monopoly in the manufacture and sale of cinematograph film in the United States, to the injury of other American manufacturers. The commission considered the case on an agreement or stipulation as to the facts, and after consideration the commission, on April 18, 1924, entered its order requiring the Eastman Kodak Co. et al. to cease and desist from conspiring and cooperating between or among themselves to hinder and restrain competition in the manufacture and sale of cinematograph film and from maintain-

ing and extending or attempting to maintain and extend the monopoly of the Eastman Kodak Co. in the distribution and sale of cinematograph film.

On July 26, 1924, petition for review was filed in the United States Circuit Court of Appeals for the Second Circuit by the Eastman Kodak Co., George Eastman, and Jules E Brulatour. On August 16, 1924, petition for review was filed by the Craftsmen Film Laboratory (Inc.), Erbograph Co., and Republic Laboratories (Inc.). The two petitions were consolidated for argument and were argued on April 24, 1925. The court in its decision rendered on May 18, 1925, affirmed the order of the commission in all respects, except as to one point-- namely, that portion of the commission's order which sought to restrain the Eastman Kodak Co. from owning certain factories.

Judge Manton dissented, stating that he believed the order of the commission should be affirmed in all respects.

The Sealpax case--Resale price maintenance in the sale of underwear.--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 fail ing 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 11 the Sealpax Co. filed its petition for review with the Circuit Court of Appeals for the Fourth Circuit (Richmond, Va.).

In November, 1924, the commission filed its motion to make the petition for review more definite and certain, and the court on the 27th of November, 1924, granted the motion.

In January, 1925, the case was argued, and on April 14, 1925, the court rendered its decision approving and affirming the order of the commission. The court in its decision stated, in part:

> We see no escape from holding that the commission was required to respond to these facts by making the order above recited. The facts are substantially the same as in Federal Trade Commission v. Beechnut Packing Co., 257 U.S. 441.

Q. R. S. Music Co. case--Resale price maintenance in the sale of music rolls.--After the commission had issued 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 of specified resale prices on products manufactured by respondent.

(2) Attaching any condition, express or implied, to purchases 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 commission filed the record with the court on September 15, 1924.

Since the filing of the record the court has entered interlocutory orders denying motions by both parties--to wit, (1) by the commission to make the petition for review definite and certain; (2) by the Q. R. S. Music Co. to direct the commission to file, as a part of the record, the reports of the trial examiner and petitioners' exceptions thereto, as well as petitioners' request for an order dismissing the complaint.

After denial of the above motions the commission filed an answer to the petition for review, this answer being in the nature of a cross petition praying that the court, upon final hearing, make and enter its decree affirming the order of the commission and requiring obedience thereto, and enjoining the petitioner in the terms of the commission's order from continuing the Violations of law found by the commission to have been committed by petitioner.

At the close of the fiscal year the proceeding was awaiting briefs and argument.

Hills Bros. case--Resale price maintenance--Coffee.--Hills Bros. are engaged, among other things, as roasters and sellers of coffee in interstate commerce. The complaint of the commission charged

that Hills Bros. had and maintained an effective resale price maintenance plan and policy by means of which they compelled dealers to maintain the resale prices fixed by them. The complaint contained 12 paragraphs devoted to the means used by Hills Bros. in inducing or compelling dealers to abide by the arbitrary resale prices so fixed by Hills Bros.

Hills Bros., in answering to said complaint, admitted the existence of a minimum resale price plan for the sale of its coffee, but contended that the means used to carry such plan or policy into effect were lawful means and that its resale price maintenance policy was beneficial to the public and was not in violation of section 5 of the Federal Trade Commission act.

After hearing the case the commission issued its order requiring Hills Bros. to cease and desist from carrying into effect by cooperative methods its system of minimum resale prices.

On February 17, 1925, Hills Bros. filed a petition for review in the Circuit Court of Appeals for the Ninth Circuit. The contentions in their petition were substantially the same as those previously made in their answer to the commission's complaint. The commission on June 29, 1925, just prior to the close of the fiscal year, filed with the court a transcript of the record in the case. The proceeding awaits briefs and oral argument.

Toledo Pipe Threading Machine Co. case--Resale price maintenance--Tools.--The commission's complaint against the Toledo Pipe Threading Machine Co. charged that company with having, maintaining, and enforcing a resale price maintenance plan and policy. The means alleged to be used in the maintenance of resale prices were specifically set forth in the complaint under 11 subheadings.

After hearing the commission issued its order requiring the Toledo Pipe Threading Machine Co. to cease and desist from maintaining its suggested resale prices by various means and methods enumerated in the order.

The company on March 4, 1925, filed in the Circuit Court of Appeals for the Sixth Circuit a petition for review. The record was filed by the commission on April 11, 1925, and subsequently the commission filed a motion to make the petition more definite and certain. This motion was opposed by the petitioners, and after hearing the court, on May 12, 1925, ordered the petitioner to amend and to make the petition more definite and certain. On June 15, 1925, petitioner filed assignments of error in the case, and at the close of the fiscal year the case rests awaiting briefs and argument.

Chase & Sanborn case--Resale price maintenance--Coffee, etc.--This case involves the adoption and use by the above company of a minimum resale price plan by and through which the company com-

pelled dealers to resell its products to the public at prices not less than certain arbitrary prices fixed by Chase & Sanborn as the retail prices on their products.

The commission issued its order on May 16, 1925, commanding Chase & Sanborn to cease and desist from enforcing these arbitrary resale prices and to cease and desist from informing dealers that persons or concerns not maintaining said arbitrary resale prices so fixed by Chase & Sanborn had been or would be cut off from supplies.

On June 5, 1925, petition was filed in the Circuit Court of Appeals for the First Circuit to review the order of the commission and seeking vacation of that order. At the close of the fiscal year the commission was preparing to file the transcript of the record in accordance with the provision of the statute.

The American Tobacco Co. case--Resale price maintenance in tobacco products.--The commission's order in this case, 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 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.

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 argued on November 19, 1924, but as yet no decision has been rendered by the court.

Pacific States Paper Trade Association--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-Tacoma 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 com plaint 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 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. Subsequently the commission issued its order requiring respondents to cease and desist from further use of certain practices and business methods. Its acts and practices prohibited by the order were specifically set forth in eight subdivisions of the order.

The Pacific States Paper Association et al. petitioned the Circuit Court of Appeals for the Ninth Circuit for review of certain parts of the commission's order (five subdivisions) . Briefs were filed, argument had, and in February, 1925, the opinion of the court was rendered sustaining the commission on two of said subdivisions, slightly modifying one subdivision and reversing the commission on the two remaining subdivisions.

Petition for rehearing was then filed by the commission, and the court in May, 1925, denied the petition. On April 18, 1925, petition for certiorari was filed by the commission, and the United States Supreme Court on May 25,1925, granted the petition.

At the close of the fiscal year the case awaits briefs and argument. Pure Silk Hosiery Mills case--False advertising--False representations in sale of hosiery.--The Pure Silk Hosiery Mills sold hosiery to the consuming public generally throughout the United States. Although it neither owned nor operated any factory, it represented by a great variety of means that the hosiery by it offered for sale and sold was manufactured in mills owned and operated by it, and that consumers in purchasing from it obtained hosiery at wholesale or mill prices; that in buying from it purchasers eliminated middleman's profits and derived many advantages (in price and otherwise) which they would not obtain if they purchased hosiery in the regular channels. The commission's complaint also alleged that the use by respondent company of the word "mills" in its name. when it neither owned nor operated any hosiery mill, was in violation of section 5 of the Federal Trade Commission act. The commission's order issued on October 24, 1922, commanded the Pure Silk Hosiery Mills to cease selling

hosiery in interstate commerce "under a trade or corporate name which includes the word 'Mills' in combination with the words 'Pure silk hosiery,' or words of like import," unless and until respondent actually owns or operates a factory or mills in which is manufactured the hosiery sold by it.

Subsequent investigation by the commission disclosed the fact that its order was being completely ignored, and the commission on December 30, 1924, petitioned the Circuit Court of Appeals for the Seventh Circuit for enforcement of its cease and desist order previously issued. The Pure Silk Hosiery Mills strenuously contested the commission 's petition for enforcement. Briefs were filed, argument had, and the court on December 8, 1924, granted the petition of the commission, adopted the order of the commission, and commanded the Pure Silk Hosiery Mills to obey the order. Petition for rehearing was filed by the company and denied by the court.

The Pure Silk Hosiery Mills chose to violate the order of the Circuit Court of Appeals mentioned hereinabove, and the commission on June 29, 1925, filed its petition with the court (seventh circuit) to enforce the court decree of December 8, 1924, mentioned hereinabove.

The Proctor & Gamble Co. case--False advertising and misbranding--Soap.---Proctor & Gamble Co. manufacture soap, some of which it advertises and sells as " P. & G. White Naptha Soap." It also manufactures and sells a washing powder under the name of "Star Naptha Washing Powder." The complaint of the commission alleged that at the time such soap and powder are sold to the consuming public they do not contain any naphtha nor do they contain any petroleum distillate in an amount sufficient to be effective as a cleansing ingredient.

After hearing the case the commission ordered Proctor & Gamble to cease using the word "Naphtha" as a brand name for any soap or soap products when such commodities at the time of their sale to the consuming public contain no naphtha or naphtha in an amount of 1 per cent or less by weight.

Proctor & Gamble Co., on August 28, 1924, petitioned the Circuit Court of Appeals (Sixth) for review. The commission in obedience to the provision of the statute filed the transcript of the record in November of that year. Brief for petitioner was filed on June 20, 1925, and the case at the close of the fiscal year awaited the commission's brief and oral argument.

John C. Winston Co. case--Books, etc.--The John C. Winston Co. is a seller and distributor of books, encyclopedias, etc., in interstate commerce. The commission in its complaint charged that the Winston company in selling these products to the public brought about

sales by means of false representations, and that the Winston company used highly deceptive methods.

Full hearing was had before the commission, and on August 13, 1924, the commission issued its order requiring the Winston company to cease and desist from making the false representations condemned in the complaint.

On September 15 of that year petition for review was filed in the Circuit Court of Appeals for the Third Circuit. The transcript of the record was filed in accordance with the provision of the statute, briefs were filed, and the case argued in January, 1925. Decision of the court was rendered on February 27, 1925, vacating the order of the commission on the grounds that one of the deceptive practices used by the Winston company in the sale of its products had been abandoned by that company prior to the issuance of the commission's complaint, and the second practice condemned by the commission as unfair and in violation of section 5 of the Federal Trade Commission act did not constitute an unfair method of competition within the intent and meaning of that act.

The commission on May 26, 1925, filed a petition for certiorari in the United States Supreme Court, and at the close of the fiscal year the Supreme Court has this petition under consideration.

The Chicago Portrait Co. case--Misrepresentation in the sale of portraits made from photo graphs.--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 Circuit Court of Appeals for the Seventh Circuit. The case was argued and on December 23, 1924, the court rendered its decision vacating the order of the com mission. The court in its decision conceded that the practices of the Chicago Portrait Co. were reprehensible and dishonest and that the

public was deceived, but held that no injury to either customers or competitors resulted. The court in the majority opinion stated in part:

> The falsehood about the usual sale price is reprehensible and an unworthy device to be employed, but it had no tendency to injure any competitor.

Judge Alsehuler filed a dissenting opinion in the case wherein he stated in part:

> I can not concur in the result * * *. While it Is rather a mild sort of fraud, to my mind It is none the less of the very essence of unfair competition toward all who make or sell, in Interstate, enlarged photographs, falling fairly within the corrective provisions of the Federal Trade Commission act.

The commission's petition for rehearing was denied and petition for certiorari was filed in the United States Supreme Court on May 27, 1925. The case at the close of the fiscal year awaits the decision of the Supreme Court on petition for certiorari.

S. E. J. Cox et al. case--Misrepresentation in the sale of oil securities.--This case presents an 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 die 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 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. Cox, or 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 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, earnings, income, dividends, progress, or prospect of any corporation, association, or partnership.

Under date of October 6, 1923, the court granted the commission's 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 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 pat, terns, 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 by their competitors. Incidentally the respondents refused to sell 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 wars 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.

The respondents appealed the case to the United States Circuit Court of Appeals for the Second Circuit. Their contention on appeal was that although they practiced the condemned method of fixing and maintaining resale prices that they were not engaged in unfair methods of competition because they were using "the same methods as their competitors used."

The commission filed answer and cross petition praying the court to affirm the order of the commission, and enjoining the petitioners from continuing the violations of law found by the commission to have been committed.

The case was argued in December, 1924, and the court in its decision rendered January 5, 1925, affirmed the order of the commission and granted enforcement of the commission's order as sought in the cross petition.

In the course of its decision the court said:

> The petitioners are one of seven of the largest concerns engaged in the Industry. There are about 50,000 pattern agencies in the United States and the petitioners by their contracts control about 20,000. They restrain these dealers by their contract. The application of this contract is not only a potential effort but indeed is an actual and powerful restraint upon trade by the petitioners * * *. The argument that other competitors are doing substantially what the petitioners do has no effect. It is not important.

Dr. Herman Heuser case.--The commission's complaint in this ease alleged that Dr. Herman Heuser was owner of a patented process for making nonalcoholic beer. Various breweries, as licensees, used his process while other breweries used a process owned and patented by other persons, the last being known as the Baltimore process. The products of all the breweries in question were distributed in interstate commerce. Doctor Heuser at various times wrote letters to the breweries who were licensees of the Baltimore process advising them that the process they were using (the Baltimore process) was an infringement upon the Heuser patents, and threatening said brewers with suit unless they should cease using the Baltimore process. The complaint alleges that the purpose of these letters was to bring the Baltimore process into disrepute and to intimidate and coerce the licensees of that process into discontinuing its use.

After full hearings of the case the commission issued its order requiring Doctor Heuser, his agents, etc., to cease and desist from--

> Threatening, by letters or otherwise, to institute suits against manufacturers of nonalcoholic beer for the infringement of the process claimed in the respondent's letters patent, without in good faith intending to institute such suit or suits, and in fact following such threat or threats with suit or suits brought within a reasonable time unless such acts shall be desisted from.

On February 7, 1924, petition for review was filed in the United States Circuit Court of Appeals for the Seventh Circuit. Briefs were filed, the ease argued, and on March 2, 1925, the court rendered its decision, holding that--

> The order of the commission was improvidently issued and should be and is set aside and annulled.

CASES IN COURTS OF DISTRICT OF COLUMBIA

The Mannered 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 engaged in the production and sale in interstate commerce of bituminous coal.

One of these companies, the Mannered Coal Co., declined to maker 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 of the District of Colombia, where it was argued on January 9 and 10, 1924.

On May 10, 1924, the court of appeals directed a reargument. The case was reached on the calendar October 10, 1924 and continued generally at that time pending a decision by the Supreme Court of the United States in the Claire Furnace case.

At the close of the fiscal year it had not been reached.

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 an identification of the business, conducted by him, in any manner of advertisement, signs, stationery, telephone, or business directories, trade lists, or otherwise.

The respondent having refused to comply with the order, the commission, on May 13, 1924, filed, in the Court of Appeals for the District of Columbia, its petition for enforcement thereof. The case was argued November 5, 1924, and decision of the court rendered on June 1, 1925. The sole debatable question in this case was, with respect to jurisdiction. The commission, in its organic act, was given jurisdiction over unfair methods of competition in the District of Columbia. That act in making. provision for enforcement of the orders of the Federal Trade Commission provided for procedure in the " Circuit Court of Appeals of the United States, within any circuit where the method of competition in question was used * * * "Then District of Columbia not being territory assigned to any one of the nine circuits, the case was taken to the Court of Appeals of the District of Columbia upon the theory that Congress, in declaring un-

66053---25-----5

fair methods of competition to be unlawful within the District of Columbia, intended that law and that provision of the law to be enforceable in the Appellate Court of the District of Columbia. The court on June 1, 1925, rendered its decision dismissing the petition of the commission upon the grounds that the court had no jurisdiction in the case. In its decision it stated, in part, as follows:

> While the Federal Trade Commission is undoubtedly given Jurisdiction, by the terms of the act, over cases arising in the District of Columbia, Congress through an apparent oversight has failed to provide a court within the District of Columbia in which the commission can enforce its orders. This Commission in the act can be remedied by Congress, if it is found desirable.

The commission has carried the case to the Supreme Court on certiorari.

CASES IN UNITED STATES DISTRICT COURTS

Henry F. Malseed, recording secretary of the St. Louis Photo-Engravers' Union No. 10. The commission issued its complaint charging the members of the Photo-Engravers' Board of Trade of New York (Inc.) and others with conspiracy to establish and maintain uniform prices at which respondent's products (photo-engravers) were to be sold and the enforcement of certain rules among the members establishing and maintaining a monopoly in the photo-engraving business.

In the course of taking testimony in the case the commission issued a subpoena duces tecum to Henry F. Malseed, recording secretary of the St. Louis Photo-Engravers Union No. 10, requiring him to appear and to produce certain documentary evidence, including certain minutes. Malseed refused to obey the subpoena, and the commission in accordance with the provisions of section 5 of the Federal Trade Commission act filed in the United States District Court for the Eastern District of Missouri a petition praying the court to compel said Malseed to obey the subpoena and produce the documentary evidence mentioned therein.

Subsequent to the filing by the commission of the above petition, but prior to the time the court acted in the matter, Malseed agreed to and did appear and produce the documentary evidence in question, whereupon the district court proceedings were dismissed.

United States v. *Charles C. Butterfield*.--Charles C. Butterfield, of Pittsburgh, Pa., sought to have the commission issue a complaint against one of his competitors.

He produced and filed with the commission as a basis for the complaint various letters which he represented to be authentic and which tended to establish the guilt of his said competitor. Subsequently Butterfield in testifying under oath before the commission swore

that said letters were authentic. Other testimony, however, was introduced which proved quite conclusively that the letters in question were not authentic but were forged by Butterfield.

The commission presented the matter to the Department of Justice and cooperated with that department in bringing about Butterfield's indictment in the United States District Court for the Western District of Pennsylvania, under the general perjury statute. Subsequently he was tried and convicted, and of January 24, 1925, was sentenced to eight months' imprisonment.

TABLES SUMMARIZING WORK OF LEGAL DIVISION AND COURT PROCEEDINGS, 1915-1925

TABLE I.--*Preliminary investigations*

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925
Pending beginning of year	0	4	12	32	19	29	61	68	147	102	191
Instituted during year	119	265	402	611	843	1,197	1,070	1,223	1,234	1,568	1,612
Total for disposition	119	269	474	643	862	1,136	1,131	1,291	1,381	1,670	1,803
Closed after investigation	3	123	259	292	298	351	500	731	897	1,157	1,270
Docketed as applications for complaints	112	134	153	332	535	724	563	413	382	322	357
Total disposition during year	115	257	442	624	833	1,075	1,063	1,144	1,279	1,479	1,627
Pending end of year	4	12	32	19	29	61	68	147	102	191	176

SUMMARY

Instituted to June 30, 1925		10,255
Dismissed after investigation	5,942	
Docketed as applications for complaint	4,127	
Total disposition to June 30, 1925		10,069
Pending July 1, 1925		186

TABLE 2.--*Applications for complaint*

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1926
Pending beginning of year	0	104	130	188	280	389	554	467	458	572	555
Docketed during year	112	134	153	332	535	724	426	382	416	377	340
Previous dismissals rescinded	0	0	0	0	0	0	0	0	0	5	4
Total for disposition	112	238	283	520	815	1,113	980	854	880	954	909
Dismissed for lack of merit	8	108	79	160	301	339	357	287	181	246	303
To complaints during year	0	3	16	80	125	220	156	103	121	143	118
Total disposition during year	8	108	95	240	426	559	514	390	302	389	421
Pending end of year	104	130	188	280	389	554	466	458	572	565	488

SUMMARY

Docketed to June 30, 1925			3,931
Dismissed (net)		2,357	
To complaints		1,086	
Total disposition to June 30, 1925			3,443
Pending July 1, 1925			488

TABLE 3.--*Complaints*

	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925
Pending beginning of year	0	0	5	10	85	133	287	312	257	232	264
Docketed during year	0	5	9	154	135	308	177	111	144	154	132
Previous dismissals rescinded	0	0	0	0	0	0	0	0	0	1	0
Previous orders to cease and desist rescinded											
Consent	0	0	0	0	0	0	0	0	0	5	0
Total for disposition	0	5	14	164	221	441	465	423	402	392	396
Dismissed during year	0	0	1	7	13	44	37	75	87	36	103
Orders to cease and deist entered during year	0	0	3	72	74	110	116	91	82	92	73
Total disposition during year	0	0	4	78	88	154	153	166	170	128	176
Pending end of year	0	5	10	86	133	287	312	257	232	264	220

SUMMARY

Docketed to June 30, 1925		1,329
Dismissed (net)	401	
Orders to cease and desist (net)	708	
Total disposition to June 30, 1925		1,109
Pending July 1, 1925		220

COURT PROCEEDINGS--ORDERS TO CEASE AND DESIST

TABLE 4.--*Petitions for review--United States circuit court of appeals*

	1919	1920	1921	1922	1923	1924	1925
Pending beginning of year	0	2	8	13	9	4	14
Appealed	4	9	18	5	5	15	6
Total for disposition	4	11	26	18	14	19	20
Decisions for Commission	1	0	1	4	5	1	6
Decisions for others	1	3	11	5	4	4	3
Petitions withdrawn	0	0	1	0	1	0	2
Total disposition during year	2	3	13	9	10	5	11
Pending end of year	2	8	13	9	4	14	9

SUMMARY

Appealed to June 30, 1925		62
Decisions for commission	18	
Decisions against commission	31	
Petitions withdrawn	4	
Total disposition to June 30, 1925		53
Pending July 1, 1025		9

TABLE 5.--*Petitions for review--Supreme Court of the United States*

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

SUMMARY

Appealed by commission to June 30, 1925	18	
Appealed by others to June 30, 1925	4	
Total appealed to June 30, 1925		22
Decisions for commission	2	
Decisions against commission	7	
Petitions withdrawn by commission	1	
Writ denied commission	4	
Writ denied others	4	
Total disposition to June 30, 1925		18
Pending July 1, 1925		4

	1919	1920	1921	1922	1923	1924	1925
Pending beginning of year	0	0	0	0	0	1	3
Appealed during year	0	0	0	0	1	2	1
Total for disposition	0	0	0	0	1	3	4
Decisions for Commission	0	0	0	0	0	0	2
Decisions against Commission	0	0	0	0	0	0	0
Petitions by commission denied	0	0	0	0	0	0	1
Total disposition during year	0	0	0	0	0	0	3
Pending end of year	0	0	0	0	1	3	1

SUMMARY

Appealed to June 30, 1925		4
Decisions for commission	2	
Decisions against commission	0	
Petitions denied	1	
Total disposition to June 30, 1925		3
Pending July 1, 1925		1

Supreme Court of the United States: (Non).

TABLE 7.--*Petitions for rehearing, modification, etc.--Lower courts*

	1919	1920	1921	1922	1923	1924	1925
Pending beginning of year	0	0	1	0	1	0	0
Appealed during year	0	1	0	3	0	2	9
Total for disposition	0	1	1	3	1	2	9
Decisions for commission	0	0	0	1	0	0	1
Decisions against commission	0	0	0	0	0	0	1
Petitions by commission denied	0	0	1	0	0	2	1
Petitions by others denied	0	0	0	1	1	0	3
Petitions withdrawn by commission	0	0	0	0	0	0	1
Total disposition during year	0	0	1	2	1	2	7
Pending at end of year	0	1	0	1	0	0	2

SUMMARY

Appealed to June 30, 1925		15
Decisions for commission	2	
Decisions against commission	1	
Petitions by commission denied	4	
Petitions by others denied	5	
Petitions withdrawn by commission	1	
Total disposition to June 30, 1925		13
Pending July 1, 1925		2

TABLE 8.--*Petitions for rehearing, modification., etc.--Supreme Court of the United States*

	1919	1920	1921	1922	1923	1924	1925
Pending beginning of year	0	0	0	0	0	0	0
Appealed during year	0	0	0	1	0	0	0
Total for disposition	0	0	0	1	0	0	0
Petitions denied others	0	0	0	1	0	0	0
Total disposition to June 30, 1925	0	0	0	1	0	0	0
Pending July 1,1925	0	0	0	0	0	0	0

SUMMARY

Appealed to June 30, 1925		1
Petitions by others denied	1	
Total disposition to June 30, 1925		1
Pending July 1, 1925		0

COURT PROCEEDINGS-MISCELLANEOUS

TABLE 9.--Mandamus, injunction, etc.--Lower courts

	1919	1920	1921	1922	1923	1924	1925
Pending at beginning of year	0	1	2	3	4	1	1
Appealed during year	1	2	2	5	4	0	0
Total for disposition	1	3	4	8	8	1	1
Decisions for commission	0	0	1	2	0	0	0
Decisions against commission	0	1	0	1	7	0	0
Petitions withdrawn by others	0	0	0	1	0	0	0
Total disposition during year	0	1	1	4	7	0	0
Pending at end of year	1	2	3	4	1	1	1

SUMMARY

Appealed to June 30, 1925		14
Decisions for commission	3	
Decisions against commission	9	
Petitions withdrawn by others	1	
Total disposition to June 30, 1925		13
Pending July 1, 1925		1

TABLE 10.--*Mandamus, injunction, etc.--Supreme Court of the United States*

	1919	1920	1921	1922	1923	1924	1925
Pending at beginning of year	0	0	0	0	0	6	4
Appealed during year	0	0	0	0	6	0	0
Total for disposition	0	0	0	0	6	6	4
Decisions for commission	0	0	0	0	0	0	0
Decisions against commission	0	0	0	0	0	2	3
Total disposition during year	0	0	0	0	0	2	3
Pending at end of year	0	0	0	0	6	4	1

SUMMARY

Appealed to June 30, 1925		6
Decisions for commission	0	
Decisions against commission	5	
Total disposition to June 30, 1925		5
Pending July 1, 1925		1

BOARD OF REVIEW

The board of review is an organization consisting of five lawyers established within the commission for the purpose of reviewing, for submission to the commission, both as to the law and the facts, the entire record of every case investigated and prepared by the examining division where there is a recommendation for a complaint by either the examining attorney making the investigation or the chief examiner; and to recommend to the commission whether complaints shall be issued and trials had in all of, the numerous cases brought before the commission involving alleged violations of the Federal Trade Commission act, sections 2, 3, 7, and 8 of the Clayton Act, and certain provisions of the Webb Export Act or whether such charges

shall be dismissed orb handled under the new rules by stipulation. The statements . of all witnesses interviewed by the commission's investigating examiners and all the documentary evidence and exhibits secured are carefully analyzed by the board to determine the merits of each case. If necessary the board may require that further evidence be procured by the chief examiner's staff.

Before recommending issuance of a complaint in any case it is the duty of the board of review to accord to the respondent or respondents in the case the privilege of appearing before the board at an informal hearing for the purpose of submitting any facts or considerations pertinent to the issues with a view to avoiding issuance of such a complaint. Before such hearings are held the board causes a formal notice of the time and place of the hearing to be served upon the respondent with a brief statement of the nature of the charges against him. At such hearing the respondent may appear in person or by counsel and may submit any statement in writing or documentary evidence for the consideration of the board, and all such data are carefully considered by the members of the board before determining the final recommendation to be made in the case. In a proper case if the respondent appears before the board and offers to discontinue the practices complained of the board is authorized to enter into a stipulation to that effect on behalf of the commission.

The records in these cases when finally completed frequently consist of several hundred pages; many novel and difficult questions of law are required to be examined and passed upon by the board to determine whether a given practice constitutes unfair methods of competition under the statute and the decision of the Federal court or, in the absence of precedents, under general principles of law. In cases falling under the Clayton Act the questions as to whether a practice may substantially lessen competition or tend to create a monopoly must be considered, and in all cases the jurisdictional question as to the existence or nonexistence of interstate commerce must be determined. After consideration and discussion the board prepares its report to the commission, which consists of (1) a detailed summary of all the facts in the case, (2) a full opinion based upon] the facts and the law, (3) the board's recommendation to the commission asb to. the action to be taken in each particular case. In practically all cases this recommendation of the board is followed by the commission.

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, or upon its own initiative in appropriate instances, the com mission 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, mending cotton, knit goods, paper, oil, used typewriters, creamery, hosiery guaranty against decline, macaroni, silverware, gold knives, watch cases, subscription-book publishers and music publishers, band instruments, antihog cholera serum and virus, and the use of the terms "engraved" and "embossed." A pamphlet on submittals is being 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 five trade-practice submittals were held. Two were in connection with the use of the words "Embossed" and "Engraved" in the so-called raised-printing industry, one of which was held on June 19, 1925, in Washington before the commission, and the other on October 28, 1924, in New York City before Commissioner Charles W. Hunt. The third was held at the instance of the manufacturers of band instruments, before Commissioner Vernon W. Van Fleet at Chicago, Ill., on July 15, 1924. The fourth was held on March 18, 1925, before Commissioner Hunt in the interest of the settlement of disputed trade practices among the producers of anti-hog-cholera serum and virus. The fifth was at the request of manufacturers of mending cotton, and was held in New York City on June 23 and September 25, 1925, and was conducted by Commissioner Huston Thompson.

Following are statements given out by the commission in connection with the above five trade-practice submittals and the dissent of

Commissioners Thompson and Nugent in the anti-hog-cholera serum and Virus submittal, as well as the answers thereto of Commissioners Van Fleet, Hunt, and Humphries.

ENGRAVED-EFFECTS PRINTING

OCTOBER 28, 1924.

At the request of the engraved-effect group of the New York Employing Printers' Association, a trade-practice submittal was held by the industry before Federal Trade Commissioner Charles W. Hunt, representing the commission, for the purpose of considering the use of the terms "engraved effects" and "embossed effects" as applied to a form of raised printing. The submittal was held at the New York office of the commission, 105 West Fortieth Street, October 28, 1924. According to the best information available, there are approximately 1(35 concerns in the United States making a specialty of this class of work, and who were invited to the meeting.

The form of printing referred to is done on a regular printing press with a slow-drying ink and sprinkled with a rosin or shellac base powder. The work is then subjected to a heating process, which fuses the powder and the ink and hardens when cool. This produces a raised surface which may be either a bright or dull finish. Several terms have been suggested for this type of work, among them being "engravotype," "embossotype," "thermotype," "embossograph," "cameograph," and "raised" or "relief printing." There was some objection to most of these terms. Particular objection was made to the use of the term "raised" or "relief printing" on the ground that these terms are applied to a different process and a product which the industry believes very inferior to the class of work being considered. The discussion therefore was devoted chiefly to the use of the terms "engraved effects" or "embossed effects."

Thirty-four concerns, engaged primarily in this type of work, were represented either in person or by proxy at the meeting. These were as follows:

Non-Plate Engraving Co. (Inc.), New York City.
Engravo Co., New York City.
Wallace Brown, New York City
Plateless Engraving Co., Inc., New York City.
Embossograph Co., New York City.
The Embossotype Co., Pittsburgh, Pa.
Wedlaw Art Press, Kansas City, Mo.
Standard Press, Boston, Mass.
John Gwyer Press, Pittsburgh, Pa.
Murdock-Kerr Co., Pittsburgh, Pa.
Challinor-Dunker Co., Pittsburgh, Pa.
Squirrel Hill Printing Co., Pittsburgh, Pa.
A. J. Heilman, Pittsburgh, Pa.

D. K. Murdock Co. (Inc.), Pittsburgh, Pa.
Landeck Press (Inc.), Pittsburgh, Pa.
J. T. Lyman Co., Pittsburgh, Pa.
Charles A. Deitz, Philadelphia, Pa.
Plateless Engraving Co., Providence, R. I.
Albrecht Printing, Scranton, Pa.
D. O. Koss Co., Detroit, Mich.
United Printing Service, West New York, N. J.
Commonwealth Press, West New York, N. J.
Saxler & Pfeifer, Buffalo, N. Y.
Charles W. Taylor, Gloversville, N. Y.
Frank Otter, Knoxville, Tenn.
Mosbruius Printing Co., Milwaukee, Wis.
W. T. Powell Printing Co., Norfolk, Va.
White Bottrell & Page Co., Meriden, Conn.
Graham Printing Co., Detroit, Mich.
Paramount Printing Co., Knoxville, Tenn.
Gillett & Co., Milwaukee, Wis.
H. J. Palmer, Chicago, Ill.
Stevens Printing Co., Milwaukee, Wis.

The following resolution was unanimously adopted:

Resolved, That the term "engraved or embossed effects" be the name for the Industry producing such effects without the use of copper plates or steel dies.

The request for the submittal was granted by the Commission with the understanding that representatives of the copper-plate and steel-die branches of the industry be permitted to attend and take part in the meeting. Twelve representatives of this branch of the industry were present and upon the submission of the resolution set forth above, favoring the use of the term "engraved or embossed effects," presented the following resolution:

The steel and copper plate engraving Industry, as represented in this meeting, Is opposed to the use of the titles "engraved effects" and "embossed effects," or any similar title which incorporates any form of the words "engraved" or "embossed" to describe raised printing, believing that the use of such terms have a tendency and capacity to deceive the public. We offer no objection to the two suggestions made by Mr. Wallace Brown that the title for the product in question be either "thermograph" or "cameograph."

The commission, as a result of this submittal, desires to announce to the trade and the public' that it disapproves the use of the terms "engraved effects" or "embossed effects" as applied to the type of work discussed and that it can not approve the use of the words "engraved" or "embossed" in any form as applied to a product not made from copper plates or steel dies.

USE OF TERMS " ENGRAVED" AND "EMBOSSED"

JUNE 19, 1925.

On January 18, 1925, the Federal Trade Commission announced as a result of the trade-practice submittal held with the so-called raised-printing industry, that it disapproved the use of the terms

"engraved effects" or "embossed effects" as applied to the type of work under discussion, and that it could not approve the use of the words "engraved" or "embossed" in any form as applied to a product not made from copper plates or steel dies. Later, in the considering of certain applications for complaints before the commission involving the use of the word "embossed," there arose some question as to whether the term might not be applied to certain forms of raised printing. As a result, the commission, on June 19, 1925, held an informal conference with representatives of the so-called raised-printing industry, the steel and copper plate engraving industry, and the Bureau of Engraving and Printing for the purpose of securing additional information on this point.

The following were present at the hearing:

Mr. Richard O. H. Hill, of the Non-Plate Engraving Co., New York, representing about 43 other firms by proxy.
Mr. Louis Hill, with the Hill Agency, formerly director of the Bureau of Engraving and Printing.
Mr. George S. Franklin (of the firm of Karl T. Frederick, New York)
Mr. Theodore A. Isert, representing the steel and copper plate engraving Industry.
Mr. John J. Teviny, assistant director, Bureau of Engraving and Printing.
Mr. Henry I. Wilson, from the Bureau of Engraving and Printing.
Mr. William John Eynon, formerly president of the Typothetae of America.

Statements with respect to the subject were made by the above parties, the discussion being limited to the questions concerning the use of the term "embossing."

As a result of the conference, the commission desires to announce to the trade and the public that no change will be made in the statement' issued on January 18, 1925, with respect to the use of the terms "engraved" and "embossed."

BAND-INSTRUMENT MANUFACTURERS

JULY 15, 1924.

At the request of the manufacturers of band instruments, a trade-practice submittal was held before Hon. Vernon w. Van Fleet, commissioner representing the Federal Trade Commission, at Chicago, Ill., on July 15, 1924, for the purpose of affording those engaged in the industry an opportunity to express their views relative to alleged unfairness of certain practices which had prevailed gin the industry. Those present at the meeting were:

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

C. H. Flint, representing the E A. Couturier Band Instrument Co., Lyon Healy (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 reason 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 at a fair valuation. Over allowances 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 over allowances 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 over allowances 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:

l. That they will not give away instruments to prominent musicians 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, Buegelelsen & Jacobson, Bueseher Band Instrument Co., C. G. Conn (Ltd.), E A. Couturier Band Instrument Co., Cundy Bettoney Co., W. J. Dyer & Bro., Carl Fischer, William Frank Co., Fred Gretsch Manufacturing Co., Frank Holton & Co., J. W. Jenkins' Sons Music Co., Leedy Manufacturing Co., Ludwig & Ludwig, Lyon & Healy (Inc.), Martin Band Instrument Co., Pan-American Band Instrument & 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 leading 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:

l. 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 cove red by said code of ethics the commission receives and takes note of the same as representing the views and opinions of the industry

By the commission:

OTIS B. JOHNSON, *Secretary.*

ANTI-HOG-CHOLERA SERUM AND VIRUS

MARCH 18, 1925.

The Federal Trade Commission to-day released the following statement respecting the results of a trade-practice submittal in the above industry:

The meeting was conducted by Commissioner Hunt, at Omaha, Nebr., on March 18, 1925. The trade was represented by at least 80 per cent of volume of the production of the industry, and was fairly representative. Following are the concerns present and those who represented them:

Corn Belt Serum Co., by Robert Rives, president.
Gulfoil Serum Co., J. H. Gulfoil owner.
United Serum Co., George H. Rasch, president.
The Johnson Serum Co., William J. Miller, president.
The Fostoria Serum Co., H. D. Sheeran, secretary and treasurer.
The Simonson Serum Farm, Peter Simonson, owner.
The Royal Serum Co., Clay W. Stephenson,' president.
The Southwestern Serum Co., J. M. Cory, president.
West Plains Serum Co., George H. Rasch, proxy.
Swine Breeders Pure Serum Co., by F. W. Lightfoot, president.
Aurora Serum Co., by L. B. Huff, president.
Fort Dodge Serum Co., by D. E Baughman, president.
Platte Valley Serum Co., by L. B. Wolcott, president.
Ralston Serum Co., by Charles P. Sneed, sales manager.
Blue Cross Serum Co., by L. R. Furry, owner.
Gregory Farm Laboratory, by Dean Corsa, member of firm.
Superior Laboratories Corporation, C. H. Goebel, president.
Lathrop Serum Co., by H. F. Brown, member of firm.
Kaw Valley Serum Co., by T. H. Murphy, owner.

Sihler Serum Co., by C. J. Sihler, president.
Missouri Valley Serum Co., by G. I. Blanchard, president.
Cedar Rapids Serum Co., L. B. Graham, president.
Kansas Serum Co., August Peak, owner.
Pitman Moore Co., Edw. G. Cahill, vice president.
Corn States Serum Co., by G. H. Williams, president.
Grain Belt Supply, Co., by R. M. Young, president.
Globe Laboratories, by John Kennedy, president.
Sioux Serum Co., by W. R. Laird.
The Purity Serum Co., D. W. McAhern.
Liberty Laboratories, by John H. Copenhaver, president.
Sioux City Serum Co., by W. F. Gilchrist, president.
Diamond Serum Co., J. L. Robinson.
The Hevner Serum Co., C. W. Hevner, president.
Hamilton Chemical Co., J. C. McDaniel, president; C. C. Allin, secretary-treasurer.
Anchor Serum Co., W. J. Kennedy, vice president and sales manager.
American Serum Co., T. B. Huff.

The following firms were not present at the meeting but later indicated to the commission by letter that they approved the action of the industry represented at the trade-practice submittal:

Central Serum Co., by F. M. Gallivan, general manager.
Jensen-Salisbery Laboratories (Inc.), G. G. Graham, secretary-treasurer.
Western Laboratories Serum Farm, A. I. Sorenson, V. S.

The purpose of the meeting and the powers of the commission having been duly explained, the representatives of the industry' organized by selecting a chairman and a secretary. A full discussion of alleged unfair practices prevalent in the industry was then had and at the close the following preamble and resolutions were unanimously adopted:

PREAMBLE

The following business practices of those engaged in the manufacturing and marketing of anti-hog-cholera serum and virus, hereinafter referred to as serum and virus their agents, distributors, or representatives are hereby declared unfair as placing undue, unnecessary, unproductive, and unequally distributed burdens upon those engaged in the said industry, as tending to stifle and suppress competition, and create monopolies, and creating unnecessary, unproductive, and unequally distributed costs on farmers engaged in hog raising and marketing in the United States:

l. Inducing of employees of competitors to violate contracts or enticing away employees of competitors in such numbers or under such circumstances as to constitute a conversion and an appropriation of the value created at the expense of the said competitor.

2. False and misleading advertising in this industry regarding the nature of sales outlet, and the making of untruthful claims, intending to deceive purchaser or user as to the quality of said articles, its source, and method of preparation.

3. Disparagement of officers, employees, and products of competing concerns. Circulation

of false rumors of financial standing of competitors.

4. Granting of gratuities, directly or indirectly, to purchasers of serum and virus for the purpose of influencing the purchase of such commodities, which practices are generally characterized as forms of commercial bribery, more particularly as follows:

(a) Direct or indirect lavish, excessive or prearranged entertainment of purchasers of serum and virus.

(b) Making of excessive personal gifts to purchasers of serum and virus or to their families.

(c) Giving virus without charge to purchasers, except for replacement of virus shipped within 10 days of its expiration date.

(d) Giving of accessories, syringes, or instruments, or repairing same without charge to purchasers of serum and virus.

(e) Promising or allowing unearned discounts to certain purchasers of serum and virus which are not allowed to the general trade.

(f) Payment or rebating to certain purchasers of serum and virus interest on borrowed money and not allowed to the general trade.

(g) Payment of maintenance and refrigerator charges to and in behalf of certain retail purchasers not allowed to the general trade.

(h) Donating funds or providing banquets or other entertainments for associations.

(i) Donating veterinary service to veterinarians, except as is necessary in determining whether product sold has served its purpose in specific cases.

(j) Payment of specific advertising expenses in behalf of certain purchasers and not offered to all purchasers under like terms and conditions.

(k) No veterinarian or other professional vaccinator, distributor, or otherwise, shall be paid or allowed, directly or indirectly, a rebate, salary, commission, or refund for serum or virus used by him which is not offered to the general trade.

(1) Supplying serum or virus for revaccination without charge in declared to be unfair and an unfair method of competition.

(m) Companies selling to both the laity and the veterinarians shall not rebate or pay a commission to the veterinarian for any serum sold to the farmer.

(n) It shall be considered to be unfair to obtain business by threats or coercion.

5. Engaging in practices unfair and injurious to the industry and to the public, which are:

(a) Guaranteeing against advance and protection against declines in price of serum and virus.

(b) Giving or offering to give premiums, instruments, biological and pharmaceutical supplies, or anything of substantial value not otherwise specifically provided for as an added inducement to effect sales of serum and virus.

(c) Granting of rebates, refunds, credits, or allowing unearned discounts to purchasers of serum and virus to induce or retain patronage.

(d) The making of contracts with purchasers of serum and virus which permit price reductions or rebates on the basis of the combining of separate orders.

(e) Making of yearly contracts, or for other specified period, for sale of serum and virus at specified prices for an unspecified amount or quantity of serum or virus for delivery as ordered throughout the year or specified period.

(f) Price discrimination is an unfair method of competition.

(g) The consignment of serum and virus to the veterinarians, county agents, or any person administering for others, or to consumers for subsequent sale.

(h) Making of contracts for the sale of serum and virus which require delivery of a specified quantity in specified times, if demanded by purchaser, but which does not require such purchaser to accept such quantity within the same period.

After consideration of the entire record in this matter, the com mission has reached the following conclusions:

I. That the commission has reason to believe, from the facts submitted to it by the manufacturers of antihog-cholera serum and virus (subject to further inquiry as provided in section 5 of the Federal Trade Commission act), that the following acts and practices are unfair methods of competition:

(a) Inducing the violation of contracts of employment by employees of competitors, and/or enticing them away.

(b) Advertising falsely and misleadingly as to the nature of sales outlet, and/or making untruthful claims respecting the quality, source, and method of preparation of the commodities.

(c) Disparaging the officers, employees, or products of competing concerns, and/or circulating false rumors respecting the financial standing of competitors.

(d) Obtaining business by threats or coercion.

(e) Discriminating in price, where the discrimination is such as prohibited by section 2 of the Clayton Act.

II. That the commission receives the balance of such resolutions and takes note of the same as the opinion of the industry.

The resolutions so received are as follows:

l. Direct or indirect lavish, excessive, or prearranged entertainment of purchasers of serum, and virus.

2. Making of excessive personal gifts to purchasers of serum and virus, or to their families.

3. Giving virus without charge to purchasers, except for replacement of virus, shipped within 10 days of its expiration date.

4. Giving of accessories, syringes, or instruments, or repairing same without charge to purchasers of serum and virus.

5. Promising or allowing unearned discounts to certain purchasers of serum and virus, which are not allowed to the general trade.

6. Payment or rebating to certain purchasers of serum and virus interest on borrowed money, and not allowed to the general trade.

7. Payment of maintenance and refrigerator charges to and in behalf of certain retail purchasers, not allowed to the general trade.

8. Donating funds or providing banquets or other entertainments for associations.

9. Donating veterinary service to veterinarians, except as is necessary in determining whether product sold has served its purpose in specific cases.

10. Payment of specific advertising expenses in behalf of certain purchasers, and not offered to all purchasers, under like terms and conditions.

11. No veterinarian or other professional vaccinator, distributor, or other wise, shall be paid or allowed directly or indirectly a rebate, salary, commission, or refund for serum or virus used by him which is not offered to the general trade.

12. Supplying serum or virus for revaccination without charge is declared to be unfair and an unfair method of competition.

13. Companies selling to both the laity and the veterinarians shall not rebate or pay a commission to the veterinarian for any serum sold to the farmer.

14. Guaranteeing against advance and protection against declines in price of serum and virus.

15. Giving or offering to give premiums, instruments, biological and pharmaceutical supplies, or anything of substantial value, not otherwise specifically provided for, as an added inducement to effect sales of serum and virus.

16. Granting of rebates, refunds, credits, or allowing unearned discounts to purchasers of serum and virus to induce or retain patronage.

17. The making of contracts with purchasers of serum and virus which permit price reductions or rebates on the basis of the combining of separate orders.

18. Making of yearly contracts, or for other specified period, for sale of serum and virus at specified prices, for an unspecified amount or quantity of serum or virus for delivery as ordered throughout the year or specified period.

19. The consignment of serum and virus to the veterinarians, county agents, or any person administering for others, or to consumers for subsequent sale.

20. Making of contracts for the sale of serum and virus which require delivery of a specified quantity in specified times, if demanded by purchaser, but which does not require such purchaser to accept such quantity within the same period.

The commission, upon the foregoing, makes the following general observations:

Fair competition does not mean lessened competition. Fair competition may consist in giving a better price or better terms or better service. A number of practices condemned by the trade Consist only in one of these and can not be condemned by the commission. On the contrary, an agreement not to compete in these particulars is contrary to law.

By the commission (Commissioner Nugent dissenting in part as per memorandum attached):

OTIS B. JOHNSON, *Secretary.*

Commissioners Thompson and Nugent concur in part and dissent in part

We concur with Chairman Van Fleet and Commissioners Hunt and Humphrey that the practices so declared by them constitute unfair methods of competition.

We dissent, how ever, from their refusal to declare unfair the following practices which were condemned by the resolutions adopted by the industry:

l. Direct or indirect lavish, excessive or prearranged entertainment of purchasers of serum and virus.

2. Making of excessive personal gifts to purchasers of serum and virus, or to their families.

5. Promising or allowing unearned discounts to certain purchasers of serum and virus, which ares not allowed to the general trade.

7. Payment of maintenance and refrigerator charges to and in behalf of certain retail purchasers, not allowed to the general trade.

8. Donating funds or providing banquets, or other entertainments for associations.

10. Payment of specific advertising expenses in behalf of certain purchasers, and not offered to all purchasers, under like terms and conditions.

14. Guaranteeing against advance and protection against declines in price of serum and virus.

16. Granting of rebates, refunds, * * *, or allowing unearned discounts to purchasers of serum and virus to induce or retain patronage.

In our opinion, said practices, both singly and in the aggregate, are unfair as they will suppress competition in large measure by driving out of the business of manufacturing and selling such serum and virus the smaller concerns which are financially unable to meet the cost occasioned thereby, and enable the financially powerful among the manufacturers to dominate and exercise control over the industry and place at their mercy the ultimate consumers of said products.

In our judgment, the practices above set out are also unfair to the farmers of the country who raise hogs. We do not doubt that they are now required to pay a higher price for serum and virus than they would pay if said practices were discontinued, as the manufacturers must pass on to the farmers the additional expense of conducting their business made necessary by said practices.

HUSTON THOMPSON,
J. F. NUGENT,
Commissioners.

Statement by Commissioner Hunt, concurred in by Commissioners Van Fleet and Humphrey, with respect to the dissent of Commissioners Nugent and Thompson to the statement issued by the commission on June 4, 1925, covering a trade-practice submittal relative to anti-hog-cholera serum and virus.

In the matter of final finding in the anti-hog-cholera serum and virus trade-practice submittal, the minority commissioners, Nugent and Thompson, dissent from the refusal of the majority to declare unfair the following practices which are condemned by the resolutions adopted by the industry:

l. Direct or indirect lavish, excessive, or prearranged entertainment of purchasers of serum and virus.

2. Making of excessive personal gifts to purchasers of serum and virus or to their families.

5. Promising or allowing unearned discounts to certain purchasers of serum and virus which are not allowed to the general trade.

7. Payment of maintenance and refrigerator charges to and in behalf of certain retail purchasers not allowed to the general trade.

8. Donating funds or providing banquets or other entertainments for associations.

10. Payment of specific advertising expenses in behalf of certain purchasers and not offered to all purchasers under like terms and conditions.

14. Guaranteeing against advance and protection against declines in price of serum and virus.

16. Granting of rebates, refunds, * * * or allowing unearned discounts to purchasers of serum and virus to induce or retain patronage.

In declaring the above resolutions unfair the minority would stifle competition in order that the smaller concerns may survive. They would destroy competition in the interest of the little manufacturer, with the result that farmers who buy their serum direct, vaccinating their own hogs, and who buy through their farm organizations to admitted advantage under the present established custom. They

say, "We do not doubt that they are now required to pay a higher price for serum and virus than they would pay if said practices were discontinued, as the manufacturers must pas on to the farmers the additional expense of conducting their business * * *." Experience has proven just the reverse. The expense is not passed on to the farmer under the farmer methods of purchase practiced in Iowa and Illinois and, so far as I know, in other hog-producing States.

Of course the serum manufacturers under the findings of the minority would get away from competition and thus raise the price of serum. The majority are willing and have in the report agreed to help eliminate unlawful competition and refused to lend aid to suppress legal methods which mean giving a better price, better terms, or better service.

The minority wishes the commission to go on record as declaring unlawful practices which give better service, better terms, or better prices. These things are the very essence of competition. For instance, they would condemn as unlawful the granting by one company, as in paragraph 16, better discounts than a competitor. So-called rebates, refunds, or unearned discounts to purchasers simply mean giving a better price than a competitor. Whether it is called a rebate, re fund, or discount it is all the same. It means that the seller gives the purchaser a better price. Instead of the granting of such discounts being unlawful as the minority contend, the fact is that an agreement by the trade not to give them amounts to an agreement as to price, which is in violation of the Sherman law. It means that no farmer can get a better discount from one concern than from another and amounts to an unlawful suppression of competition by agreement.

The majority of the commission can not agree to sanction such a violation and in taking action on the trade-practice submittal specifically warned the trade in the following language:

Fair competition does not mean lessened competition. Fair competition may consist in giving a better price or better terms or better service. A number of practices condemned by the trade consist only in one of these and can not be condemned by the commission. On the contrary, an agreement not to compete in these particulars is contrary to law.

It is the belief of the majority that its duty is to uphold the law rather than to sanction violations of it.

The farmer is the ultimate consumer of anti-hog-cholera serum. He has lightened the burden of serum costs by buying through his farm organization direct from the manufacturer, and the majority of the commission is seeking to protect fair competition in the interest of these farmers.

Respectfully,

C. W. HUNT.

We concur.

VERNON W. VAN FLEET.
WILLIAM E HUMPHREY.

MANUFACTURERS OF MENDING COTTON

OCTOBER 13, 1925.

In accordance with the desire expressed by a majority of the manufactures of mending cottons, a trade-practice submittal was held by Commissioner Huston Thompson, in New York City, on June 23 and September 25, 1925, to consider the matter of the labeling or branding of mending or darning cot tons, with the view of eliminating those practices which might be deemed unfair to competitors or misleading to the consumer, particularly with reference to the marking of yardage, ends, and plies. Invitations to the conference were issued to all manufacturer's in the industry of which the commission had knowledge. The following concerns were represented:

Clark Thread Co., Newark, N. J.
Howard Manufacturing Co., Boston, Mass.
Dexter Yarn Co., Pawtucket, R. I.
Blodgett & Orswell Co., Pawtucket, R. I.
American Thread Co., New York, N. Y.
The Spool Cotton Co., New York, N.Y.
Amherst Manufacturing Co., Amherst, Mass.
D. E Howard's Son & Co., New York, N Y.
J. & P. Coats (R. I.) (Inc.), Pawtucket, R. I.
Collingbourne Mills (Inc.), Elgin, Ill.

These concerns Constitute a large majority of the industry and are estimated to produce 90 per cent of the darning cotton manufactured, in the United States.

The action taken by the conference consisted in the unanimous adoption of the following resolution, which was likewise unanimously agreed upon as specifying the proper method to be followed by the industry in the branding or labeling of mending or darning cottons, and that any other method of marking would be unfair to competitors and involve confusion or deception of the consuming public:

Resolved, That in the marketing, labeling, or branding of mending cotton, the following and no other, with reference to the yardage, ends, strands, or ply, shall be marked on the package or ball, and in the order stated:

The yardage as it comes off the ball or package.
The number of ends.
The number of plies per end.

The commission, as a result of this submittal, desires to announce to the trade and public that it receives the action taken by the industry as set forth above and approves the method of branding or labeling of mending cottons as prescribed in the foregoing resolution.

The commission further announced that the industry shall have until February 1, 1926, to meet the requirements for marking their product as set forth in the statement given out by the commission. The commission will thereafter entertain complaints against members who have failed to conform to the terms of the resolution adopted by the industry and approved by the commission.

ECONOMIC DIVISION

The economic division consists of a staff of experienced economists, professional accountants, and statistical clerks. The division is the continuation of the former Bureau of Corporations established in 1902 and absorbed by the Federal Trade Commission in 1915 in accordance with the provisions of its organic act. Its function from the beginning has been the investigation of general business conditions, and especially those relating to monopoly, restraints of trade, and unfair methods of competition. The results of these numerous inquiries have been given out in reports of the commission, often with the commission's specific suggestions for re medial legislation, or for the constructive self-correction of abuses by the industry involved.

These inquiries, as provided by law, have been initiated by the direction of the President or of either House of Congress, or have been undertaken by the commission on its own motion.

The work of the economic division is carried out primarily under the provisions of section 6 of the Federal Trade Commission act, which reads as follows:

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 partner ships.

(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 pre scribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commission such information as it may require as to the Organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commission may prescribe, and shall be filed with the commission within such reasonable period as the commission may prescribe, unless additional time be granted in any case by the commission.

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

findings and recommendations as a result of any such investigation, and the report shall be made public in the discretion of the commission.

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

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

(f) To make public, from time to time such portions of the information obtained 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 re ports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use.

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

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

During the fiscal year ending June 30, 1925, inquiries on the following subjects were conducted:

Premium Prices of Anthracite, work initiated by the commission in connection with disturbed market conditions in 1923-24.

Packer Consent Decree, Senate Resolution 278 (68th Cong., 2d sess.).

Kitchen Furnishings Industries, Senate Resolution 127 (67th Cong., 2d sess.) (third volume of House Furnishings Report).

War-time Profits and Costs of the Steel Industry, work initiated by the commission, utilizing data collected during the war.

Cotton Merchandising Practices, Senate Resolution 252 (68th Cong., 1st sess.).

Empire Cotton Growing Corporation, Senate Resolution 317 (68th Cong., 2d sess.).

Grain Trade, work, initiated by direction of the President and subsequently continued by the commission on its own motion (sixth and seventh volumes).

National Wealth and Income, Senate Resolution 451 (67th Cong., 4th sess.).

Bread and Flour Industries, Senate Resolution 163 (68th Cong., 1st sess.).

Electric Power Industry, Senate Resolution 329 (68th Cong., 2d sess.)

Grain Middlemen's Profits, work initiated by direction of the commission. (Discontinued.)

At the close of the year the economic division had as uncompleted work only the inquiries into the electric power industry, the bread and flour industries, and the grain trade. This does not take into consideration two other inquiries directed by the Senate--namely, one into open price associations (S. Res. 28, 69th Cong., special session) and another into cooperative organizations. (S. Res. 34, 69th

Cong., special session)--because no formal order was given to initiate them on account of certain questions arising under the appropriation act for the fiscal year ending June 30, 1926.

ANTHRACITE

During the latter part of the fiscal year the commission ordered that the report on premium prices of anthracite be submitted to the Congress and made public. The report was issued under date of July 5, 1925.

This report deals primarily with the premium prices of anthracite charged by certain operators and the premium prices and gross profits of anthracite wholesalers following the brief strike in latter part of 1923. Premium prices of anthracite occur in times of actual or anticipated shortage and especially when there is a panic dem and. This commission first inquired into the problem in 1916-17, and in the panic market of Au gust, 1923, the Unite States Coal Commission initiated a somewhat similar activity. On the termination of all of the Coal Commission's work in September, of the same year this work was taken up by the Federal Trade Commission, which undertook to gather and publish from week to week data showing the extent to which the premium prices of anthracite were due to profit taking by the wholesalers. Current monthly data were also secured from mine operators covering the quantities of anthracite sold in interstate commerce and the prices received there for. The current publication of this information, which had a re straining influence on speculation, is compiled and analyzed in this report.

The report also considers in some detail the efforts of the Department Of Justice to disintegrate the anthracite combination, and points out additional steps which would apparently tend to restore the industry to a normal competitive basis, as well as certain constructive measures which would aid in preventing the recurrence of premium prices.

A significant fact with respect to the Claimed high costs of anthracite in periods of panic demand is pointed out in this report. Attention is called to the wide variations in mining cost in the different mines or different parts of mines of a given company and it stated that "the exploitation of the higher-cost workings makes possible the showing of high costs for a small percentage of the total production and may be used as a justification of high prices." As the report indicates, extremely high costs have been claimed by some companies as an excuse for charging excessively high prices, although these same companies in times of dull demand had been selling anthracite freely at the same prices as other companies.

Some of the principal points developed in this report on the premium prices of anthracite are contained in the following excerpts:

A long period of monopolistic combination in the anthracite industry (now largely abated by recent judicial decrees) has resulted in concentration in the ownership of coal lands, in the failure to increase mining capacity adequately so that production has not developed with demand, in the establishment of an unduly high general price level, and in times of temporary or ap parent shortage in high premium prices at the mine which have encouraged and facilitated the taking of excessive profits both by wholesalers and retailers.

In such times of temporary or anticipated shortage the independent companies have sold at prices higher by widely varying amounts or premiums than those announced by the railroad coal companies, while at other times, especially in the dull late spring season, the independents have sold for less than the railroad companies.

These high mine prices have sometimes been alleged to be justified by high mine costs, but such very high costs would indicate either that production policies were arbitrarily conducted to give that result or that the mining conditions were so unfavorable that production should have been discontinued and mining labor diverted to less expensive workings.

The existence of a wide range in the mine prices charged for anthracite in the fall of 1923 enabled wholesalers to exact very large gross profits.

The existence of high premium prices at the mine has also led to speculative sales among wholesalers, thereby further enhancing the price paid by the retailer.

The production of anthracite has not developed with demand. In spite of steadily increasing prices and large untouched coal land reserves of the railroad coal companies, some of which at the present rate of production would last more than a hundred years, the output has remained comparatively stationary for a number of years. In order that the present generation may have an adequate supply of anthracite at a reasonable price, more effective competition must be reestablished. Complete restoration of competition is not only practicable in the anthracite industry, in the opinion of this commission, but, also, is preferable. to price regulation, which has often been advocated with respect to this industry.

Among the most promising constructive measures to prevent frequently recurring shortages in the anthracite trade (apart from the education of the consumer in the possible use of economical substitutes) are a further and more effective development of price reductions in the late spring and summer to induce earlier and more regular buying by the private consumers; the development of a public statistical organization of information * * * through which the total demand would be definitely determined and translated into firm contracts and prompt car movements; the systematic development of an earlier and more rational buying program by municipalities and other public agencies; an increase in storage equipment of mining and distributing companies; and the enlargement of mine capacity to meet periods of extraordinary demand.

The greatest obstacle to intelligent action on the part of the public and the Government in the frequently recurring emergencies in the coal trade is the lack of adequate current information particularly with regard to prices, costs of production, and profits. The premium prices of 1923 were the re-

sult of an anticipated shortage and a panic demand due largely to general ignorance of the real conditions. * * * The commission believes, therefore, if the matter is found to be within the legislative power of Congress that some Federal agency should secure and publish currently data on production, prices, costs, and profits in the coal industry.

GASOLINE

The commission's report on the "Increase in Gasoline Prices in 1924,"made at the direction of the President and submitted to him on June 4, 1924, has not been printed, except as to the summary. Upon receipt of the report 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 undertaken by that department. A resolution introduced in the Senate on February 18, 1925, by Senator Trammell, of Florida, requested that the President transmit to the Senate a copy of the report "if not incompatible with the public interest." This request was complied with by the President on February 28. A summary of the report was printed in the Congressional Record of March 3, 1925. Subsequently the commission ordered a limited number of copies of the summary mimeographed for distribution on request.

The full report embraces data on 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 more important conclusions of the commission were as follows:

The buying of crude oil, with the almost autocratic influence in dictating prices generally exercised by some particular large Standard Oil company in each great oil field of the country, is an abnormal condition which appears as a survival in part of the monopolistic regime which prevailed before the decree dissolving the Standard Oil combination. This situation seems to depend partly on the great resources and extensive operations of certain individual members of the former trust, further fortified by advantageous relations with each other, particularly in the transportation and market outlets for oil. In this connection their relations with the numerous Standard pipe lines are perhaps the most important. The small crude-oil producer or purchaser can not ordinarily use these pipe lines, which by law are made common carriers, because the regulations of the pipe-line companies have (for most points of delivery in the East) unjustifiably established 100,000 barrels as the minimum quantity which will be accepted for shipment.

In the sale of gasoline and kerosene a similar abnormal condition is found--namely, a situation in which some large Standard company in each region (except Oklahoma and Texas) ordinarily determines the price and smaller traders merely follow. This situation is the result of the method by which the business was territorially divided by the old Standard combination among 11 marketing companies. The dissolution decree, in merely breaking the formal bonds between these companies, did not disturb this division of territory.

which has been preserved by the Standard interests almost intact to the present day. With comparatively unimportant exceptions, each Standard company has refrained from invading the territory of its supposed competitor.

A number of the more important Standard companies, moreover, such as the New Jersey, Indiana, and California companies, enjoy additional advantages from the fact that their operations, directly or indirectly, embrace all stages of the petroleum business-crude-oil production, pipe-line transportation, refining, and direct marketing. The power to fix simultaneously in a large measure both the prices of crude oil purchased and the prices of gasoline sold gives to any company an immense and, under the circumstances, an unfair advantage over its small and unintegrated competitors. Such a company inevitably possesses in a considerable degree a knowledge of the facts (as well as an ability to control the course of events) which the small competitor lacks. This inferiority in information can be met in part by a suitable provision by the Federal Government for an adequate system of collecting and publishing promptly the essential data regarding the petroleum industry, such as production, stocks, prices, costs of production, profits of operation, etc. The Government agency performing this service should have adequate powers to obtain and verify reports.

In view of the above the commission made the following recommendations, some of which were substantially repetitions of recommendations made in connection with previous inquiries:

Application of the principle of the so-called "commodities clause" to pipe lines, as well as railroads, so as to prevent a pipe-line company from being connected, directly or indirectly, by holding company or otherwise, with a company which ships oil over its pipe line.

Lower pipe-line transportation rates and the reduction of minimum shipment requirements from the prevailing rule of 100,000 barrels per shipment to a basis which will be reasonable for the small shipper.

Prohibition by Federal legislation of common-stock ownership or control in corporations which have been members of a combination dissolved under the Sherman law.

Legislation for collecting and reporting currently facts regarding industrial and commercial conditions by a Federal agency possessing adequate powers for obtaining and verifying reports.

The establishment of consumer's cooperative gasoline supply organizations in order to save, if possible, a part of the wide margins now frequently prevailing between independent refinery prices and service-station prices, and thereby also to encourage the competition of the independent refiner who is often unable to develop an extensive distributing organization.

PACKER CONSENT DECREE

Under Senate Resolution 278, adopted December 8, 1924, the commission was directed to submit all available information on the history and existing status of the consent decree entered February 27, 1920, in the Supreme Court of the District of Columbia against the five principal meat-packing companies, which had been charged with forming a combination in violation of the antitrust laws. The commission was also directed to submit an opinion on the effects to be expected if the decree were enforced, or modified, or

annulled, together with "recommendations; of the public policies involved."

The resolution was the result of efforts to vacate the decree which were being made by two of the original respondents, Swift & Co. and Armour & Co., and also by the California Cooperative Cannenes,, an intervener in the proceedings.

In response to the resolution the commission submitted its report to the Senate on February 20, 1925. This report reviews briefly the legal history of the consent decree and the efforts made to modify or vacate it since 1920. It outlines the circumstances leading up to the signing of the decree, including a reference to the commission's own extensive report on the meat-packing industry in 1919 and the monopoly conditions disclosed therein. A summary is given of the divergent economic interests involved in the question of packer participation in so-called unrelated lines, particularly canned goods, fruits, and general groceries, from which they were excluded under the decree. On this question the report makes no recommendation, but points out that if the big packers were divorced from their control of refrigerator cars and from the competitive advantages over wholesale grocers which arise from such control the whole question of packer manufacture and sale of groceries and other unrelated lines would become of less importance.

The report discusses the allegation that packer competition is necessary in the wholesale grocery business in order to offset a growing tendency to monopoly conditions in grocery distribution. This allegation of monopoly conditions, it is declared, is not substantiated by an examination of the records of legal proceedings of the commission and of the Department of Justice against individual wholesale grocers and associations of grocers. But there are indications, it is asserted, of active and sometimes illegal efforts on the part of certain local and State associations to confine the grocery trade to so-called regular and legitimate channels of distribution and to maintain pricing systems indorsed by such associations.

The report recommends the enforcement of the decree and the divorcement of the Big Five packing companies from their control of meat-refrigerator cars through the formation of a single company, similar to the Pullman Co., entirely independent of the packers, to take over ownership, operation, and routing of these cars, making them available on equal terms to all meat packers and other food distributors.

KITCHEN FURNISHINGS

At the close of the last fiscal year the inquiry into kitchen furnishings and domestic appliances, made in response to Senate Resolution 127 (67th Cong., 2d sess.), had been nearly completed and a rough

draft of a report had been prepared. A substantial amount of work was done during the first part of the fiscal year in completing this report, which was transmitted to the Senate by the commission on October 6, 1924. This report was the third and last volume of a series of reports on the house furnishings industries.

The report discusses the prices and profits and competitive conditions in the vacuum cleaner, washing machine, aluminum cooking utensil, refrigerator, sewing machine, and broom industries. It also includes chapters dealing with the associated activities of hardware dealers and the profits of wholesale and retail dealers and the financing of installment sales.

Among the matters which were disclosed by the inquiry was a license contract in the vacuum-cleaner industry, which expired shortly before the report was issued, according to which new licenses could not be granted except with the consent of three-quarters of the existing licensees. The washing-machine industry was characterized by a very comprehensive system of patent pooling and the employment of threats of patent-infringement suits (apparently not made in good faith) against both nonlicensed manufacturers and their customers for the purpose of compelling these manufacturers to take out licenses.

In the aluminum cooking-utensil industry the inquiry developed that the largest producer of cooking utensils has apparently made discriminatory prices at various times and has also procured full line and exclusive dealing arrangements. About 30 per cent of the stock of the company is owned by the Aluminum Co. of America,. which monopolizes the manufacture of aluminum in this country and upon which the cooking-utensil manufacturers are dependent for a supply of metal, except for a small quantity of imports. The inquiry disclosed apparent violations by the latter company of a judicial decree under the Sherman Antitrust Act in respect to delaying shipment of materials to competitors, forwarding material known to be defective to competitors, discriminating in prices, and hindering competitors from enlarging their operations. In the discussion of the sewing-machine industry is presented the situation of an old and stable industry, as contrasted with a new and growing one, in which one company, long ago established as a combination of competitors, has maintained a dominant position.

The members of the National Refrigerator Manufacturers' Association, it was estimated, manufactured from 55 to 60 per cent of the total output of refrigerators in the United States. The inquiry showed that its members have engaged extensively in price-fixing activities and have frequently agreed to advance or maintain prices.

The Broom Handle Manufacturers' Association, National Broom Manufacturers' Association, and the American Brush Manufacturers' Association have similarly engaged in activities affecting prices, though apparently by no means as successfully as the refrigerator association. Activities of hardware dealers' associations have been directed largely to meeting the competition of the mail-order houses and to preventing direct sales.

The conditions as to prices and profits in the several industries are set forth and compared, particularly with relation to the differences in competitive conditions and the effects of monopolistic control.

COTTON-MERCHANDISING PRACTICES

A report on certain cotton-merchandising practices was made in response to Senate Resolution 252 (68th Cong., 1st sess.). This report discusses a number of abuses in handling consigned cotton and points out that, although many of these practices are illegal, they are not wholly prevented. Losses due to them are frequently incurred by cotton growers, dealers, and banks.

The report contains a number of recommendations designed to correct or alleviate the existing condition. Most of these suggested changes were proposed by cotton dealers and bankers and do not require' further legislation to bring them about. Closer supervision of the dealings of factors and merchants by the cotton exchanges and banks, it is pointed out, should result in a large improvement over the present situation. The report sta[t]es that "voluntary action of this character by the exchanges and the banks appears to be altogether unlikely, however, in any short period of time." Without assuming to pass upon the constitutional power of Congress to legislate in this field, the report states that, if it be the judgment of Congress that the transactions discussed are a part of interstate commerce, Federal legislation would be of great value in remedying the abuses in question. Such legislation is suggested along the following lines:

l. Making it a criminal offense for consignees in the course of interstate or foreign commerce (a) to sell the shipper's cotton to themselves without his express consent; (b) to fail to return to or to credit to the shipper within a specified time after the sale is made the full amount of the sales price, less proper deductions, such, as commission fee, charges for storage, interest, and insurance.

2. Requiring consignees to obtain from shippers notes covering the amounts of all advances on cotton shipped or to be sold or shipped in interstate or foreign commerce.

3. Requiring all cotton warehouses licensed under the Federal warehouse act to use uniform single-bale receipts with a form on the reverse side, which,

when filled out, will show that the receipt in question has been pledged and is released under a trust receipt.

4. Requiring all shipments of consigned cotton in the course of interstate and foreign commerce to be stored in a Federal-licensed warehouse or Federal-licensed section of a warehouse. Warehouses licensed either in whole or in part under the Federal warehouse act are so numerous and widely distributed that such a requirement is not onerous.

WAR-TIME PROFITS AND COSTS OF THE STEEL INDUSTRY

During the assisted the war the commission, at the direction of the President, various price-fixing and purchasing branches of the Government by collecting and compiling data on costs of production, investment, and profits, and after the conclusion of the war it was decided to compile in suitable form and to publish Some of this information, because it seemed to throw an instructive light on the economic conditions affecting the conduct of the war and also to give information. which would be serviceable hereafter. A m on g the industries already reported on, coal and lumber may be specially mentioned. The last report of this series, which was issued during the fiscal year 1924-25, related to the steel industry, in connection with which the commission had obtained some additional information in 1920.

This report deals with both profits and costs in the steel industry. The profits considered relate to the period of the World War (1915-1918) and show the effects, first, of the World War, and then of the entry into it of the United States. The profits are analyzed in various ways, and particularly as to the differences between large and small companies and integrated and nonintegrated companies. The high tax contributions, after the United States entered the war, are considered in connection with the high rates of profit due to high prices and to full capacity production.

An even more detailed study is made of war-time production costs from October, 1917, to December , 1918, which are shown for various iron and steel commodities, distinguishing the costs of integrated and nonintegrated companies and showing the relations between high and low costs, average costs, and the “marginal costs” for different proportions of the output. The marginal costs were specially prepared in great detail for the War Industries Board for use in judging what prices would be necessary to bring forth the maximum production of such steel products as were essential for war purposes. Scientific data were thus made immediately serviceable to war-time management in economics as in other branches of knowledge.

The relations between costs and profits are statistically analyzed in this report, and deductions are indicated of present practical interest regarding investment and business management.

GRAIN TRADE

Volume VI of the report on the grain trade was sent to the printer before the close of the year, though it was not published until shortly after. This volume deals with the prices of cash grain and grain futures as related to various factors of supply and demand and especially with the functioning of futures markets as indicated by price relations and comparisons.

Wheat prices are found to be more stable than the prices of the other four principal grains, the wheat harvest being also less variable from year to year. Statistical tests for the 30 years ending in 1916 show that prices are more apt to be low in years when exports of grain are large than in years when exports are small. The critical time of readjustment of prices to the changing conditions of supply and demand in different crop years is in general the month of July for all the grains, notwithstanding the fact that the marketing of the corn crop starts much later.

Detailed statistical analysis of cash and future price movements yields no convincing evidence of any stabilizing effect of future trading upon prices. Some of the technical conditions affecting futures appear to produce fluctuations in prices that would not occur without future trading.

Considerable significance is sometimes: attached to the question whether cash prices lead future prices, or the futures cash, on the theory that one market influences or controls the movement of the other. The statistical evidence available relates only to priority of price changes from day to day. So far as this answers the question, it gives a divided verdict, but with leadership preponderating for cash prices. As between terminal markets in this country, the price changes of futures more often occur first in the Chicago market, but as between Chicago and Liverpool the Liverpool market leads.

One of the most important and significant facts statistically demonstrated in this volume is the downward bias of the futures market. In other words, the tendency of the future price is to understate the ultimate price. This is true merely in a large majority, but by no means in all, of the comparisons made. This downward bias of the futures market in large part explains the tendency of the future price to be at a discount below the cash price, which impairs the value of the hedge sale and reduces the serviceableness of futures to hedging grain merchants.

Work on the final volume, dealing with conclusions and recommendations on the subject of future trading, as well as statistical and other material relating to the practices of the futures markets, had not been completed at the close of the year.

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THE EMPIRE COTTON GROWING CORPORATION

On January 27, 1925, the Senate directed the commission to report "regarding the development, methods, and activities of the Empire Cotton Growing Corporation and as to the probable effect upon American cotton growers of the action of the British Government as outlined in article 6 of the recent ultimatum to Egypt with respect to the increase of the area to be irrigated at Gezira in the event such action should be carried out.

The report, sent to the Senate on February 28, 1925, discusses world cotton production and consumption and points out the importance of the cotton-spinning industry in the industrial life of Great Britain and the deep interest of its Government in sources of supply of raw cotton.

The primary purpose of the Empire Cotton Growing Corporation is to assist and encourage the production of cotton within the British Empire, and it has the political and financial backing of the cotton trade as well as the home and colonial governments.

Because the Gezira district in northern Africa has more immediate promise of a large yield of readily available cotton than other districts, the corporation has been especially active in this region. There are about 1,000,000 acres in the Gezira district which when irrigated, the corporation believes to be suitable for growing cotton.

The report concludes, however, that even if the entire 1,000,000 acres in the Gezira district were all put into cotton of American types, or types that compete with them, the resulting yield would not seriously impair the position of the American cotton grower: The report also concludes that it will be many years before there will be any danger of the United States losing its position as the largest producer of raw cotton.

WEALTH AND INCOME

Under Senate Resolution No.451, adopted February 28, 1923, the commission was directed to inquire into and 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 private and public 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 population, and also to obtain information respecting the amount and ownership of income exempt from Federal taxation. An amendment to the resolution further instructed the com mission to ascertain the aggregate taxes levied by the States, counties, municipalities, and other taxing bodies.

In partial response to this resolution the commission submitted to the Senate on June 6, 1924, a report on taxation and tax-exempt income. These subjects were chosen for first presentation because of the especial public interest in them at the time.

Work on the remaining phases of the inquiry, relating to the wealth and income of the people of the United States, was continued throughout the year, but was brought to a close on June 30, 1925, because of lack of funds legally available for a continuance, as previously noted. The completed draft of the report is in two parts, one of which is devoted to data on wealth and the other to data on income.

The part dealing with wealth contains in addition to a general survey of the various items making up the total wealth of the United States, based on the census estimate for 1922, a special study of some of the most important kinds of wealth and of some of the conditions under which the wealth of the country is owned. The distribution of wealth among individuals was made the basis of one of the special studies, while other studies were devoted to the agricultural wealth, the wealth of corporations and the distribution of corporate ownership, the wealth owned by nonprofit institutions, and the extent of concentration in the ownership of the Nation's principal natural resources. For each of these special studies data secured by schedules to individuals, companies, or other organizations were supplemented by published data both official and unofficial.

The part of the report dealing with income contains annual estimates of the total national income for the period 1918-1923 and presents detailed estimates of the income produced by each of the important lines of economic enterprise, such as agriculture, mining and manufacture, transportation and communication, wholesale and retail trade, professional and personal service, banking, and other economic activities. Data are also presented showing the amount and proportion of the total income received by labor and by capital, with some illustrative statistics on the distribution of the share obtained by labor. An analysis is made of the personal income reported to the Federal Government, which shows the distribution of personal income so reported by income classes and by sources of income, such as wages and salaries, business enterprises, and investments.

A detailed analysis of the total net income of corporations is also presented, showing the proportion of corporations reporting profits and deficits, the rate of return on investment for the principal branches of industry, the rate of capital turnover by industries, and the distribution of corporate income by territorial divisions of the country.

BREAD AND FLOUR

By Senate Resolution 163 (68th Cong., 1st sess.) 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 the 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 evidence indicating violation of the antitrust laws.

Not much work was done on this inquiry before July 1, 1924, on account of lack of funds, but from that time until the close of the fiscal year the inquiry was vigorously prosecuted with respect to both bread and flour.

It is noteworthy that during the course of the year one of the most extensive projects of combination occurred in the bread industry, which even gave rise to considerable criticism and complaint from flour millers.

Considerable difficulty was experienced in the conduct of the inquiry, particularly with respect to certain large grain dealers and also with respect to a few large flour millers in getting reasonable cooperation, but while this has hindered the inquiry it has not prevented the commission from ascertaining the more important facts.

The bulk of the essential data for the report was collected before the close of the fiscal year here under report, and a brief summary report showing the salient facts disclosed by the inquiry was prepared and submitted to the commission, but much of the work of analyzing the data and drafting the final report remained to be done.

ELECTRIC POWER INQUIRY

Senate Resolution 329 (68th Cong., 2d sess.), adopted February 9, 1925, among other things, directed the commission to ascertain and to report to the Senate to what extent "the General Electric Co., or the stockholders or other security holders thereof," either directly or indirectly monopolize or control the production, generation, or transmission of electric power, and to report to the Senate the manner in which such monopoly or control has been acquired and maintained. The resolution also directed the commission to ascertain what efforts the General Electric Co. or any other company, organization, association, or individual has attempted through the use of money or through the control of the avenues of publicity to influence or control public opinion on the question of public ownership of electrical generating and distributing plants.

The first portion of this inquiry was promptly initiated, and considerable progress was made before the close of the fiscal year. The General Electric Co. was requested to furnish extensive data respecting its position in the electric power industry, and prior to the close of the fiscal year had already furnished a large amount of information requested by the commission.

GRAIN MIDDLEMEN'S PROFITS

In September, 1924, the Illinois Agricultural Association requested the commission to bring its previous study of the profits of grain middlemen down to date. The purpose was to throw light on a recently organized merger of certain leading Chicago grain dealers which had announced a plan for the transformation of this merger into a cooperative enterprise by selling its stock to farmers. The commission, in compliance with this request, ordered an inquiry to be made on September 19, 1924.

At the outset of this inquiry requests were made for a postponement of the examination of the books of account for the preceding years of the principal grain dealers who had gone into the merger, chiefly because of the alleged pressure of business and the possible interference with operations of the company involved in the examination of the books of the predecessor companies, whose properties were being appraised in connection with the merger arrangements. Consequently the inquiry was postponed for several months, and afterwards it did not seem advisable to the commission to resume it.

COOPERATION WITH THE LEGAL STAFF

In the conduct of certain inquiries and legal proceedings in charge of the legal staff of the commission, considerable assistance was rendered by details of personnel from the economic division. In this connection particular mention may be made of the Bethlehem Lackawanna Steel Merger case, and the Eastern Federation of Farm Machinery Dealers case, and also of an inquiry into alleged un lawful discrimination against cooperative organizations of tobacco growers, directed by Senate Resolution 329 of the Sixty-eighth Congress Second session.

EXPORT TRADE DIVISION

OPERATION OF THE EXPORT TRADE ACT

Under the export trade act (Webb- Pomerene law) of April 10, 1918, [1] the commission is given jurisdiction over combines or "associations" organized for the purpose of and solely engaged in the sale of goods, wares, or merchandise exported or in the course of being exported from the United States to foreign countries.

Fifty associations filed papers with the commission during the past year:

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, room 1309, 82 Beaver Street, New York City.

American Textile Machinery Corporation, 24 Federal Street, Boston, Mass. American Tire Manufacturers' Export Association; No. 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.), care of Charles F. Conn, president, Pennsylvania Building, Philadelphia, Pa.

Chalmers (Harvey) & Sons 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, 908 New Union & Planters Bank Building, Memphis, Tenn.

Douglas Fir Exploitation & Export Co., 1125 Henry Building, Seattle, Wash. Export Clothes Pin Association of America (Inc.), 280 Madison Avenue, New York City.

Exporters of Wood Products (Inc.), 25 Broad Street, New York City.

[1] See Exhibit 10.

Florida Hard Rock Phosphate Export Association, Savannah Bank & Trust Building, Savannah, Ga. Florida Pebble Phosphate Export Association, Produce Exchange Building, New York City.

Goodyear Tire & Rubber Export Co., The, 1144 East Market Street, Akron, Ohio.
Grain Products Export Association, 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, 625 Whitney Building, New Orleans, La.
Pacific Flour Export Co., 511 Board of Trade Building, Portland, Oreg.
Pan American Trading Co., 89 Broad Street, New York City.
Phosphate Export Association, Produce Exchange Building, New York City.
Pioneer Pearl Button Export Corporation, 217 Mansion Street, Poughkeepsie, N.Y.
Pipe Fittings & Valve Export Association, Branford, Conn.
Producers Linter Export Co., 822 Perdido Street, New Orleans, La.
Redwood Export Co., 260 California Street, San Francisco, Calif.
Rubber Export Association, Akron Bank Building, Akron, Ohio.
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., 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 Canners Export Association, Maitowoc, Wis.

Under the law such a combine may be formed by two or more persons, partnerships, or corporations. It may be incorporated or not, but in most cases incorporation has been found to be preferable. Membership varies from the smallest association with but two members to the largest at present listed, which covers 116 mills. A total of 506 member concerns are represented by the 50 associations listed above.

Products exported include both raw materials and manufactured goods, and are shipped to all parts of the world.

In a majority of cases, associations report improvement in business. One says that "1924 business was better than in 1923, although competition was keener and in general prices less satisfactory." Another states that "the volume of business exceeded that of any preceding year, but the average price received was less than in any

preceding year." One reports a net increase of 30 per cent in quantity over 1923 sales, another 22 per cent, a third 46 per cent, and still another "a constant increase in volume each year."

Lower prices and political disturbances in countries are the chief obstacles reported. Some manufacturers of finished products find it difficult to compete with goods of foreign countries where raw materials and labor are cheaper. One association reports that its European competitors "are able to undersell us 25 per cent. But another states that there is a tendency for prices to become firmer abroad because" both raw materials and labor in European countries are on the rise." Exporters of raw materials report "a better demand and an indication that the credit structure of Europe has greatly improved." There was also a substantial increase in exportation of foodstuffs.

Exports during 1924 by associations reporting to the commission totaled about $140,000,000. Approximately 470,000 tons of copper, cement, and sulphur, valued at $47,300,000, were exported. Lumber (about 800,000,000 feet of pine, fir, redwood, gumwood, oak, walnut, etc.), naval stores, and wood products to the amount of about $32,-700,000 were exported. Phosphate rock, soda pulp, and alkali totaled about 663,006 tons, valued at about $5,000,000. Locomotives, railway springs, textile machinery, steel tires and wheels, pipe fittings and valves totaled $3,630,000. Foodstuffs, including milk, meat, sugar, grain products, and flour were valued at about $35,-300,000. Manufactured products such as paper, abrasives, rubber goods, webbing, furniture, paint and varnish, buttons, clothespins, and general merchandise totaled about $16,000,000.

Member concerns, mills, mines, and factories are scattered throughout the States, but in most cases headquarters of the export associations are located at seaport, and inland manufacturers are relieved of a multitude of details peculiar to the export business.

Advantages obtained by operation under the act are best summarized by the following excerpts from reports recently made by associations filing papers with the commission.

An association exporting food products to Europe and other parts of the world states:

> The advantages gained by t the industry in its operations through, this association become increasingly evident the more it is operated. The intelligent distribution of stocks throughout the world, the centralization of the statistical and other information so necessary for the extension of trade, and the ability to standardize the quality of' the American products to an increasingly higher level are all amply demonstrated by the encouraging increase in business done during the last year.
>
> The competition arising abroad from associations, trade combinations, etc., is and probably al ways will be a serious factor, although its importance as an obstacle to the expansion of American trade abroad in this industry is dis-

counted to some extent by the advantages gained through our manufacturers being able to operate export associations.

Another association exporting manufactured goods through its agencies in Brazil, Argentina, Uruguay, Chile, Peru, Cuba, Mexico, and the Far East states:

Export selling through an association is decidedly advantageous; it presents a united front to foreign competition, concentrates and simplifies the problem of sales, eliminates unnecessary competition amongst manufacturers, insures an equitable distribution of export business, stabilizes prices in foreign markets, restrains speculation, and generally builds up the prestige of American manufacturers abroad through the intelligent and constructive creation of a uniform sales policy based on cooperation.

An association exporting raw materials to Europe reports that:

By operating under the association, members are enabled to maintain an organization for exploiting foreign markets and gathering data for the general benefit of all which would be too costly for any one member to maintain alone. The data that can be gathered by a single, large, well-directed organization is unquestionably more accurate and reliable than that which could be gathered by a number of smaller organizations working against each other. Similarly, the exploitation of foreign markets can be better handled by a large, single, and well-directed organization than by a number of smaller organizations all working against each other. Concentration of effort, standardization of grades, lower selling costs, are a benefit not only to the American exporter but also to the foreign consumer as well and are important factors in the endeavor to increase export sales.

A number of associations report that their members would be unable to export if it were not for their organization under the act. One states that:

If each individual were attempting to get his share of the business, the cost would be out of all proportion to the possible profit.

An association exporting lumber reports:

The export trade act is decidedly advantageous to most manufacturers of lumber, because they individually do not have sufficient volume of export production to justify the expense of personal contact with the foreign buyers or to Interest competent sales agencies.

One exporting manufactured products states:

The volume of business is so small that with the various companies acting independently instead of through an association, It is probable that no business would be obtained. Where competition is as keen as It is in our products, it is doubtful if foreign trade in these commodities could be carried on successfully except through an association.

One of the more recently organized associations reports that:

The most important advantage during the few months we have been in operation is that the mills have been able to maintain prices which would show a profit. During preceding years, because of intense competition, a large volume of business was done at a decided loss.

SECTION 6 (H) OF THE FEDERAL TRADE COMMISSION ACT

This portion of the law directs the commission 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.

During the past year a report on "Cooperation in foreign countries" was prepared and submitted to Congress. Chapters I, II, and III cover information concerning consumers', agricultural, and credit cooperative organizations. Chapters IV, V, VI, and VII include cooperative banks, cooperative education, women and the cooperative movement, and international cooperation. Chapter VIII gives a comparative analysis of foreign legislation in support of cooperation. The appendix includes a table of figures covering membership and turnover of the three groups of cooperative organizations in all parts of the world, and copies of by-laws adopted by some of the more important cooperative societies of Europe (translated from the original), which are typical of the organization of types of societies discussed in the report.

Attention is called to the following recent legislation in foreign countries concerning government regulation of trade combinations and unfair competition:

Under laws passed in Australia in October, 1924, the dairy produce export control board and the dried fruits export control board have been organized under jurisdiction of the department of markets and migration, for the purpose of controlling the handling, exporting, and marketing of dairy produce and fruit, including arrangements for storage, terms of sale and insurance. The boards are given monopolies in contracts for exports to all countries except the Far East, but may also grant special licenses or permission to exporters. A small export duty on butter, cheese, and dried fruits is designed to defray expenses of the boards' operation. The export guarantee act, also passed in October, 1924, provides for guarantee of advances by banks, up to 80 per cent of the market value of produce exported by the boards. The Australian meat council, organized under an act passed in December, 1924, comprises representatives from each of the States interested in meat production, I from the Commonwealth, 16 representatives of meat producers, and 7 from packing houses. The purpose of the council is to improve methods of production and marketing, to reduce freight charges, raise the standard of exports, advertise Australian products, and suggest to the Government legislative needs of the industry. The council as such however, will not buy or sell. Further promotion of exportation is found in the two export bounty acts passed during 1924. Law No.2, dated May 24, provided for

bounties on apricots, peaches, pears, pineapples, etc., canned between November 1, 1923, and September 30, 1924, for export On or before February 28, 1925. Law No. 14, dated August 15, 1924, granted a bounty of 10 shillings per head on live cattle for slaughter, to paid to bona fide pasturalists who have exported or sold for export from July 1, 1924, to June 30, 1925.

Two Japanese measures which are expected to have important influence on the export trade of that country are the exporters' association act (Yushutsu Kumiai Ho) and the export manufacturers' association act (Yushitsu Kogyo Kumiai Ho), which passed the lower House in February, 1925, and the House of Peers in March. They are now awaiting imperial sanction. These proposed laws provide for the formation of guilds or associations. The export guilds will engage in exportation of goods handled by their members the keeping in custody, sorting, and packing of goods for export, and other cooperative work affecting business of the members. The manufacturers' guilds will be similarly organized for the purpose of inspection of manufactured articles and of materials, arrangement for manufacture of articles designed for export, advice, investigation, research, and other cooperative arrangements for the benefit of members, the finishing of manufactured articles, or their sale, and the supply of goods necessary for the business of members. It is proposed that both exporters' and manufacturers' guilds be exempt from business and income taxes, and that the Government arrange for long-term loans to be made to them at low interest. The purposes of the laws are said to be to improve and encourage export trade, open up new markets and extend old ones, promote mass production, prevent needless competition, reckless production and inferior goods, to raise the standard of Japanese goods by rigid official inspection, and to provide for the guilds financial backing and the privilege of tax exemption.

Sir Auckland Geddes, chairman of the royal food commission appointed in Great Britain in November, 1924, to investigate prices and trading in foods, has presented the first report of the commission, with a recommendation for establishment of a permanent food council to watch over the supply of wheat , flour, bread, and meat, and to consider whether the public were obtaining their supplies of the staple foodstuffs in the most economic manner and at the lowest reasonable price. The commission's report states:

> The primary duty of the food council would be to study the situation in regard to bread and meat supplies and to keep the public fully informed by periodical reports as to the working of these essential trades. The food council's reports should be not merely statistical compilations but should provide a commentary on the trend of events and so far as possible explain the causes which lead to important movements in prices. For this purpose the

council would need to collect information relating to production, import, consumption, and stocks, together with more precise information than is at present available with regard to wholesale and retail prices. It may be hoped that one of the effects of giving wide publicity to this information would be to steady prices and to stimulate supplies by timely warning if stocks showed a tendency to fall below the normal level.

* * * * * * *

We have already referred to the existence of so-called trusts in the meat trade, to the tendency toward a combination in the milling industry, and toward centralization in the wheat trade. We make no general charge against large undertakings of abusing their powers. We incline to the view that the elimination of uneconomic businesses through amalgamation and absorption of traders into trusts and combines should in most cases make for greater efficiency and therefore lead to the possibility of greater cheapness. Yet, because of the power which such amalgamations and absorptions place in the hands of a few persons, It seems to us that the time has come to equip some body with power to deal with inonopohies, trusts, and combines which charge unduly high prices for the services they render to the public or suppress competition merely in order to maintain or expand their profits. We doubt whether public apprehension will be set at rest until the state has armed itself with the necessary powers to deal with antisocial actions by monopolies, trusts, and combines. But the danger of the abuse of monopolistic power is not confined to the food trades, and it would in our view be unwise to set up special machinery for dealing drastically, by the application of sanctions, with anti-social actions in these and not in other trades. Special regulation of private enterprise in particular trades might lead capital to shun them and so might stop growth and developments of advantage to the consumer.

It falls outside the scope of our inquiry to suggest ill detail what might be the machinery for dealing with trusts hi general. But it will be recalled that the committee on trusts, which reported on this subject in 1919,[1] recommended that a tribunal should be set up for this purpose. The food council which we recommend could not appropriately perform the functions of such a body which would necessarily possess powers suitable for exercise only by a legal tribunal.

In the absence of general antitrust legislation. the food council should not be sterilized but, on the contrary, should be required to investigate the action of persons, firms, or associations when there is reason to believe that they are behaving in a manner contrary to the public interest, for example, are fixing food prices unfairly. When the council is satisfied as a result of its investigations that a person, firm, or association is behaving in a manner contrary to the public Interest, it should l)e the council's duty to instruct that person, firm, or association to desist from such behavior.

Under the Canadian act to provide for the investigation of combines, monopolies, trusts, and mergers passed on June 13, 1923, a report was issued in February, 1925, containing details of evidence collected by a commissioner appointed to investigate the fruit and vegetable industry. The commissioner found a combination of jobbing and brokerage houses which in his opinion "is operating and has operated detrimentally to the interests of the Canadian public, including in that term producer, consumer, and trade opposition."

1 Cd. 9236.

The report concludes with recommendations for further legislation to supplement the combines investigation act, and suggests that--

consideration he given to the desirability of passing legislation similar in principle to the antitrust legislation of the United States of America.

A further report was issued in March, 1925, by a commissioner appointed to investigate an alleged combine among coal dealers at Winnipeg and other places in western Canada. In this case, how-ever, it was found that the combine in question had not operated to the detriment of the best interests of the public. The commissioner reported as his opinion--

that the discussion and fixing of prices is one of the main purposes of this association, but as already indicated, until that is carried to the point that prices are unreasonable or unfair, no fault can be found in that direction.

An investigation of an alleged combine in connection with the marketing of the potato crop in New Brunswick was conducted by the registrar under the combines investigation act, who reported to the Minister of Labor in June, 1925, that in his opinion--

the evidence establishes the fact of the existence of various agreements, arrangements, and combinations at different times, fixing a common price and preventing and lessening competition in and substantially controlling the transportation, purchase, sale, and storage and otherwise restraining and injuring trade or commerce in potatoes, to the detriment, or against the interest, of the public.

The Indian tariff board, appointed in 1924, was empowered to investigate the claims of particular industries to tariff protection, to watch the effect of duties and make recommendations for adjustments in rates, to inquire into allegations that "dumping" is taking place to the detriment of any Indian industry, etc. The board is also directed to "investigate any complaints regarding combinations of manufacturers to the detriment of the Indian consumer, find to make recommendations for any necessary action."

A similar function has been given to the newly appointed board of trade and industries in South Africa, which is empowered to make investigations and to advise the Government as to action advisable for assisting the maintenance or development of industries in the Union, for the recasting or adjustment of customs and excise tariffs, and as to the "nature, extent, and effect of trusts, etc., so far as they tend to create monopolies or restrain trade."

The Danish law concerning regulations against unfair competition and designation of goods, dated March 29, 1924, prohibits misrepresentation in the sale of goods, including incorrect statements in labels or packing, on billboards, bills, invoices, or other documents. The purchaser must not be misled in believing that the goods origi-

nated in the country of sale, if in fact they are imported, nor may

he be falsely advised that they have received special mention at fairs, have been tested or recommended by public authorities, or protected by patents. The use of the red cross, the Danish coat of arms, or the sign adopted for the health department of the army are prohibited, as well as the use of a mark belonging to another tradesman. Untrue statements aimed to injure the business of another, divulging business or trade secrets by an employee, or other violation of contractual, confidential relationship, is prohibited. A retailer may not give "premiums" unless they are of minor value. Goods sold in the original package and marked with a definite price may not be resold by a retailer at a lower price without permission of the producer or wholesaler, except (1) when the stipulated resale price would give the retailer a profit of less than 25 per cent of the purchase price, or (2) when the goods are second hand or damaged. The Minister of Commerce is given authority to regulate size, measure, and weight of packages, as well as their marking. This law repealed laws No.290 of May 6, 1921, No.168 of March 20, 1916, and No.137 of June 8, 1912. Law No.70 of April 27, 1894, remains repealed.

An unfair-competition law was recently enacted in Guatemala (decree No. 1411, passed by the National Assembly on May 21, 1925). This law declares that privileges or exclusive rights of private persons or commercial houses for the importation, sale, or rental of merchandise or other commercial objects are not recognized, and the protection which the trade-mark law grants to proprietors or concessionaires is not extended to the exercise in the country of exclusive privileges for the importation or sale of merchandise or other commercial objects. The law also prohibits privileges or rights in favor of private persons or commercial houses for exhibitions, displays, or announcements "which impede in any manner free commercial or industrial competition." Violations of the law are punishable by fine.

Two bills have been introduced into the French Parliament, the first by Deputy Raynald and the second by the Government, for the purpose of amending article 419 of the Penal Code. This article provides penalties to be imposed upon--

> All those who by false or calumnious reports sown by design in the community, by offers of prices higher than those asked by the vendors themselves, by union or coalition among the principal possessors of the same merchandise or commodity not to sell or to sell at a certain price only, or by whatever fraudulent ways and means, shall have effected the advance or decline of the prices of commodities or merchandise or of public securities above or below the prices which the natural and free competition of trade would have fixed.

Under the amendments proposed a combine shall not fall within this article if its purpose is to maintain equilibrium between produc-

tion and consumption; the bills provide further for a cartel or combine register and would prescribe certain requirements for the by-laws of combines. On October 14, 1924, the Comite Technique de la Propriete Industrielle of France issued rulings, approved by the Ministry of Commerce, controlling identification of imported merchandise for the French market under the act of January 11, 1892, which prohibits the sale of imported products under an express or implied misrepresentation that they are of domestic origin. Im ported goods bearing French names, or marked in such a way as to create a false impression of French origin, must be stamped with corrective phrases and name of the country of actual origin.

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 aud importers. Such inquiries fall generally under section 6 (h) of the Federal Trade Commission act, but occasionally features of unfair competition arise which lead to proceedings in the legal division under section 5 of the act.

During the past year 54 complaints were handled, of which investigation is now pending in six cases. None of these complaints have been directed against combines or associations operating under the Webb law, and most of them involve transactions of smaller export houses described by one American consulate abroad as "small, parasitical hangers-on that exist on the narrow margin between poor business methods and downright dishonesty and at the expense of American business in general." The attitude of the State Department in receiving the complaints and referring them back to the States for investigation is well expressed by a report of an American consulate in the Fast Indies, which states:

> While it is realized that the amount involved is a small one, it is appreciated that no matter what the size of the summary be the moral effect on a reputable local merchant who has up to this date been showing great interest in the development of American trade in this territory will be the same. It is therefore with the only end in view to upkeep the reputation of the American commerce in this market that this complaint is respectfully transmitted.

Another consulate office reporting a complaint from abroad states:

> This consulate is working unceasingly in the unbuilding of the prestige of American goods and American manufacturers in this territory, is striving in every possible way to secure safe, efficient foreign connections for American houses, and is sincerely anxious to see that these connections, once made, are continued on a basis of fairness and mutual profit and common, ordinary business sense. The department's unfailing cooperation with this consulate in its sincere aims and endeavors is deeply, whole-heartedly appreciated.

Complaints of this sort are reported usually by the American consulates in foreign countries. They are also received from foreign offices of the Commerce Department, chambers of commerce, and other trade organizations, and occasionally from the complainant directly.

Cases investigated during the past year involve imports of mutton from Tunis, beans from Holland, and hair nets from China; and exports of leather to Denmark, to Syria, and to Greece; motor ears to Switzerland; gauze to Spain; flour, auto lamps, and spark plugs to Egypt; undertakers' supplies to Siam; radio equipment to Portugal and to South Africa; moving-picture films to Peru; dyes to Brazil; ice plants to Chile; savings boxes to Uruguay; a marine engine to Honduras ; cutlery to Salvador; chair seats and millinery trimming to Australia; butter to British Guiana; tires and tubes to Java; old newspapers to the East Indies and the Far East; mirrors to India; plate cuttings to Japan ; w heat, paper, and cigarettes to China paper-fastener machines to China and to Canada ; and potatoes to Mexico.

In some of these cases investigation is greatly facilitated by the consulates in the furnishing of satisfactory affidavits of inspection to substantiate the complaints. With such a basis the American shipper can rely on the justice of the claim and is willing to make adjustments, but in others the difficulty lies in the fact that the American company has failed or gone out of business without notifying or settling with its of reign customers.

Investigation in some instances brings out the fact that the complaint is without merit. In the case of a shipment of grain the consignees could not furnish any proof of defective quality, and a falling market in the foreign country was undoubtedly responsible for the complaint. In the case of an exportation of chair seats common usage of the word "fiber" by the trade in this country was not understood by the foreign purchaser, and this' lea to a mis take in his order. Th the case of a shipment of automobiles it was found that the order was satisfactorily filled, and the claim for damage en route was met by the insurance company. Complaint as to a consignment of dyes was not substantiated by chemical tests of returned samples, and it was found that mistakes in the use of the dye mixtures was responsible for the complaint. In the case of butter shipped from the United States to the East Indies and labeled "Danish," the exporter had come to the conclusion that the label might be misleading to purchasers and prejudicial to Danish exporters to that market and had therefore voluntarily changed his brand. As to radio equipment shipped to South Africa, it was found that there was no transmitting station near enough to the pur-

chasers to admit of the use of crystal sets, and this fact led to an attempt to secure a refund on the basis of an unsubstantiated complaint of defective crystal sets.

Investigations of foreign trade complaints are made informally, without publicity, and the facts ascertained are reported back to the foreign country through representatives of the Commerce and State Departments.

A representative of the commission attends the weekly conference of the 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.

All of which is respectfully submitted,

FEDERAL TRADE COMMISSION,
By VERNON W VAN FLEET,
Chairman.

Commissioners Nugent and Thompson dissented to the adoption of the foregoing report of the commission and made the following statement :

We dissent from the order approving the report in its present form for the reason the changes in policies, rules and procedure of the commission as announced on March 17 and April 30, 1925, have been printed therein and we have been denied the right to incorporate in the report in connection therewith our reasons for opposing the same, which reasons are set out in the dissent issued by us on May 18, 1925.

We dissent for the further reason that we have been denied the right to incorporate in the report the reasons why we dissent to the action of the commission in approving the report in its present form.

EXHIBITS

EXHIBITS

EXHIBIT 1

NEW RULES ON PROCEDURE AND POLICIES OF THE COMMISSION

Announced March 17, 1925.--Hereafter it shall be the policy of the commission not to entertain proceedings of alleged unfair practices where the alleged violation of law is a purely private controversy redressable in the courts except where said practices substantially tend to suppress competition as affecting the public.

In accordance with the foregoing, the commission amended paragraph 3 of subdivision 2 of its printed rules of practice, headed "II-Complaints," after the would "jurisdiction," the following: and if it shall appear to the commission that a proceeding by it in respect thereof would be to the interest of the public."

The end and object of all proceedings of the Federal Trade Commission is to end all unfair methods of competition or other violations of the law of which it is given jurisdiction. The law provides for the issuance of a complaint and a trial as procedure for, the accomplishment of this end. But it is also provided that this procedure shall be had only when it shall be deemed to be in the public interest, plainly giving the commission a judicial discretion to be exercised in the particular case.

The rule shall be that all cases shall be settled by stipulation except when the public interest demands otherwise.

"In all cases before the board of review, before it shall recommend to the commission that a complaint issue, it shall give to the proposed respondent a hearing before said board to show cause why a complaint should not issue. Said hearing shall be informal in its nature and not involve the taking of testimony. The proposed respondent shall be allowed to make or submit such statement of facts or law as it desires. The extent and control of such hearing shall rest with mu majority of said board. Three weeks' notice of the time and place of such hearing shall be served on the respondent by the secretary of the commission."

Announced April 30, 1925.-- "From and after this date, in the settlement of any matter by stipulation before complaint is issued, no statement in reference thereto shall be made by the commission for
publication. After a complaint is issued no statement in regard to the case shall be made by the commission for publication until after the final determination of the case.

"After a complaint has been issued and the answer of the respondent has been filed or in case the respondent fails to file an answer by the rules provided, the papers in the case shall be open to the public for inspection , under such rules and regulations as the secretary may prescribe."

It has been the rule, which is now abolished, to issue a statement upon the filing of a complaint stating the charges against a respondent.

Concerning the withholding of publicity where cases are settled by stipulation without complaint, the custom has always been not to issue any statement. It has always been and now is the rule not to publish or divulge the name of an applicant or complaining party, and such party has no legal status before the commission except

where allowed to intervene as provided by the statute.

Commissioners Nugent and Thompson dissented to the adoption of the foregoing rules.

EXHIBIT 2

LETTER TO THE PRESIDENT REQUESTING OPINION FROM THE ATTORNEY GENERAL AS TO LEGALITY OF CONDUCTING CERTAIN INVESTIGATIONS

MAY 4, 1925.

SIR: On behalf of the Federal Trade Commission I respectfully request that you request the opinion of the Attorney General of the United States upon the questions of law hereinbelow set out, which have arisen in connection with the administration and execution of its official duties by said commission.

The Senate of the United States by four several resolutions has directed the Federal Trade Commission of make certain investigations, which, if in whole or in part legally within the powers and du ties of said commission, require that body presently to undertake and make such investigations in whole or in part as the case may be. The commission has, indeed, done some investigational work under two of said resolutions as hereinafter appears.

The chief law officer of the Federal Trade Commission has submitted to that body his written opinion upon the questions of law involved, and a copy of that opinion is hereto attached. There is also attached a memorandum by the chief economist of the com mission. In his said opinion the chief law officer of the commission takes the position that the powers and duties of the commission to proceed with the investigations in question are govern d entirely by subsection (d) of section 6 of the Federal Trade Commission act (38 Stat. 717; Comp. Stat. (1916), sec. 883(3 (a) to (k), inclusive). Said subsection reads as follows :

> The commission shall also have power * * * 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.

The above-mentioned resolutions of the Senate are as follows :

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

RESOLUTION

> 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 small amount of investigational work has been done under this resolution.

Sixty-eighth Congress, second session, Senate Resolution 329, February 3 (calendar day, February 6), 1925

RESOLUTION

Whereas it has been stated openly that aim agreement exists between the American Tobacco Company and the Imperial Tobacco Company of Great

Britain whereby the American Tobacco Company will sell 110 tobacco in Great Britain and the Imperial Tobacco Company will sell no tobacco in the United States ; and

Whereas such an agreement gives the Imperial Tobacco Company a practical monopoly on certain types of tobacco grown in Virginia, North Carolina, and South Carolina and a special interest in certain types of tobacco grown In Kentucky and purchased in the United States by the local resident agents of the Imperial Tobacco Company and processed in the United States in its plants, and the same agreement gives the American Tobacco Company a special interest In other types grown in those States; and

Whereas the growers of leaf tobacco have formed great cooperative organizations, known as the Tobacco Growers' Cooperative Association, the Dark Tobacco Growers' Cooperative Association, the Burley Tobacco Growers' Co-operative Association, comprising an aggregate of more than two hundred and seventy thousand grower members for the cooperative marketing of the tobacco of their members; and

Whereas such cooperative associations have been organized along lines encouraged by this Government and have been financed in part by the War Finance Corporation and the intermediate credit banks ; and

Whereas the American Tobacco Company and the Imperial Tobacco Company are opposed to the formation of cooperative marketing associations among tobacco growers and desire to destroy them, and have attempted to discourage members by purchasing leaf tobacco from nonmember growers at higher prices than tenders therefore made by such cooperative associations, and have Induced and encouraged breaches of contracts between members and the cooperative associations contrary to the terms of the members' agreements with the associations ; and

Whereas the said companies have practically boycotted the said cooperative associations and, by reason of their special interests in certain types, have caused great damage and harm to the cooperative associations ; and

Whereas the aforesaid agreement stops competition between the said companies in the purchase from the growers of the types of tobacco used by the American Tobacco Company and the Imperial Tobacco Company and enables one company or the other to control the purchase and marketing of these types ; and

Whereas acts on the part of these two companies cause leaf tobacco to be diverted from the cooperative associations to these companies, directly or in directly, in spite of the contracts between the growers and the cooperative associations; and

Whereas such conduct on the part of such companies appears to be unfair practice in pursuance of an 11 legal agreement to restrict and restrain competition and trade in leaf tobacco in interstate commerce : Now, therefore be it

Resolved, That the Federal Trade Commission be, and it is thereby, directed to investigate and report to the President of the United States on or before July 1, 1925, the present degree of concentration and interrelation in the ownership, control, direction, financing, and management, through legal or equitable ownership of stocks, bonds, or other securities or instrumentalities, or through interlocking directorates or holding companies, or through agreements, or through any other device or means whatsoever, by the American Tobacco Company and the Imperial Tobacco Company; and also particularly to investigate the methods employed by these companies in their fight against cooperative marketing associations and any boycott thereof ; and also particularly to investigate any agreements or arrangements made by said companies to embarrass or injure any such cooperative associations or to cause discouragement or breaches of contracts between growers, members, and the said cooperative associations; and

Resolved further, That the President of the United States be, and lie is hereby, requested to direct the Secretary of the Treasury to permit the said Federal Trade Commission in making such investigation to have access to all official reports and records in any or all of the bureaus of said Treasury Department; and whereas it has been alleged on the floor of the Senate during the course of a debate upon a bill relating to the disposition, operation, management, and control of the water-power and steam-power plants with their incidental lands, equipment, fixtures, and properties, that a corporation, known as the General Electric Company, has acquired a monopoly or exercises a

control in restraint of trade or commerce in violation of law of or over the production and distribution of electric energy and the manufacture, sale, and distribution of electrical equipment and apparatus : Therefore be it

Resolved further, That the Federal Trade Commission he, and It is hereby, directed to investigate and report to the Senate to what extent the said General Electric Company, or the stockholders or other security holders thereof, either directly or through subsidiary companies, stock ownership, or through other means or instrumentalities, monopolizes or controls the production, generation, or transmission of electric energy or power, whether produced by steam, gas, or wafer power ; and to report to the Senate the manner in which the said General Electric Company has acquired and maintained such monopoly or exercises such control in restraint of trade or commerce and in violation of law.

The commission shall also ascertain and report what effort, if any, has been made by the said General Electric Company or other corporations, companies, organizations, or associations, or anyone in its behalf, or in behalf of any trade organization of which it is a member, through the expenditure of money or through the control of the avenues of publicity, to influence or control public opinion on the question of municipal or public ownership of the means by which power Is developed and electric energy Is generated and distributed.

Resolved further, That the President of the United States be, and he is hereby, requested to direct the Secretary of the Treasury, under such rules and regulations as the Secretary of the Treasury may prescribe, to permit the said Federal Trade Commission to have access to official reports and records pertinent thereto in making such investigation.

About one-half of the necessary investigational work has been done under this resolution.

Sixty-ninth Congress, special session of the Senate, Senate Resolution 28, March 17, 1925

RESOLUTION

Whereas the Federal Trade Commission in its annual report for 1922 states that at the request of the Joint Commission of Agricultural Inquiry the com mission undertook a special investigation concerning the activities of trade associations and found by response to its questionnaires that there were one hundred and fifty “open-price associations, or those distributing or exchanging price information”; and

Whereas the commission reported “Most of the open-price associations also distributed or exchanged information or other features of business, such as orders received, purchases, production, stocks, cost of production and merchandising, and matters of general Interest to members”; and

Whereas such associations may exert a large influence in maintaining prices at an exorbitant level, particularly in the case of manufacturing concerns the products of which are protected by a high tariff duty: Therefore be it

Resolved, That the Federal Trade Commission is hereby directed to Investigate and of report to the Senate at the next session of Congress :

First. The present number and nature of the open price associations, the names of such associations, the number of their members thereof, and the importance of such associations in the industry.

Second. To what extent, if any, the effect of such open-price associations has been to maintain among members thereof uniform prices to wholesalers or retails, or to secure uniform or approximately uniform increases in such prices.

Third Whether such open-price associations engage in other activities, and if so, the nature

and effects thereof, with respect to alleged violations of the antitrust laws.

Sixty-ninth Congress, special session of the Senate, Senate Resolution 34, March 17, 792

RESOLUTION

Whereas the successful development of cooperative organizations in production, distribution, and consumption affords needed opportunities for increasing

the income of the producer, especially the farmer, and for diminishing the cost of living of the consumer, and appears to be of great public benefit, as shown by the experiences of numerous foreign countries ; and

Whereas the President's Agricultural Conference recommends constructive Federal assistance in the development of producers' marketing organizations; and

Whereas complete and conclusive information with respect to the economic advantages or disadvantages of the cooperative movement in this country as compared with other types of marketing farm products has not been made available in comprehensive form ; and

Whereas it is frequently charged that various cooperative organizations of farmers engaged in marketing grain, tobacco, cotton, livestock, and other products, as well as consumers' cooperative purchasing organizations are being discriminated against and injured by various corporations and trade associations, in alleged violation of the antitrust laws; Now therefore he it

Resolved, That the Federal Trade Commission is hereby directed to make an inquiry (1) into the growth and importance of cooperative associations, Including particularly the costs of marketing and distribution of such Cooperatives as compared wit h the corresponding costs of other types of distributors, and (2) into the extent and importance of the interferences with and obstructions to the formation and operation of cooperative organizers of produce ms, distributers, and consumers by any corporation or trade association in alleged violation of the antitrust laws, and to report thereon with recommendations for legislation, or other remedial action, if the same appears necessary.

The questions of law upon which the opinion of the Attorney General is desired are with respect to each of the foregoing resolutions, severally considered, as follows :

(1) Is the commission empowered by subsection (d) of section 6 of the Federal Trade Commission act to make the entire investigation called for by the resolution?

(2) Is the commission empowered by said subsection to make any part of the investigation directed by the resolution; and if so, what part or parts thereof is the commission empowered to investigate?

(3) If the inquiry directed by the resolution is partly within and partly without the power of the commission to investigate under the provisions of said subsection, may the commission legally proceed with that part of the investigation which is legally within such power regardless of the fact that of the investigation directed is legally without such power ?

(4) If the Attorney General is of the opinion that said resolutions, or certain parts thereof, confer no power upon the commission to proceed with such investigations or parts thereof, do subsections (a) and (b) of section 6 of said act confer power upon the commission, proceeding as upon its own motion, to make such investigations or such part thereof?

Said subsections (a) and (b) read as follows, to wit :

That the commission shall so 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 individual, 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 then, 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 the be granted in any case by the commission.

The above-mentioned chief law officer of the Federal Trade Commission has rendered his opinion specifically with regard to each of the resolutions under consideration, and his position will be found set out in detail in the copy of his opinion hereto attached and to which reference has hereinbefore been made. Briefly stated, his opinion is:

(1) That Senate Resolution 163 (68th Cong., 1st sess.) confers no authority upon the Federal Trade Commission to make, either in whole or in part, the investigation directed by the resolution.

(2) That Senate Resolution 329 (68th Cong., 2d sess.) legally empowers the commission to make the investigation directed by the resolution, except the inquiry directed by the following paragraph of said resolution :

The commission shall also ascertain and report what effort, if any, has been made by the said General Electric Company or other corporations, companies, organizations, or associations, or anyone in its behalf, or in behalf of any trade organization of which it is a member, through the expenditure of money or through the control of the avenues of publicity, to influence or control public opinion on the question of municipal or public ownership of the means by which power is developed and electric energy is generated and distributed.

and that the Federal Trade Commission is not empowered by aforesaid subsection to make the investigation directed by this paragraph.

(3) That Senate Resolution 28 (69th Cong, special session of the Senate) does not empower the commission to make, either in whole or in part, the investigation directed by the resolution.

(4) That Senate Resolution 34 (69th Cong., special session of the Senate) does not empower the Federal Trade Commission to make, either in whole or in part, the investigation directed by the resolution

(5) That subsections (a) and (b) of section 6 of the Federal Trade Commission act do not empower the commission, acting as of its own motion, to make the investigations directed by above-mentioned Senate Resolutions 163, 28, and 34, nor the investigations directed by that paragraph of said Senate Resolution 329 above referred to and set out.

The questions of law upon which each of the foregoing statements of opinion were rendered by the said chief law officer are, specifically, the questions of law upon which the opinion of the Attorney General is desired.

The foregoing is transmitted by direction of the commission.

I have the honor to be,

Respectfully yours,

VERNON W VAN FLEET,
Chairman Federal Trade Commission.

The PRESIDENT,

The White House , Washington, D. C.

EXHIBIT 3

LETTER BY MESSRS. NUGENT AND THOMPSON

MAY 4, 1925.

Dear MR. PRESIDENT : We very respectfully advise you that we do not join with the majority of the Federal Trade Commission in asking you to request the Attorney General of the United States for an opinion in respect of the authority of the commission relative to the matters detailed in the letter of even date addressed to you and signed by Hon. Vernon W. Van Fleet, chairman. We trust that you will understand that other action in this matter is not due to any lack of respect either for you or the Attorney General, but solely to the fact that, in our judgment, the Federal Trade Commission is an independent body and that the extent of its jurisdiction should be determined only by the courts in particular cases in the future as in the past.

Respectfully,

(Signed) HOUSTON THOMPSON ,
(Signed) JOHN F. NUGENT,
Commissioners.

THE PRESIDENT,
Executive Mansion.

EXHIBIT 4

ATTORNEY GENERAL'S OPINION ON THE POWERS AND DUTIES OF THE FEDERAL TRADE COMMISSION IN THE CONDUCT OF INVESTIGATIONS UNDER RESOLUTIONS OF THE UNITED STATES SENATE

[Prepared by A. F. Myers. Reviewed by P. R. Chandler. Approved by William J. Donovan and William D Mitchell]

OCTOBER 24, 1925.

SIR : I have the honor to acknowledge the receipt of your letter dated May 5, 1925, enclosing a communication from the Federal Trade Commission and requesting that I render an opinion on the questions propounded therein. The questions relate to the powers and duties of the Federal Trade Commission in the conduct of investigations under four designated resolutions of the United States Senate. As to these resolutions, severally, the following questions are asked:

1. Is the commission empowered by subsection (d) of section 6 of the Federal Trade Commission act to make the entire investigation called for by the resolution?

2. Is the commission empowered by said subsection to make any part of the investigation directed by the resolution, and if so, what part or parts thereof is the commission empowered to investigate

3. If the inquiry directed by the resolution is partly within and partly without the power of the commission to investigate under the provisions of said subsection, may the commission legally proceed with that part of the investigation which is legally within such power regardless of the fact that part of the investigation directed is legally without such power ?

4. If the Attorney General small be of opinion that said resolutions, or certain parts thereof, confer no power upon the commission to proceed With such investigations or parts thereof, do subsections (a) and (b) of section 6 of said act confer power upon the commission, proceeding as upon its own motion, to make such investigations or parts thereof?

I note that a preliminary question is suggested in the papers accompanying the submission regarding my authority to render this opinion. I need only say that the practice of rendering opinions to the President for the guidance of independent establishments is of such long standing and is instanced by so many opinions by any predecessors that I must regard it as settled and proper.

A resolution by one of the two Houses of Congress is not legislation and can not add to or detract from the powers already possessed by the commission under preexisting

statutes. United States v. Louisville & Nashville R. R. Co., 236 U. S. 318; Federal Trade Com mission *v*. American Tobacco Co., 264 U. S. 298, 283 Fed. 999 , Federal Trade Commission *v*. Baltimore Grain Co., 284 Fed. 886;

statement by Senator Cummins (51 Cong. Rec. 11451). Power to make the investigations in question must, therefore, be found in the subsections of section 6 of the Federal Trade Commission act (copied in the order of their importance in this inquiry) and in the current appropriation act, approved March 3, 1925 (ch. 468, 43 Stat. 1203).

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

(*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.

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

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

The appropriation act:

No part of this sum shall be expended for investigations requested by either House of Congress, except those requested by concurrent resolution of Congress, but this limitation shall not apply to investigations and reports in connection with alleged violations of' the antitrust acts by any corporation.

An investigation which the commission may prosecute pursuant to subsection (*d*) must relate to an alleged violation of the antitrust acts by some corporation. The above-quoted provision of the appropriation act is both a reaffirmation of the requirements of subsection (*d*).

The question to be determined in each instance is whether the resolution is so worded as to allege a violation of the antitrust laws by any corporation .[1] The courts have not defined with what definiteness and certainly an alleged violation of the antitrust acts must be charged in the resolution. Federal Trade Commission *v.* American Tobacco Co., supra, involved a petition for writ of mandamus to compel the respondents. American Tobacco Co. and others, to deliver to the commission certain books, documents, and correspondence. The commission was proceeding (*a*) under complaints of the use by respondents of unfair methods of competition contrary to the Trade Commission act, and (*b*) in pursuance of a resolution of the United States Senate. The resolution (S. 129, dated August. 9, 1921), merely directed that the commission make a broad investigation as to the prices for certain grades of tobacco). The court in rejecting the resolution as a source of power said (p.305):

The Senate resolution may be maid on some side, as It is not based on any alleged violation of the antitrust acts within the requirements of section 6 (d) of the act. United States *v.* Louisville & Nashville R. R. Co., 236 U. S. 318.

1 "Corporation" is defined by section 4 to mean "any company or association, incorporated or unincorporated, which is organized 10 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."

No procedure is prescribed for alleging violations of the antitrust acts in the resolutions of the House or Senate, and no authority exists for holding such bodies to fixed forms. The debates accompanying the adoption of Senate Resolution No. 329, set out in connection with the consideration of that resolution, show that the Senate itself has declined to be bound to any formal procedure in alleging violations of the antitrust laws.

A main purpose of the Federal Trade Commission act was to enable Congress, through Trade Commission, to obtain full in formation concerning conditions in industry to aid it in its duty of enacting legislation. that purpose was emphasized in the proceedings attending the passage of the act (H. Rep. 533, 63d Cong., 2d sess.; S. Rep. 597, 63d Cong., 2d sess.); and in the debates the commission was sometimes likened to a committee of Congress. (Statement by Congressman Stevens, 51 Cong. Rec. 14935.)

Resolutions directing investigations pursuant to section 6, subsection (d), are to be limited in their scope to the ascertainment of facts which reasonably and logically tend to show whether or not the antitrust acts are being violated by any corporation. The existence or nonexistence of a violation of such acts may be disclosed by acts committed by the corporations under investigation and the effect of such acts upon interstate trade and commerce. The investigations should not in any case be enlarged to include an inquiry into any matter which does not have a direct bearing upon the question whether interstate trade and commerce are being unlawfully monopolized or restrained.

In considering particular resolutions it is not enough to stop with the bare language thereof; resort must be had to the proceedings attending their adoption.

1. *Resolution No.163 (68th Cong., 2d sess.)*.[2]--This resolution on its face requires, primarily, an economic investigation of the milling and baking industries, and incidentally a report of the facts (if any) tending to show contracts, combinations, etc., in restraint of trade. There is no direct allegation that any corporation or corporations is violating the antitrust acts; but the resolution as introduced contained a preamble reciting a series of alleged facts fairly calculated to bring the investigation within the scope of the commission's authority under subsection (d) of section 6. Certain of these recitals were stated so positively that their adoption in that form would have amounted to a declaration by the Senate that they were true. A Senator having objected to the resolution on the ground stated, the preamble was stricken out. (65 Cong. Rec. 2541.) The preamble follows:

> Whereas the price of bread is being maintained at substantially the level of war prices while the price of wheat has declined to pre-war levels; and
>
> Whereas bread made by American flour is selling in England at an average retail price of 4 cents a pound, as compared with an average of 8.7 cents in the United States; and
>
> Whereas the financial reports of flour milling and baking companies so far as published disclose enormous profits during recent years; and
>
> Whereas excessive bread prices have caused a decrease in the consumption of bread in the United States amounting to 44 loaves per person per year; and

[2] The resolutions are set out in an appendix to this opinion.

Whereas this reduction of bread consumption has largely decreased the domestic market for wheat and thus contributed to the distress and widespread bankruptcy of wheat farmers; and

Whereas bread prices in American cities are artificially maintained at excessive levels, apparently by combinations and conspiracies in restraint of trade; and

Whereas there has recently been formed a huge merger of baking companies; and

Whereas the production and distribution of bread has ceased to be a local industry and has in a large measure assumed the character of interstate commerce.

While the investigation is concerned more with the effects of monopoly than with the means by which accomplished, it is with the effects of monopoly that Congress is mainly concerned. The artificial enhancement and depression of prices are the indicia of monopoly. Whether or not the control acquired or exerted by a corporation or group of corporations over interstate trade and commerce is monopolistic in scope depends at least in some measure upon the power to control or affect prices. I am of opinion, therefore, that the commission may, as a part of its investigation of alleged violations of the antitrust law by baking and milling corporations. ascertain and report the facts in reference to costs, prices, and profits set out in the early part of the resolution.

The failure to specify any corporation by name can not be given controlling effect, as Congress might properly be reluctant to charge a corporation with violating the law in a public resolution. Such allegation serves merely as a basis for directing an investigation, and the better practice clearly would be to await the results of the investigation before publicly citing the corporation.

2. Resolution No.329 (68th Cong., 2d sess.), is in two parts, each relating to a separate investigation of a different industry. The resolution as first introduced related only to the tobacco industry. That portion of the resolution evidently was drafted with an eye to the requirements of section 6, subsection (d), of the act. The letter from the commission indicates that it entertains no doubt as to its duty to make the tobacco investigation, and that such investigation is well under way. I need only say that I concur in the view taken by the commission in that regard.

The second part of the resolution relates to an investigation of the General Electric Co. and its subsidiary and allied companies. This was originally introduced as a separate resolution (S. 286) during the debate on the Muscle Shoals power bill. (68th Cong. Rec. 939 [permanent Cong. Rec. p. 910].) In advocating the adoption of the resolution Senator Norris said (68th Cong. Rec. 2200 [permanent Cong. Rec. p.2125]):

I have already placed before the Senate, and other Senators have likewise placed before the Senate, evidence which it seems to me ought to convince any reasonable man that such a monopoly or combination exists.

It is a common practice here when there Is at least reasonable ground to believe that such a state of affairs exists, for a resolution providing for an investigation either by a committee or some other organization equipped to undertake it to be introduced for the purpose of the necessary inquiry in order to ascertain the information and to report. That has been true, so far as I can remember, without an exception. I can not understand, Mr. President, when, as in this case, for hours and hours the Senate has been given evidence showing the names of corporations and individuals that interlock and spread all over the country, why there should be opposition to the adoption of this resolution.

Thereafter the resolution was proposed as an amendment to the tobacco resolution. (68th Cong. Rec. 3379 [permanent Cong. Rec. p. 3281].) Speaking in favor of the amendment, Senator Norris repeated in substance the arguments previously made in support of the separate resolution. The question as to the character of the allegation of alleged violation of the antitrust act needed to authorize an investigation by the Federal Trade Commission was raised by Senator Bruce (68th Cong. Rec. 3390-3391 [permanent Cong. Rec. pp.3292-3293]):

Mr. BRUCE * * * But even in its present form as an amendment it still embodies the proposition that the Federal Trade Commission is to be instructed to institute an investigation into the operations of the General Electric Company merely because a Member of the Senate has alleged on the floor of the Senate that the General Electric Company is engaged in illicit practices.

* * * * * * *

Did the Senator ever produce any testimony on that subject?

Mr. NORRIS. Speaking as a lawyer, technically I did not, because I was not sworn or put on the witness stand, but I produced for hours and hours allegations as to the Subsidiary companies, the ownership of stock, interlocking directorates, and so forth.

Mr. BRUCE. * * * The point I am making is, that while I am thoroughly in sympathy with the idea of investigating any and all abuses which may be perpetrated by any business combination, I do think that such an investigation ought to be preceded by legal testimony. I am speaking now of testimony in the strict sense of the word, because we know that there is all the difference in the world between mere allegations and formal testimony making out a prima facie case of wrongdoing.

Senator Bruce made the same suggestion concerning that part of the resolution relating to the tobacco industry. The action of the Senate in adopting the resolution and the amendment may be regarded as a determination that its procedure does not call for any formal allegation of a violation of the antitrust laws, and that the charges of a Senator on the floor are sufficient.

The recitals of the second part of the resolution allege a violation of the antitrust acts by a named corporation and its subsidiaries. For the most part the investigation directed is appropriate to develop truth or falsity of the charge. In carrying out this resolution regard should be had for the admonition already to the effect that the inquiry should be limited to facts and circumstances tending to show any unlawful restraint of interstate trade and commerce.

Under the provisions of the antitrust acts only restraints upon the production of electric energy for transmission over State lines and upon the interstate transmission of electric energy, or the monopolization thereof, may be properly investigated under the resolution in question.

There is serious question, however, as to the requirement that the Federal Trade Commission shall ascertain and report the efforts, if any, made by the corporations in question, through the expenditure of money or through the control of avenues of publicity--

> To influence or control public opinion on the question of municipal or public ownership of the means by which power is developed and electric energy is generated and distributed.

The relationship of such facts, assuming their existence, to a charge of violation of the antitrust acts is not apparent. Indulging all presumptions in favor of the validity of the resolution under the organic act, I am still unable to find authority for such an inquiry. All other features of the investigation properly may be made.

3. *Resolution No.28* (*69th Cong., Special session*) was adopted at the special session of the Sixty-ninth Congress practically without debate. It recites that a former report of the Federal Trade Commission discloses the existence of 150 "open-price associations," or associations "distributing or exchanging price information"; and that such associations may exert a large influence in maintaining prices at an exorbitant level. The commission is directed to report the number, names, character, and importance of the open-price associations; the extent to which such association have enabled members to maintain uniform prices; whether such open-price associations engage in other activities, and, if so, the nature and effect thereof ' with respect to alleged violations of the antitrust law."

Trade associations, or "open-price" associations, probably are corporations within the meaning of the Federal Trade Commission act or, if not, are composed of corporations.

Doubtless their operations in many important particulars affect interstate trade and commerce. The commission in proceeding under the resolution should not extend its investigation to include matters or things not affecting interstate commerce and consequently having no possible bearing upon alleged violations of the antitrust acts.

The resolution calls for an investigation which ought to be of value to Congress in considering what legislation, if any, is required to cope with a new form of business organization which, while possessing valuable features, has presented many difficult problems under the Federal antitrust laws. I am aware that the discussion concerning trade associations has centered about their legality under the antitrust acts and that such associations have been the subject of four important decisions of the Supreme Court under those laws. I am of opinion, therefore that the investigation called for by Resolution No.28 is appropriate to disclose the existence or nonexistence of alleged violations of the antitrust acts by corporations as defined in the fourth section of the Trade Commission act, and should be made.

4. *Resolution No.34* (*69th Cong., special session*) also was adopted without debate. The preamble asserts the economic value of cooperative organizations; recites that information concerning such organizations is not available in comprehensive form; and states that it is "frequently charged" that such cooperative organizations are being discriminated against and injured by various corporations and trade associations t" in alleged violation of the antitrust acts." The first subdivision of the resolution calls for a purely economic investigation as to the value and importance of cooperative organizations. Standing alone, this part of the resolution would fall. However, I am not prepared to say that such an investigation is not a proper concomitant of the investigation of the charge of unlawful discrimination against such organizations. The vice of the alleged unlawful practices can be best judged in the light of the facts concerning the importance and value of the organizations subjected to such discrimination. In my opinion the commission may investigate and report concerning the growth and importance of cooperative associations and their relative efficiency as compared with other distributors, for the purpose of showing the extent and value of the interstate trade and commerce alleged to be unlawfully restrained.

You will recognize that I can not forecast all of the problems which may arise in carrying out the somewhat vague directions of the resolutions. Minor questions as they arise should be resolved by the commission in the light of the principles set out in this opinion. The test whether or not a particular line of inquiry should be followed would seem in each instance to be whether it will disclose material evidence of a violation of the antitrust acts.

The foregoing discussion covers all questions propounded by the Federal Trade Commission save the fourth. Since I have held that the resolutions (with the exception of one feature of Resolution No. 329) may be complied with under the provisions of subsection (d) of section 6, there really is no occasion to consider what would be the power of the commission to proceed of its own motion under the other subsections mentioned.

It may be noted that the limitations of the current appropriation act relate only to investigations requested by either House of Congress, and it would seem that the commission would be free to proceed under subsection (a) to the extent deemed appropriate or desirable in conducting the investigations in question. However, the provisions of that subsection are not as broad as those of subsection (b), in that they authorize the commission to investigate only corporations engaged in interstate commerce, regardless of the effect of the operations of such corporations in restraining or monopolizing such commerce. It is fair to assume that the Senate in adopting the resolutions intended that the investigations should be made under subsection (d), which makes provision for just such investigations.

The provisions of subsection (6) are procedural and add nothing to the power to undertake investigations conferred by subsection (a) and (d). As the right of the commission under said subsection to require written answers to its interrogatories is in issue in a case now pending in the Supreme Court, it would be inappropriate for me to express any opinion regarding the exercise of such powers This opinion, moreover, is based upon the premise that the investigations called for may be conducted and the desired information obtained with the cooperation of the corporations affected or by orderly processes, and I expressly disclaim any intention of passing even inferentially upon any question as to the power of the commission to compel the production of documentary evidence or the limitations thereon.

Respectfully, (Signed) JOHN G. SARGENT,
Attorney General.

The PRESIDENT,
The White House.

APPENDIX

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

RESOLUTION

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.

Sixty-eighth Congress second session, Senate Resolution 329, February 3 (calendar day, February 6), 1925

RESOLUTION

Whereas it has been stated openly that an agreement exits between the American Tobacco Company and the Imperial Tobacco Company of Great Britain whereby the American Tobacco Company will sell no tobacco in Great Britain and the Imperial Tobacco Company will sell no tobacco in the United States; and

Whereas such an agreement gives the Imperial Tobacco Company a practical monopoly on certain types of tobacco grown in Virginia, North Carolina, and South Carolina and a special interest in certain types of tobacco grown in Kentucky and purchased in the United States by the local resident agents of the Imperial Tobacco Company and processed in the United States In its plants, and the same agreement gives the American Tobacco Company a special interest in other types grown in those States; and

Whereas the growers of leaf tobacco have formed great cooperative organizations, known as the Tobacco Growers' Cooperative Association, the Dark Tobacco Growers' Cooperative Association, the Burley Tobacco Growers' Cooperative Association, comprising an aggregate of more than two hundred and seventy thousand grower members for the cooperative marketing of the tobacco of their members; and

Whereas such cooperative associations have been organized along lines encouraged by this Government and have been financed in part by the War Finance Corporation and the intermediate credit banks; and

Whereas the American Tobacco Company and the Imperial Tobacco Company are opposed to the formation of cooperative marketing associations among tobacco growers and desire to destroy them, and have attempted to discourage members by purchasing leaf tobacco from nonmember growers at higher prices titan tenders theretofore made by such cooperative associations, and have induced and encouraged breaches of contracts between members and the cooperative associations contrary to the terms of the members' agreements with the associations; and

Whereas the said companies have practically boycotted the said cooperative associations and, by reason of their special interest in certain types. have caused great damage and harm to the cooperative associations; and

Whereas the aforesaid agreement stops competition between the said companies in the purchase from the growers of the types of tobacco used by the American Tobacco Company anti the Imperial Tobacco Company and enables one company or the other to control the purchase and marketing of these types; and

Whereas acts on the part of these two companies cause leaf tobacco to be diverted from the cooperative associations to these companies, directly or Indirectly, in spite of the contracts between the growers and the cooperative associations; and

Whereas such conduct on the part of such companies appears to be unfair practice In pursuance of an illegal agreement to restrict and restrain competition and trade In leaf tobacco in interstate commerce: Now therefore be it

Resolved, That the Federal Trade Commission be, and it is hereby, directed to investigate and

report to the President of the United States on or before July 1, 1925, the present degree of concentration and interrelation In the owner-ship, control, direction, financing, and management through legal or equitable ownership of stocks, bonds, or other securities or instrumentalities, or through interlocking directorates or holding companies, or through agreements, or through any other device or means whatsoever by the American Tobacco Company and the Imperial Tobacco Company; and also particularly to investigate the methods employed by these companies in their fight against cooperative

marketing associations and any boycott thereof: and also particularly to investigate any agreements or arrangements made by said companies to embarrass or injure any such cooperative associations or to cause discouragement or breaches of contracts between growers, members, and the said cooperative associations; and

Resolved further, That the President of the United States be. and he is hereby, requested to direct the Secretary of the Treasury to permit the said Federal Trade Commission in making such investigation to have access to all official reports and records in any or all of the bureaus of said Treasury Department; and whereas it has been alleged on the floor of the Senate during the course of a debate upon a bill relating to he disposition, operation, management, and control of the water-power and steam-power plant with their incidental lands, equipment, fixtures. and properties, that a corporation known as the General Electric Company has acquired a monopoly, or exercises a control in restraint of trade or commerce in violation of law, of or over the production and distribution of electric energy and the manufacture. sale, and distribution of electrical equipment and apparatus: Therefore be it

Resolved further, That the Federal Trade Commission be, and It is hereby, directed to investigate and report to the Senate to what extent the said General Electric Company, or the stockholders or other security holders thereof, either directly or through subsidiary companies, stock ownership or through other means or instrumentalities, monopolize or control the production. generation, or transmission of electric energy or power, whether produced by steam, gas, or water power; and to report to the Senate the manner in which the said General Electric Company has acquired and maintained such monopoly or exercises such control in restraint of trade or commerce and in violation of law.

The commission shall also ascertain and report what effort, if any, has been made by the said General Electric Company or other corporations, companies. organizations, or associations, or anyone in its behalf, or in behalf of any trade organization of which it is a member. through the expenditure of money or through the control of the avenues of publicity, to influence or control public opinion on the question of municipal or public ownership of the means by which power is developed and electric energy is generated and distributed.

Resolved further, That the President of the United States be, and he is hereby, requested to direct the Secretary of the Treasury, under such rules and regulations as the Secretary of the Treasury may prescribe, to permit the said Federal Trade Commission to have access to official reports and records pertinent thereto in making such investigations.

Sixty-ninth Congress, special session of the Senate, Senate Resolution 28, March 17, 1925

RESOLUTION

Whereas the Federal Trade Commission in its annual report for 1922 states that at the request of the Joint Commission of Agricultural Inquiry the commission undertook a special investigation concerning the activities of trade associations and found by response to its questionnaires that there were one hundred and fifty open-price associations, or those distributing or exchanging “price information”; and

Whereas the commission reported “Most of the open-price associations also distributed or exchanged information on other features of business, such as orders received, purchases, production, stocks, cost of production and merchandising, and matters of general interest to members”; and

Whereas such associations may exert a large influence in maintaining prices at an exorbitant level, particularly in the case of manufacturing concerns the products of which are protected by a high tariff duty: Therefore be it

Resolved, That the Federal Trade Commission Is hereby directed to investigate and to report to the Senate at the next session of Congress:

First. The present number and nature of the open-price associations. the names of such associations, the number of their members thereof, and the importance of such associations in the industry.

Second. To what extent, if any, the effect of such open-price associations has been to maintain among members thereof uniform prices to wholesalers or retailers or to secure uniform or approximately uniform increases in such prices.

Third. Whether such open-price associations engage in other activities, and if so, the nature and effects thereof, with respect to alleged violations of the antitrust laws.

Sixty-ninth Congress, special session of the Senate, Senate Resolution 34, March 17, 1925

RESOLUTION

Whereas the successful development of cooperative organizations in production, distribution, and consumption affords needed opportunities for increasing the Income of the producer, especially the farmer, and for diminishing the cost of living of the consumer, and appears to be of great public benefit, as shown by the experiences of numerous foreign countries; and

Whereas the President's Agricultural Conference recommends constructive Federal assistance in the development of producers' marketing organizations; and

Whereas complete and conclusive information with respect to the economic advantages or disadvantages of the cooperative movement in this country as compared with other types of marketing farm products has not been made available in comprehensive form; and

Whereas it is frequently charged that various cooperative organizations of farmers engaged in marketing grain, tobacco, cotton, livestock, and other products, as well as consumers' cooperative purchasing organizations, are being discriminated against and injured by various corporations and trade associations, in alleged violation of the antitrust laws: Now therefore be it

Resolved, That the Federal Trade Commission is hereby directed to make an inquiry (1) into the growth and importance of cooperative associations, including particularly the costs of marketing and distribution of such cooperatives as compared with the corresponding costs of other types of distributors, and (2) into the extent and importance of the interferences with and obstructions to the formation and operation of cooperative organizers of producers, distributors, and consumers by any corporation or trade association in alleged violation of the antitrust laws, and to report thereon, with recommendations for legislation or other remedial action, if the same appears necessary.

EXHIBIT 5

LETTER TO COMPTROLLER GENERAL AS TO AVAILABILITY OF APPROPRIATION FOR PERFORMANCE OF WORK UNDER CERTAIN SENATE RESOLUTIONS

JUNE 29, 1925.

COMPTROLLER GENERAL OF THE UNITED STATES,
General Accounting Office, Washington, D. C.

MY DEAR MR. COMPTROLLER GENERAL: The act making appropriations for the Executive Office and sundry independent executive bureaus and establishments approved March 3, 1925, contains the following provision for the Federal Trade Commission:

For all other authorized expenditures of t he Federal Trade Commission in performing the duties imposed by law or in pursuance of law, including secretary to the commission and other personal services, supplies and equipment, law books, books of reference. periodicals. garage rental, traveling expenses including actual expenses at not to exceed $5 per day or per diem in lieu of subsistence not to exceed $4, newspapers. foreign postage, and witness fees and mileage in accordance with section 9 of the Federal Trade Commission act, $940,000, of which amount not to exceed $879,558 may be expended for personal services in the District of Columbia. including witness fees: *Provided, That no part of this sum shall be expended for investigations requested by either House of Congress except those requested by concurrent resolution of Congress, but this limitation shall not apply to investigations and reports in connection with alleged violations of the antitrust acts by any corporation.*

The italicized portion of the above quoted appropriation act is new legislation and the commission is desirous of securing an advance decision from you as to the availability of this appropriation for the performance of work under the following Senate resolutions:

Senate Resolution No. 163, dated February 16, 1924, directing an investigation covering the production, distribution, transportation, and sale of flour and bread.

Senate Resolution No.329, dated February 9, 1925, directing an investigation of the American Tobacco Co. and the Imperial Tobacco Co., also an investigation of the General Electric Co.

Senate Resolution No. 28, dated March 17, 1925, directing an investigation of open-price associations.

Senate Resolution No. 34, dated March 17, 1925, directing an investigation of cooperative associations.

Copies of these resolutions are enclosed for your information. There is also enclosed for your information a copy of brief submitted to the commission by its chief counsel in the matter, and also copy of comment thereon by the chief economist of the commission.

The commission respectfully requests your immediate consideration of this matter, and asks for a decision at the earliest possible date. Kindly return enclosures.

By direction of the commission.

Cordially yours,

VERNON W. VAN FLEET,
Chairman.

EXHIBIT 6

COMPTROLLER GENERAL'S REPLY

JULY 29, 1925.

THE CHAIRMAN,

Federal Trade Commission.

SIR: I have your letter of June 29, 1925, requesting decision whether the appropriations for the Federal Trade Commission for the fiscal year 1926 are available for performance of work involved in the investigations directed by the following Senate resolutions:

Senate Resolution No.163, dated February 16, 1924, directing an investigation covering the production, distribution, transportation, and sale of flour and bread.

Senate Resolution No.329, dated February 9, 1925, directing an investigation of the American Tobacco Co. and the Imperial Tobacco Co., also an investigation of the General Electric Co.

Senate Resolution No.28, dated March 17, 1925, directing an investigation of open-price associations.

Senate Resolution No. 34, dated March 17, 1925, directing an investigation of cooperative associations.

The act of March 3, 1925 (43 Stat. 1203), appropriates funds under the Federal Trade Commission for the fiscal year 1926, with the following proviso:

> *Provided*, That no part of this sum shall be expended for investigations requested by either House of Congress except those requested by concurrent resolution of Congress, but this limitation shall not apply to investigations and reports in connection with alleged violations of the antitrust acts by any corporation.

Section 6 of the act of September 26 1914 (38 Stat. 721), fixed the powers of the Federal Trade Commission and under paragraph (d) thereof provides:

> 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.

The prime object of the proviso in the appropriation act for the fiscal year 1926 is to require all investigations requested of the Federal Trade Commission by Congress to be under authority of "concurrent resolution of Congress"--that is, by both Houses--and to prohibit investigations requested by only one of the Houses of Congress, with one exception only, viz, "investigations and reports in connection with alleged violations of the antitrust acts by any corporation." This exception has the effect of leaving undisturbed section 6 (d) of the act of September 26, 1914, quoted above.

The four investigations directed by the four Senate resolutions submitted are

requested by only one House of Congress, the Senate, and fall within the appropriation limitation unless the subject mat-

ter to be investigated and reported upon is in connection with alleged violations of the antitrust acts by any corporation. Credit for expenditures in connection with said investigations can not be allowed y this office in the accounts of the disbursing officer of the commission unless the expenditures are supported by a certified finding by the commission as to the facts of the allegation of such violation.

Respectfully,

(Signed)

J. R. McCARL,

Comptroller General of the United States.

EXHIBIT 7

WEALTH, DEBT, AND TAXATION RESOLUTION

[Senate Resolution 451 (Norris, George W.)]

FEBRUARY 28, 1923.

Whereas the public debts of the United States and of the several States and their political subdivisions, many of which are exempt from taxation, have reached enormous proportions of the total wealth of the country; and

Whereas many of the agricultural, manufacturing, and other industries or trades of the country are suffering from heavy indebtedness and from burdensome taxation; and

Whereas the situation as to international debts in relation to the revival of productive enterprise throughout the world presents a problem of great complexity, and a general accounting with regard to the economic position of this country is necessary in order to formulate an intelligent policy: Now therefore be it

Resolved, That the Federal Trade Commission is hereby directed to make an inquiry into, and to compile data concerning the total amount of the chief kinds of wealth in the United States, including land, improvements, movables, and other tangible and intangible goods, and also the ownership thereof and the various liabilities incumbent thereon, including public and private debts of various kinds, corporation stocks, and other chosen in action; and to make inquiry into and compile data concerning the amount of the annual increase in national wealth in recent years in different lines of economic activity and of the income received by different classes of the population, including data as to the amount of the income from securities exempt from taxation under the Federal income and profits taxes; and to make report on the aforesaid matters as soon as practicable: Provided, however, That in respect to such data no information shall be reported or published which would reveal the amount of wealth, property, indebtedness, or income of any person, partnership, or corporation: And be it

Resolved further, That in accordance with section 8 of an act approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the President is requested to direct the Internal Revenue Bureau of the Department of the Treasury, the Census Bureau of the Department of Commerce, the Interstate Commerce Commission, the Federal Reserve Board, and such other departments or Government establishments as may have information with respect to the foregoing matters, whether in the form of individual or corporation reports or otherwise, to give access to such information and to render such assistance in the compilation thereof as may be requested by the Federal Trade Commission and approved by the President.

The Commission shall further present tables to show, by States, the aggregate taxes levied by municipalities and by other local taxing bodies and by the States for the last completed fiscal year and for the corresponding fiscal year five years ago.

A t t e s t :

GEORGE SANDERSON,

Secretary.

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EXHIBIT 8.

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 ,,hall 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 starting 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 appears of the United States, as hereinafter pro-

vided, 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 beside. 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 shut 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 he Served ; or (b) by leaving a copy thereof at the principal office or place of business of such person, partnerships 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 shelf 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 front 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 naive power to require by subpena 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 subpena 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 is 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 ally 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 9.

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 he 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 lesson 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 land 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 lie shall not become or be deemed amenable to ally 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 option that any of the provisions of said sections have been or ire 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 or 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 filling 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 thwart 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 laid 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 appears by finite 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 10

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 state-

ment setting forth the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members, and if a corporation, a copy of its certificate or articles of incorporation and by-laws, and if unincorporated a copy of its articles or contract of association, and on the first day of January of each year thereafter it shall make a like statement of the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members and of all amendments to and changes in its articles or certificate of incorporation or in its articles or contract of association. It shall also furnish to the 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 there-after 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. in. 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 lie 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. Three copies of such answers must be furnished.

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, corpora-

tion, 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 wailed 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 lie 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. Witness fees and mileage shall be paid by the part at whose instance the witness appear.

VIII. TIME FOR TAKING TESTIMONY

Upon the joining of issue in a proceeding by the Commission the examination of witnesses therein shall proceed with all reasonable diligence and with the least practicable delay. Not less than 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, starting 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 bearings 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 lie 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 wit-ness 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 11/2 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 flied 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 101/2 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 12

PROCEEDINGS DISPOSED OF JULY 1, 1924, TO JUNE 30, 1925

1. ORDERS TO CEASE AND DESIST

NOTE.--On or immediately before June 30, 1925, the commission mailed two orders to cease and desist in addition to those shown below. This action is properly reflected in the statistical tables, but not Individually indicated because service upon parties at interest had not been effected at the close of he fiscal year.

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.

Disposition: After hearing, the commission entered the following order:

It is now ordered that respondent. United States Steel Corporation through its respondent subsidiaries, American Bridge Co., American Sheet & Tin Plate Co., Carnegie Steel Co., American Steel & Wire Co., Illinois Steel Co., Minnesota Steel Co., and Tennessee Coal, Iron & Railroad Co., and said respondent subsidiaries, and each and all of said respondents, their officers, directors, agents, representatives, and employees, cease and desist--

(1) From quoting for sale or selling in the course of interstate commerce their rolled-steel products known as plates, bars, structural shapes, sheets, tin plate, wire and wire products at Pittsburgh plus prices. (By quoting for sale or selling at Pittsburgh plus prices is meant respondents' systematic practice of quoting and selling said products manufactured at and shipped from points outside of Pittsburgh at their f. o. b. Pittsburgh prices plus amounts equivalent to what the railroad freight. charges on such products would be from Pittsburgh to each different destination if such products were actually shipped from Pittsburgh.)

(2) From quoting for sale or selling in the course of interstate commerce their said rolled-steel products upon any other basing point than that where the products are manufactured or from which they are shipped.

(3) From selling or contracting for the sale of or invoicing such steel products in the course of interstate commerce without clearly and distinctly indicating in such sales, or upon such contracts or invoices, how much is charged for such steel products f. o. b. the producing or shipping point, and how much Is charged for the actual transportation of said products, If any, from such producing or shipping point to destination.

4. From discriminating in the course of interstate commerce, either directly or Indirectly, in price between different purchasers of their rolled steel products known as plates, bars, structural shapes, sheets, tin plate, wire and wire products 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 in any line of Interstate commerce, including competition among the steel producers or steel users, or both: *Provided, however,* That nothing herein contained shall prevent discrimination In price between purchasers of said products 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 transporta-

tion, or discrimination in price in the same or different communities made In good faith to meet competition. The use by respondents in the course of such interstate commerce of the system of Pittsburgh, plus prices for their said steel products, manufactured at and shipped from points outside of Pittsburgh--which prices are their f. o. b. Pittsburgh prices, plus amounts equivalent to what the railroad freight charges on such products would be from Pittsburgh to each different destination If such products were actually shipped from Pittsburgh--shall be deemed to constitute a violation of this order. The use by respondents in the course of such interstate commerce of any system similar to that of the Pittsburgh plus system shall likewise be deemed to constitute a violation of this order. The practice by respondents of selling or contracting for the sale of said products in the course of interstate commerce upon any other basing point than that where the products are manufactured or from which they reshipped shall be deemed to constitute a violation of this order.

It is further ordered that the charges in the complaint herein as against the respondents, National Tube Co., Clairton Steel Co., Union Steel Co.. and the Lorain Steel Co., be, and the same are hereby, dismissed.

Commissioner Gaskill dissenting.

DISSENT BY COMMISSIONER GASKILL

I find myself unable to concur in the majority conclusion that the powers of the commission include a remedy for the practice. complained of. The significance of the commission's decision is so important and the implications of the order are so extensive that a statement of the basis of my dissent seems to be justified.

The United States Steel Corporation is a legal entity. It owns a number of manufacturing plants located in various parts of the United States, at which It produces, among other steel products, those which are the subjects of the present injury, viz, plates, shapes, and bars. The policy of the corporation is to sell plates, shapes, and bars only on a delivered basis. These products, irrespective of the place of manufacture, are valued as though they were at Pittsburgh, and this uniform valuation of the products of the separate plants constitutes the "Pittsburgh base."

The corporation does not sell at the Pittsburgh base price. It quotes prices at Pittsburgh base plus freight to the point of consumption. This is "Pittsburgh plus." The actual selling price, however, Involves another element. The mill from which delivery is made Invoices the customer at Pittsburgh plus less the actual freight to the point of consumption. What is added to Pittsburgh base to make the selling price is not the actual transportation charge nor a theoretical freight charge from Pittsburgh to the place of consumption, but is the difference between them.

Plates, shapes, and bars are the raw materials of a subsequent industry. With then the fabricator commences. Through its subsidiaries the steel corporation is engaged in this plane also. The transfer of raw materials to these units of Its organization is not governed by the requirements of Pittsburgh plus. These fabricating units start with the advantage over their rivals in the elimination of the freight rate from Pittsburgh to the point of fabrication in their favor. Their rivals accumulate an additional freight rate In any eastward movement of finished products, if the point of fabrication be west of Pittsburgh. The subsidiaries of the steel corporation have also the advantage in a western movement of finished products in that a single long-haul rate on the fabricated products is almost universally less than the sum of the two short-haul rates required of competitors in bringing in raw materials on Pittsburgh plus and moving out finished products at the actual rate to the point of consumption.

The argument is made that there are manifestations both In the field of steel production and its fabrication, which indicate the operation of other than competitive forces and that the

impelling cause or the protective agency through which that cause operates, is Pittsburgh plus. It is contended that--

(1) The United States Steel Corporation is the dominant factor In the steel industry of the United States and that through Pittsburgh plus---

(2) Its subsidiary companies enjoy controlling advantages over their competitors in the matter of prime cost of raw materials and delivered cost of finished products.

(3) The normal development of the steel industry in respect of location has been retarded and that industry unduly concentrated.

(4) The development of a properly disseminated fabricating industry has been very seriously obstructed if not reduced to a permissive basis.

(5) The uneven development of the steel industry and that of its fabrication works a grave hardship to many sections of the country.

The evidentiary support of these propositions is not to be lightly disregarded, and I am not to be understood as having decided adversely to them. But if we conclude that these propositions are well founded the question yet remains whether these manifestations qualify the forces of causation as unlawful and bring those cases within the scope of the commission's corrective powers.

The law does not require absolute freedom of competition. Nor does the law enjoin the observance of sound economic principles. The Federal Trade Commission has not been given a mandate to establish any more the one than the other. It has to do solely with the legal concept of competitive requirements, however short that may be of the true standard. And if the laws permit the use of unsound economic principles it seems that this tolerance is the act of the body of citizens themselves and must continue until a clearer understanding is demonstrative in terms of a legislative declaration.

The existence of the Steel Corporation, the scope of its operations, the power which it exerts, its actual or potential influence, has received legal sanction. The necessary consequences of its being and the natural results of its operation must be accepted also. It may, without violation of any law of which I am aware, put the same price on all its products and base this price at one specific place, if it so desires. In the sight of the law it is as though there was but one plant and its products. The Pittsburgh base, then, is the exercise of a privilege which naturally and necessarily follows from the grant of power to combine the ownership of several plants.

As has been pointed out, while the Steel Corporation quotes at Pittsburgh plus freight to point of consumption, it does not sell at that price, but deducts the actual freight charge involved in the movement. It is argued that this practice is unlawful because (a) a resulting price discrimination which substantially lessens competition in steel fabrication is necessarily involved, which is not justifiable as a difference in transportation cost, and (b) the refusal to sell f. o). b. the mill nearest the point of consumption with or without the actual freight charge results in a suppression of competition both in the production and fabrication of steel and tends to monopoly.

Freight rates unquestionably create an area of preference with relation to a point of production. While this area of preference is extended as several points of production are combined under one ownership, the resulting preference which is lawful in the one instance is not made unlawful by its greater extent in the second instance. What are preferences from one point of view are discriminations to the opposite observer. But it must be obvious that a preference or a discrimination to be unlawful must be something more than the natural and necessary implications of lawful advantage.

It is suggested that the evil lies in the suppression of knowledge of the actual selling price under cover of the Pittsburgh plus quotation, and that If this cover were removed the discrimination would be apparent. That is to argue that the illegality of the practice arises only with the consciousness of its use. Whereas the practice must be continuously expressing its results even though those affected are ignorant of the cause. And these results speak for themselves.

There is no law of which I am aware which requires a manufacturer to sell f. o. b. if he prefers to sell c. I. f.; that is, to sell at the place of manufacture instead of delivered at his customer's warehouse. or to sell from or at any particular mill. I am unable to find in law a warrant for holding that a delivered-price policy is made unlawful because of the method used to calculate the selling price. And the results of this policy seem to me to be such as naturally and necessarily

attend the antecedent legalized status. This being so, it simply means that these manifestations which are urged as indicative of unlawful action are outside the law, not that the causes which produce them are unlawful.

That satisfaction of the legal requirements may be deemed to fall short of economic justification does not increase this commission's powers nor enlarge its duties. Economists of established reputation believe that the selling policy presently under consideration is capable of producing in kind practically all of the effects which this record illustrates. In the present instance it seems these effects are magnified by the dominance and strategic position of the respondent in steel production, by the fact that the product of the steel industry is the raw material of a subsequent industry, and that the respondent is

engaged in both phases. Given the necessary quantity values in causation, It seems to be the economist's view that such effects as are here presented are inherent in the economic policy which is being used.

If the applicants' contention is sound there is no effective remedy short of a mill base for each unit of the respondent's organization and either f. o. b. sales or delivered sales from the nearest mill at the f. o. b. price plus actual freight. And it would require the same rule to be applied to transfers of material to subsidiaries as govern sales to independents. Naturally such a rule would have equal application to every other industry in the United States now using the uniform price delivered-sales plan in interstate commerce.

I do not believe that this commission can require the abandonment of the delivered sale price on a single base for the products of several mills under a single ownership, any more than it could require the owner of a single plant to give over the uniform delivered price on its single product. Nor by parity of reasoning could it compel the respondent to treat its units as separate plants and sell f. o. b. each mill. The negative definition of the commission's jurisdiction in the case of Warren, Janes & Gratz *V.* Federal Trade Commission (253 U.S 421), seems to preclude such a possibility. This body must take the law as it is received from the hands of Congress and interpreted by the courts for whose supervision Congress made precise provision. The grant of power to this commission, however broad It may be in some aspects, does not extend to the correction of what In its discretion, the commission may believe to be an economic mistake. If there is to be a remedy of effects whose cause Is beyond the law, If there is to be so profound a change in established business practices as is here contended for, that responsibility lies upon the Congress because it alone has the power so to mold the common concept of public policy.

"The suggestion that if this view be applied grave abuses may arise from the mistakes or wrongful exertion by the legislative department of its authority, but intimates that if the legislative power be permitted Its full sway within its constitutional sphere harm and wrong will follow and therefore it behooves the judiciary to apply a corrective by exceeding its own authority. But as was pointed out in Cary *v.* Curtis (3 How. 236), and as has been often since emphasized by this court (McCray *v*. United States, 195 U. S. 27), the proposition but mistakenly assumes that the courts can alone be safely intrusted with power and that hence it is their duty to unlawfully exercise prerogatives which they have no right to exert, upon the assumption that wrong must be done to prevent wrong being accomplished." (Oceanic Navigation Co. *v.* Stranahan, 214 U. S. 320.)

Moreover, it seems to me that the effort to apply a remedy through the Federal Trade Commission act confuses the issue. If the economists are right, the requirements of the situation will be met only by a legislative recognition of the necessity for a more exact statement of the scientific relation between business and economics and the declaration of that relation In the form of a law of general application.

For these reasons I am unable to assent to the issue of the proposed order.

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.

Disposition: A stipulation having been entered into as to certain of the facts, and testimony having been taken, the commission entered the following order:

Now, therefore, it is ordered that the respondents, the. Proctor & Gamble Co. and the Proctor

& Gamble Distributing Co., their respective officers, agents, representatives, servants, and employees, do cease and desist in the course of commerce as defined in the ld act of Congress, from--

(1) Using the word “Naphtha,” or Its equivalent, In the brand name of any soap or soap product offered for sale or sold by respondents, or otherwise incidental to its advertisement. and sale, if any when such soap or soap product contains the petroleum distillate know and sold as kerosene and the word “ Napltha” is so used to designate the addition of said kerosene to or its presence in such soap or soap product.

(2) Using the word "Naphtha," or its equivalent, in the brand name of any soap or soap product offered for sale or sold by respondent, or otherwise Incidental to its advertisement and sale, if and when such soap or soap product normally contains at the time of and upon its sale to the consuming public, no naphtha or naphtha in an amount of 1 per cent or less by weight thereof.

Commissioner Van Fleet dissenting.

Appealed to the United States Circuit Court of Appeal, for the Sixth Circuit. August 28, 1925.

Complaint No. 883.--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, and substitutes for pure linseed oil, 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, Alfred Peats Co., its officers, agents, representatives, servants, and employees cease and desist from--

(1) Falsely representing that the pigment content of paint is composed principally of white lead and zinc oxide.

(2) Representing paint which contains not more than 55 per cent white lead and zinc oxide pigment as the best paint for outside use or the best quality, grade, and standard of paint for such use.

(3) Representing paint which contains as much as 36 per cent volatile matter as the best paint for outside use or the best quality, grade, and standard of paint for such use.

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.

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 Bosch Co., its officers, agents, representatives, servants, and employees cease and desist from-

(1) Falsely representing that the pigment content of paint is composed principally of white head and zinc oxide.

(2) Representing paint which contains not more that 50 per cent white lead and zinc oxide pigment as the best paint for outside use or the best quality. grade, and standard of paint for such use.

(3) Representing paint which contains as much as 35 per cent volatile matter as the best paint for outside use or the best quality, grade, and standard of paint for such use.

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 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.

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, Cream of Wheat Co., Its officers, agents, employees, and successors do cease and desist from carrying Into effect its policy of securing the observance of minimum resale prices for Its product, by cooperative methods In which the respondent and its distributors, customers, and agents undertake to prevent others from obtaining the company's product at less than prices designated by It, or from selling to others who fail to observe such prices (1) by seeking and securing, directly or through its sales agents, contracts, agreements, or understandings with customers or prospective customers that they will maintain the resale prices designated by will cooperate with it to secure the observance by others of

said resale prices; (2) by the practice of (a) soliciting and securing from customers or prospective customers themselves or from dealers or trade associations, information as to whether or not such customers or prospective customers have maintained and are maintaining, or are disposed to maintain generally resale prices fixed by producers, or, respondent's resale prices in particular, and soliciting and securing reports from customers of customers who fail to observe its resale prices, and investigating and verifying such reports through further reports secured from customers as to such instances of price cutting, all with a view to refusing further sales to customers found to have cut its resale prices; (3) by notifying other customers, in case of refusal by respondent of further sales to price cutters, of such refusal and requiring them not to sell such price cutters on pain of themselves being refused further sales; (4) by employing its sales agents to assist in such plan by reporting dealers who have failed to observe its resale prices, and to secure adherence thereto from customers or prospective customers, and furnishing said agents the names of customers to whom it has refused further sales because of price cutting, and instructing them not to sell to such customers; (5) by requiring an extra price for Its product from price cutters In order to secure from them assurance of their future observance of its resale prices as a condition of reinstatement on the regular basis; or (6) by utilizing any other equivalent cooperative means of accomplishing the maintenance of prices fixed by respondent.

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, aud in some instances by displaying in inconspicuous type a statement to the effect that the respondent's photo play was formerly entitled "D'Artagnan," or was an adaptation or recreation 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.

Disposition: After hearing, the commission entered the following order:

Now, therefore, It is ordered that the respondents, M. Brown, doing business under the trade name of Capital Film Exchange; William Alexander, Herman Rifkin, and Films Distributors League (Inc.), their agents, servants, and employees, cease aud desist from directly or indirectly advertising, selling, or leasing, or offering to sell or lease, any reissued motion-picture photoplay under a tithe other than that under which such photoplay was originally issued aud exhibited, unless the former tithe of such photoplay and the fact that It thereto fore had been exhibited under such former title, be clearly, definitely, distinctly, and unmistakably stated aud set forth, both in the photoplay itself and in any aud all advertising matter used in connection therewith in letters and type equal in size aud prominence to those used in displaying the new title.

It Is further ordered that the proceeding be dismissed, and the same is hereby dismissed, as to 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, and Maurice Fleckles.

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.

Disposition: After hearing, the commission entered the following order:

Now, therefore, It is ordered that the respondent, Superior 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 Superior Woolen Mills, or any other corporate name which Includes the words "Woolen Mills," or "Mills," unless and until such respondent actually owns or operates a mill or mills in which raw wool is converted into cloth.

(2) Using in its advertising, or otherwise, the phrases, "Direct from the weaver to the wearer with one small profit," or "Direct from weaver to weavers giving you the middleman's profit," or any other phrase or phrases which create, or have the tendency and capacity to create, the belief that respondent manufactures the cloth from which it makes its suits and overcoats.

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 competition 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.

Disposition: After hearing, the commissioned entered the following order:

It is now ordered that the respondents Keller Bros. & Co., Columbia Securities Co., National Finance Corporation, their officers, directors, representatives, agents, and employees, and the respondents George E. Keeler and Frank W. Keeler, and each of them, either combining, confederating, and conspiring together, or acting separately and individually, directly or indirectly, forever cease and desist from--

(1) Restricting or restraining the freedom of competitive bidding in the purchase of State, county, municipal, and other political subdivision bonds by means of deceptive, misleading, dishonest, or fraudulent fabrication of the record or history of the proceedings authorizing the issue of bonds.

(2) Restricting or restraining the freedom of competitive bidding in the purchase of State, county, municipal, and other political subdivision bonds by conspiring and planning to underbid their competitors In the purchase of said bonds by a predetermined plan to wilfully mislead and deceive the officers of any State, county, or municipality, or other political subdivision or the trustees or officers of such political subdivision, thereby to obtain bonds of greater value than authorized and described in the advertisement and bids for said bonds and in carrying out said fraudulent plan and scheme particularly by the following or equivalent means:

(*a*) By depositing as guarantee of good faith worthless checks drawn and certified by respondents on themselves and unsecured in any way, sometimes known as "Jesse" checks, which said cheeks are represented to be checks certified by a bank and which checks are so

prepared as to counterfeit and simulate the ordinary check certified by a bank.

(*b*) By dishonestly and fraudulently passing off on officers of political subdivisions paper writings purporting and alleged to be certificates of deposit of a bank and so prepared as to counterfeit and simulate the usual certificate of deposit as issued in the ordinary course of business by a bank, when, in truth and in fact, such paper writing is not a certificate by any bank but is a

worthless paper drawn by the respondents and certified by themselves and is unsecured in any way.

(*c*) By preparing false histories or records of the acts and proceedings by which the issuance of bonds is authorized, and by wilfully dishonest and fraudulent representations to the officers or trustees, inducing them to sign such false histories or records.

(*d*) Removing from the official records of any State, county, municipality, or other political subdivision, any documents relating to or connected with any bond issue of said State, county, municipality, or other political subdivision, and substituting therefor documents in which changes had been dis-honestly and fraudulently made by respondents.

(*e*) Employing vague and ambiguous terms regarding accrued interest in contracts for the purchase of State, county, municipal, and other political sub-division bonds, and interpreting said terms in favor of themselves so as to defraud the political subdivisions of the accrued interest on the bonds.

(*f*) Giving money in any form whatsoever to officials, attorneys, or members of official boards of State, county, municipal, or other political subdivisions, charged with the duty of issuing bonds of any kind, with the intent aud purpose of securing the assistance and influence of said officials, attorneys, or members in having said boards award issues of bonds to said respondent.

(*g*) Using in competitive bidding for the purchase of bonds issued by State, county, municipal, or other political subdivisions, names of fictitious or bogus companies.

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 War, 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.

Disposition: After hearing, the commission entered the following order:

It Is now ordered that the respondent, Waldes & Co. (Inc.), its officers and directors, agents, representatives, and employees, do cease and desist--

(1) From exchanging or offering to exchange with jobbers or retail dealers the snap fasteners made by respondent for other snap fasteners made by competitors of respondent; and

(2) From selling or offering to sell snap fasteners made by competitors, now in respondent's possession, obtained by exchanges or by any other method, unless the offer to sell is accompanied by a statement clearly setting out the fact that the goods so offered are secondhand, and that any prices which may be quoted below the price at which such goods are sold by respondent's competitors are attributable to that fact.

Complaint No. 961.--Federal Trade Commission *v.* M. F. Skidmore and Elmer L Skidmore, partners, doing business under the names and styles of "Skid-more 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

Disposition: After hearing, the commission entered the following order:

It is now ordered that respondents, M. F Skidmore and Elmer L. Skidmore, doing business individually under the names and styles, "Wm. Bolles Dollar Pen Co.," "Skidmore Pen Co.," and "Toledo Gold Filler Fountain Pen Co," their agents, representatives, and employees, do cease and desist from advertising, selling, or offering for sale fountain pens simulating in details of shape, style, plan of ornamentation, and/or general appearance the fountain pens manufactured and sold by the Conklin Pen Manufacturing Co.

Complaint No 990.--Federal Trade Commission *v* Missouri-Kansas Whole-sale 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

Disposition: After hearing, the commission dismissed the case as to Peet Bros. Manufacturing Co. and Rub-No-More Co. and entered the following order:

Now, therefore, it is ordered that the respondent, Missouri-Kansas Wholesale Grocers' Association, its officers and directors, individually and as representatives of the members, the successors of said officers and directors, and the members of said association, their agents, representatives, and employees, cease and desist from conspiring, confederating, or agreeing among themselves or with others, directly or indirectly, to hamper and obstruct or hamper or obstruct the interstate business of manufacturers who sell to jobbers and retailers indiscriminately-

(1) By the practice of urging and inciting or urging or Inciting said members to cancel orders placed with such manufacturers and to stand as a unit in refusing to handle any of the goods of such manufacturers.

(2) By the practice of suggesting, urging, and inciting said members to make special cooperative sales effort in favor of so-called loyal manufacturers and In special opposition to manufacturers selling to jobbers and retailers in discriminately.

(3) By the practice of concertedly withdrawing or withholding patronage from manufacturers who sell indiscriminately to jobbers and retailers and concertedly favoring with their patronage manufacturers who sell exclusively or chiefly through the jobbers.

(4) By the practice of reproducing and circulating for the benefit of the membership generally bulletins which contain communications from various members and from jobbers belonging to other wholesale grocer associations, urging united action of the sort described in paragraphs 1, 2, and 3 hereof.

(5) By the practice of circulating among said members communications from the secretaries of other wholesale grocer associations urging united action of the sort described In paragraphs 1, 2, and 3 hereof, and stating that such united action was being pursued by the jobbers in the territory of other associations.

(6) By the practice of calling for reports from said members as to whether any jobber in their respective localities was handling the goods of manufacturers selling to retailers and jobbers indiscriminately.

(7) By the practice of urging cooperation among and between said members to defeat the sales policy of manufacturers selling indiscriminately to jobbers and retailers as a warning to other manufacturers disposed to adopt a similar sales policy.

(8) By the practice of circulating abuse and ridicule regarding manufacturers who sell indiscriminately to jobbers and retailers and regarding jobbers dealing or disposed to deal with such manufacturers.

(9) By the practice of circulating information among said members to the effect that they were acting or had acted unitedly or in individual harmony in refusing to handle the goods of manufacturers selling indiscriminately to jobbers and retailers.

(10) By the practice of urging said members to report for their mutual information the degree of success attending their efforts to supplant the goods of

manufacturers selling indiscriminately to jobbers and retailers with the goods of manufacturers who sell exclusively or chiefly through the jobber.

(11) By the practice of cooperatively soliciting assurances from manufacturers that they would remain loyal to the association's contention that it Is improper and illegitimate for manufacturers to sell jobbers and retailers indiscriminately, and of giving united assurances to such manufacturers of special selling efforts in return for said loyalty.

(12) By the practice of inducing or attempting to induce so-called loyal manufacturers or others to sever business relations with jobbers who handle the goods of manufacturers selling to retailers and jobbers Indiscriminately.

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.

Disposition: After hearing, the commission entered the following order:

Now, therefore, it is ordered, that respondent, Hills Bros., its officers, directors, agents, servants, and employees, cease and desist from directly or indirectly carrying Into effect by cooperative methods a system of minimum resale prices at which the articles manufactured by it shall be resold by its distributors and retail dealers, and more particularly by any or all of the following means:

(1) Requiring purchasers or prospective purchasers to agree that they will not resell below a minimum price specified by respondent.

(2) Utilizing its salesmen for the purpose of enforcing cooperation in its resale price maintenance plan, to report retail dealers who do not observe Its suggested minimum resale price, or acting on reports so obtained by refusing or threatening to refuse sales to dealers so reported.

(3) Requesting dealers, either directly or through its salesmen, to report competitors who do not observe the minimum resale price suggested by respondent. or acting on reports so obtained by refusing or threatening to refuse sales to dealers so reported.

(4) Requiring from retail dealers previously cut off because of price cutting promises or assurances of the observance of respondent's minimum resale price as a condition precedent to reinstatement of said dealers.

(5) Requiring from retail dealers charged with price cutting promises or assurances of the observance of respondent's minimum resale prices as a condition precedent to future sales to said dealers.

(6) Causing retail dealers to be enrolled upon lists of undesirable purchasers who are not to be supplied with the products of the company unless and until they have given satisfactory assurances of their purpose to maintain such minimum resale prices in the future.

(7) Utilizing any other equivalent cooperative means of accomplishing the maintenance of minimum resale prices fixed by respondent for its product.

By the commission, commissioner Gaskill dissenting.

Appealed to the United States Circuit Court of Appeals for the Ninth Circuit, February 17, 1925.

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 com missions 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.

Disposition: After hearing, the commission entered the following order:

It Is hereby ordered that all aud several of the respondent companies, their agents, servants, and employees do cease and desist from directly or indirectly entering into any agreement, combination, or conspiracy among themselves and/or with respondent association or others to restrict, restrain or suppress competition in the sale of bituminous and anthracite coal at wholesale or retail, and particularly directly or indirectly as a part of such combination, agreement, or conspiracy from doing the following acts:

(a) Discussing with each other at formal or informal meetings or respondent association or otherwise ways and means of standardizing selling prices of bituminous coal to make them more uniform, and then or thereafter submitting to each other, or circulating among themselves, suggested aud official price lists before they are issued to the trade, with the tacit understanding or agreement that the prices contained therein would be maintained by the respective companies issuing said lists.

(b) Adopting, maintaining, or enforcing the policy of not granting to jobbers, line-yard companies, or retail dealers concessions commissions. discounts, or other reductions from prices contained in lists or circulars issued generally to the trade.

(c) Adopting, maintaining, or enforcing a policy of not soliciting direct the business of municipal steam plants or other large steam consumers without track facilities.

*(*d) Adopting, maintaining, or enforcing a policy of not entering Into contracts with retail dealers unless such contracts cover coal to be delivered to public utility or other large steam consumers under contract between such steam consumer and the dealer.

(e) Adopting, maintaining, or enforcing a policy of refusing to sell aud ship coal to retail dealers in the country trade outside the cities of St. Paul, Indianapolis, aud Duluth, in the State of Minnesota, who are not equipped with sheds and scales, the usual equipment of retail dealers.

(f) Adopting, establishing, or maintaining uniform sizes of bituminous.', coal to be sold to the trade for the purpose aud with the effect of preventing price cutting In the sale of same.

(g) Adopting, establishing, or maintaining a uniform system of cost accounting for wholesale and retail business.

(h) Adopting, establishing, or maintaining rules and regulations fixing maximum guaranties for British thermal unit content of coal to be made in bidding on contracts
requiring such guaranties.

(i) Adopting, maintaining, or enforcing a policy that all accounts with retail coal dealers be considered due on the 15th day of the month following shipment, or any other day certain.

(j) Adopting, maintaining, or enforcing a policy of using contracts in the sale of bituminous coal containing a clause which prohibits the purchasers from diverting said coal for purposes other than those designated by respondent companies in the contracts.

(k) Furnishing to the secretary of respondent association the following information, to be consolidated and disseminated in consolidated form or in any other manner by said secretary to the members of respondent association:

(l) Monthly statement relative to cost of operation of wholesale and retail departments.

(2) Weekly or other. periodical reports showing number of cars of each grade of coal to be shipped during following week or period.

(3) Weekly or other periodical statement showing total number of tons of coal, the amount received for same, aud the average price per ton received for each grade shipped during that week or period.

(4) Daily statements of all the coal sold, with car numbers; grade, price, and class of customer, and/or copies of acknowledgments and orders.

(5) Daily statements of number of cars of coal shipped, with price and grade and/or copies of Invoices.

(6) List or copies of contracts made during coal season.

(7) Names of retail dealers or other customers who are delinquent in paying accounts before the 15th day of the second month for shipment of coal, or any other day certain.

(8) Names of retail dealers who are not equipped with sheds or scales, the usual equipment of a retail dealer; or the names of retail dealers who have been refused shipment of coal for any reason whatsoever other than credit reasons.

(9) Names of retail dealers or other customers who had diverted shipments of coal in violation of terms of contract, and/or who had sold coal below usual price received by retail dealers In the community where customer is located.

(10) Instances where other members of respondent association had solicited business direct from steam consumers outside of the Twin Cities, requiring team delivery; or had entered into contracts with the retail dealers for coal not covered by contract between the retail dealer and the consumer of the coal; or had made higher British thermal unit guaranty than agreed upon; or had in any other manner failed to enforce any announced policy forbidden by this order.

(*l*) Engaging In campaigns to eliminate the competition of other distributors of bituminous coal, dock, Illinois, or other all-rail coal in said northwest territory who are not members of respondent association, and more particularly the following acts:

(l) Selling bituminous coal at wholesale or retail in the cities of St. Paul and Minneapolis, Minn., at prices less than respondent companies' receive for the same grades and quality of coal at the same time and In the same quantities at wholesale or retail in the city of Duluth, State of Minnesota, making due allowance for difference In cost of selling or transportation.

(2) Selling bituminous coal in the said cities of St. Paul and Minneapolis at prices less than the wholesale dock prices of said coal, plus cost of transportation from the docks to said cities and actual cost of selling and handling said coal.

(3) Selling bituminous and anthracite coal at wholesale to so-called wagon dealers doing business in said cities of St. Paul and Minneapolis who have no yards or sheds at prices less than the wholesale price of said coal at the docks, plus cost of transportation to said cities and cost of unloading or handling said coal.

(4) Arbitrarily cutting the wholesale price of bituminous coal at the docks for short periods of time for the purpose of compelling competitors to cease selling at prices lower than said respondent companies circular or list prices in effect before the cut is made.

(5) *Provided, however,* That respondents individually shall not be prevented from discriminating In price in the sale of said bituminous coal in the same or different communities in good faith to meet competition or from selecting their own customers in bona fide transactions and not in restraint of trade.

It is further ordered that the respondent association, its officers, agents, and employees do cease and desist from cooperating with the respondent companies In the enforcement of any agreement, combination, or conspiracy to restrict, restrain, or suppress competition in the sale of bituminous and anthracite coal at wholesale or retail, and particularly from doing the following acts:

(*a*) Holding meetings at which respondent companies or other members perform the acts prohibited in this order.

(*b*) Through its secretary consolidating and then disseminating to members of respondent association the information heretofore furnished said secretary by respondent companies relating to (l) cost of operation of wholesale and retail departments, (2) orders received and shipments

made, together with price received and class of customer sold, (3) contracts entered into, (4) accounts past due, (5) equipment of retail dealers, (6) violation of antidiversion clause of contracts, (7) sales made to retail dealers under contract, (8) and other similar or equivalent matters brought to the attention of respondent association by respondent companies.

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.

Disposition: After hearing the commission entered the following order:

Now, therefore, It Is ordered that the respondent, Edwin E. Ellis Co. (Inc.), its officers, directors, representatives, agents, and employees, cease and desist from using the words "Process Engraved" or "Process Engraving" in the business, signs or advertisements and advertising matter, offer for sale or sale of stationery and as descriptive of such stationery, the words, letters, figures, and designs upon which have not produced from metal plates into which such words, letters, and designs have been cut.

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.

Disposition: After hearing, the commission entered the following order:

It Is now ordered that the respondent, Toledo Pipe Threading Machine Co., its officers, agents, and employees, do cease and desist from maintaining its suggested resale discounts by--

(l) Requiring from dealers assurance that they will be governed by the suggested resale discounts in the disposal of stocks previously purchased as a condition precedent to subsequent sales to them by respondent.

(2) Requiring from dealers placing orders assurances that the commodities so ordered will be resold at the suggested resale discounts as a condition precedent to the acceptance of such orders.

(3) Requiring from dealers generally assurances that they will be governed by the suggested resale discounts in all resales of respondent's products under threat of discontinuance of relations.

(4) Seeking the cooperation of dealers in making effective a resale price maintenance policy by seeking the advice of dealers as to the location of a selling territorial division line for the stated purpose of eliminating price competition among dealers; by manifesting to dealers an intention to act upon all reports sent In by them of variations from the resale discounts by the elimination of the price cutter; by Informing dealers that price cutters reported who would not give assurance of adherence to the suggested resale discounts had been or would be refused further sales; by employing its salesmen to investigate charges of price cutting reported by dealers and advising dealers of that fact; by which means consecutively or concurrently applied, the aid and assistance of dealers is sought and obtained In the prevention of departures from respondent's resale discounts.

Appealed to the United States Circuit Court of Appeals for the Sixth Circuit March 4, 1925.

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, misleading, and deceptive representations as to the Markwell 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.

Disposition: After hearing, the commission entered the following order:

Now, therefore, it is ordered that the said respondent cease and desist from--

(l) Representing that the Acme tacking machines and staples for use therein are no longer being manufactured.

(2) Representing that the Regat tacking machines and staples, or machines and staples like them, have been or are now taking the place of Acme tacking machines and staples, because of alleged superior qualities.

(3) Representing that the Markwell Manufacturing Co. (Inc.) has gone out of business and is no longer engaged in selling the said Acme tacking machines and staples.

(4) Representing that the Botts Marking Ink Co. has gone out of business and is no longer selling the said Acme tacking machines and staples.

(5) Representing himself to be the successor of the said Markwell Manufacturing Co. (Inc.), or other distributors of the said Acme tacking machines and staples.

(6) From stating that he is a representative of the Markwell Manufacturing Co. (Inc.), or that he is a representative of the products of the said Markwell Manufacturing Co. (Inc.).

(7) From stating that as a representative of the Markwell Manufacturing Co. (Inc.) and its products he has an improved tacking machine and that he is putting the same on the market in place of Acme tackers on account of any alleged superiority of said Acme tackers.

(8) From representing that the Acme tackers and staples, either or both, are out of the market or are being taken out of the market, either or both.

(9) From representing that it is or will be impossible to purchase Acme tackers or Acme staples, either or both.

(10) From representing that if buyers want tackers or staples it will be necessary to purchase Regat tackers and Regat staples.

(11) From making any other false and untrue statements concerning the products or the business of the Acme Staples Co. or the Markwell Manufacturing Co. (Inc.) or the Botts Marking Ink Co., either or any of said companies.

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., 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 members 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.

Disposition: After hearing, the commission entered the following order:

It is hereby ordered that all and several of the respondents, their agents, servants, and employees do cease and desist from using directly or Indirectly the following practices and methods, or any of them:

(l) Combining, conspiring, or uniting in a common or concerted course of action among their number or any part thereof or with others, where the effect would or might he to regulate or select, in whole or in part, the outlets for the direct, Immediate, and proximate sale of gasoline transported from without the State by the said gasoline refining companies, upon the basis of adherence to a given price or given margin between purchase price and resale charge, or according to any method of selection other than such as results from free competition, or so as to close certain outlets, or to eliminate any possible and otherwise feasible outlets for such sale.

(2) Combining, conspiring, or uniting in any common or concerted course of action with the purpose, tendency, or effect of persuading, Inducing, coercing, or compelling any persons, firms,

or corporations buying gasoline directly, immediately, and proximately from refining companies engaged in transporting it from outside the State wherein such purchase is made, to maintain or adhere to a given and uniform resale price, or margin of profit between the price paid to the said refining companies and the resale price received, as a condition or prerequisite to their purchasing a supply, or an adequate supply of such gaso-

line, and from carrying on any written or oral communications having like purpose, tendency, or effect.

It Is further ordered that the respondent refining companies, their agents, servants, employees, and representatives forever cease and desist from uniting in a common course of action, directly or indirectly, to use the following practices and methods, or any of them:

(l) Attaching any condition, express or implied, to purchases made by gasoline dealers who are wholesale buyers directly, immediately, and proximately from the said refining companies, to the effect that such dealers shall maintain resale prices specified by the refining company or specified by any other person or association of persons.

(2) Directly or Indirectly Indicating to said dealers that unless they maintain a given resale price or given margin of profit they will or may be unable to buy gasoline, or to buy it at the current price and at ordinary terms and service, or that they will or may encounter difficulty in so doing.

(3) Asking, advising, or requiring the said buyers of such gasoline to display a card or sign at their respective places of business showing their selling price, as a means of carrying out the aforesaid purpose.

(4) Refusing to sell and deliver gasoline brought into the State and sold as aforesaid, unless such dealer so buying maintains a given or uniform price or margin of profit as aforesaid, and from declining or neglecting to give service of gasoline efficient, or adequate in amount or in time or in regularity of service, to any such dealer because or on the ground that he is a price cutter or does not adhere to any given price or margin of profit, either explicitly or upon any ground or under any subterfuge whatever.

(5) Affording a less efficient and adequate service to any such dealer, buying as aforesaid, who may fall to adhere to a given price or margin of profit than is afforded to other direct customers at the same time because' of the resale price made by any other dealer or dealers.

It is further ordered that the respondents, other than the gasoline refining companies and their respective agents, forever cease and desist from combining, conspiring, or uniting upon any common or concerted course of action directly or indirectly, to use the following practices and methods, or any of them *:*

(l) Suggesting to or threatening any dealer in gasoline buying directly, Immediately, and proximately from gasoline refining companies bringing their product from without the State, and conducting an outlet for gasoline brought into the State, that if he shall refuse or fail to adhere to or maintain a given or uniform price or margin of profit he will or may be unable to buy gasoline, or to buy the current price, at ordinary terms and with customary service.

(2) Persuading, urging, Inducing, coercing, or compelling any gasoline refining company to refuse sales to any such dealer because or on the ground that the said dealer declines or omits to sell at any given price or margin of profit, or discriminating against any price-cutting dealer in price or service as contrasted with the price and service accorded to other dealers engaged in similar business at the same time.

(3) Boycotting or withdrawing or withholding patronage or custom, or threatening to boycott or withdraw or withhold patronage or custom from any gasoline refining company which is not adhering to any given policy as regards price or margin of profit, or which sells to price-cutting dealers, or urging others so to boycott or withdraw or withhold patronage.

(4) Hindering, restricting, or restraining any such refiner of gasoline from the free and unregulated solicitation or selection of its direct, proximate, and immediate customers, or influencing or attempting to influence any such refiner not to accept as a customer any dealer whom the refiner, in the exercise of free judgment, has or may desire to have as a customer, for the reason or upon the ground that the said customer falls or declines to adhere to any given price or margin of profit or is a price cutter.

(5) Using any other methods whatsoever to persuade, urge, induce. coerce, or compel buyers of gasoline, purchasing directly, immediately, aud proximately from gasoline refining companies bringing their product from beyond the State, to maintain any given price or margin of profit or to leave the business of retailing gasoline, or any other methods whatsoever to persuade, urge, induce, coerce, or compel such refiners of gasoline to discriminate as aforesaid against such customers or prospective customers who decline to adhere to any

given price or margin of profit, or employing any methods for regulating the sale or the outlets for the sale of gasoline by refining companies Importing the same from without the State.

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, manufactures 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 purchasing public as to the quality of said varnish, 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, its officers, directors, agents, and employees, shall cease and desist from--

(l) Using the words "pure shellac" or "shellac" alone or in connection with any other word or words unless the product designated is pure shellac gum dissolved or cut In alcohol.

(2) Using the word " shellac " alone or In connection with any other word or words to designate a product which is not pure shellac but in which shellac gum is the principal and predominant element unless accompanied by the word " compound " in equally conspicuous letters.

(3) Using the word " shellac " alone or in connection with any other word or words to designate a product which Is not pure shellac and in which shellac gum is not the principal and predominant element, unless accompanied by the word " substitute " in equally conspicuous letters.

Commissioners Thompson and Nugent dissenting, for reasons given in dissent to modified order in Don-O-Lac case.

DISSENT OF COMMISSIONER THOMPSON

I regret that I am unable to agree with the majority of the commission in the proposed modified findings as to the facts and conclusions and the modified order in the above-entitled case and cases of a similar nature in the same industry, particularly because I believe the majority of the industry, in the matter here considered, are seeking earnestly to clear up certain practices still indulged in by some of the Industry.

Since, however, the action of the majority of the commission in this case is, in my opinion, beyond the jurisdiction granted to the commission by the act creating it, and, as the method proposed for eliminating the troubles presented is, in my opinion, impracticable of regulation or enforcement, I am unable to concur with the majority opinion.

The history of the movement for the proper branding and advertising of shellac varnish in connection with the commission's work reveals the fact that complaints were issued in 1923 and 1924 against seven companies, the docket numbers being 924, 1014, 1047, 1055, 1056, 1062, and 1095, Docket 924, the Don-O-Lac Company (Inc.) being the first case in which an order was issued.

The substance of the order, so far as the point considered In this dissent Is concerned, was that there should be stated on labels names and percentages of all substances, ingredients, or gums other than shellac gum used. None of the respondents in the aforementioned cases ever made any objection to thus ruling. At the present time the respondent in Docket 1062 objects to the changing of the order, saying in a letter to the commission :

"We understand that since the arrangement of putting our formula label on the shellac was more acceptable to us and since It covered the matter for you as well, if not better, we thought

It would be agreeable to you If we continued putting our formula on the labels. If this is agreeable to you we see no necessity for signing the new stipulation, as the old one will hold."

On June 4, 1924, the secretary of the Unfair Competition League and the associate counsel, Associated Advertising Clubs of the World, appeared before the commission in an informal hearing and suggested that the proposed findings and order in Docket 1047, American Shellac Co., be modified so as to eliminate the requirement of placing upon labels, etc., the names and percentages of all other elements than shellac gum and that the findings and order be amended as hereinafter set forth

Subsequent to this action a majority of the commission ordered in the Don-O-Lac case that the findings and order which had been issued In July, 1923, should be redrawn so as to correspond to those in the American Shellac case, i. e., to eliminate the order requiring the formula to be placed on the labels, and add paragraph 8 to the findings. That paragraph recites in substance that "pure shellac" indicates an article free from adulteration, etc., that the word "shellac," without qualification, except as to color, has the same meaning. I am In accord with these declarations, as they are obviously correct. I dissent from the use of the following language in paragraph 8:

"That the word 'compound' indicates adulteration, modification, or reduction to only such extent that the word 'shellac' used in conjunction therewith denotes that shellac gum is the principal and predominant element of the compound."

In the same modified findings there is a resolution passed by the Varnish Manufacturers' Association on November 13, 1922, which is apparently the basis, and, so far as the findings of fact is concerned, the only basis, for the statements contained in paragraph 8. The language of that resolution is as follows :

"Whereas the term 'shellac' has been applied not only to products composed of shellac gum dissolved in alcohol but also to compounds of shellac and other materials, and

"Whereas these practices, if continued, will result in the debasement of the term shellac, confusion in the trade, aud deception of purchasers; now, therefore, be it

"Resolved, That the term 'shellac' on labels or In advertising means only shellac gum cut or dissolved in alcohol; that if such shellac be reduced, reinforced, or modified the term shellac shall likewise be modified by the addition of the word 'compound' in conspicuous letters. That if the shellac content be less than 50 per cent of the solid content by weight of the material, the word shellac shall not be used on labels or advertising, except as a part of the formula, if printed, except in connection with the word substitute or imitation.

That if the shellac content be less than 50 per cent of the solid content by weight of the material, the word 'shellac' shall not be used on labels or advertising, except as a part of the formula, if printed, except in connection with the word substitute or imitation."

It seems to me obvious that the language from which I dissent in paragraph 8 is not responsive to the statement quoted from the resolution of the association. In the resolution the shellac content is fixed at 50 per cent "of the solid content by weight of the material." The commission's finding In this connection leaves out "50 per cent " and "solid content by weight "and uses in place of them the words "principal and predominant element."

There are, in my opinion, two fatal objections to the words "principal" and "predominant." In the first place, they are ambiguous and not specific. For example, an article might be advertised as shellac compound that would contain only 35 per cent shellac and the other elements might well be 25 per cent copal, 25 per cent resin, and 15 per cent Manila gum. Can any one say that 35 per cent shellac is not the " dominant "element as compared with the other elements in such a compound and would it not be the "principal" element. Yet this percentage falls short of "50 per cent of the solid content by weight of the material" as declared by the resolution of the association. Would it not be possible for an element to be the principal and predominant one In a compound under paragraph 8 of the findings and yet weigh less than "50 per cent of the solid content by the weight of the material"?

The second objection is that the difficulties in regulating such a situation created by the language used with the many and constant tests that would have to be made of a competitor's product where any amount less than 100 per cent was used would be so burdensome upon the industry and upon the commission in enforcing the regulation that It would be impractical.

The objectionable language referred to and that part of the order based upon it contained in paragraph 2 of the order forbidding the use of the words "American Shellac " or " Shellac,"

unless to " designate a product which is not pure shellac but in which shellac gum is the principal and predominant element, unless accompanied by the word 'compound' in equally conspicuous letters," is, in my opinion, not based upon " testimony " taken In accordance with the requirements of section 5 of the Federal Trade Commission act. In the proposed modified findings now before us for consideration the only support for objectionable declaration in paragraph 8 is found in the said resolution of the association.

The association passing this resolution represents, according to the findings, three-fourths of the production of the varnish industry. But there is no testimony in the case as to what the ultimate consumer understands by the word "compound" as defined in the resolution of the association, or as set forth in paragraph 8 of the findings. After all, while section 5 of this act has to do with the protection of business competitors, it Is, in its last analysis, for the protection of the ultimate consumer.

It is argued that a United States district court has declared that the word " compound," with a descriptive term of an element attached, would be understood by the ultimate consumer to mean that the compound contained 50 per cent of the descriptive element. But it is obvious that the court's ruling could not be made the basis for the use of the words "principal" and "predominant," in connection with a compound, for the element named might be 35 per cent and still come within the meaning of the words "principal and predominant."

There is, however, a still more serious objection which confronted us when we consider the ultimate consumer under section 5. Undoubtedly the com mission has the discretionary power, after a complaint has been issued, to dis-miss a case based upon a stipulation of facts entered into by the commission and respondent. This discretion also extends to the issuance of an order where the facts alleged in a complaint, stating a cause of action, have been admitted by respondent In a stipulation. But this discretion does not extend to a situation where an Issue has been raised by a complaint and answer and the stipulation finding, and order present a state of facts not covered by or responsive to any allegation of the complaint. The issue in this case under the allegations is narrowed down to the charge of misbranding. Since under the " Gratz " decision there is no allegation in the complaint to which the language objected to is responsive than the Gratz decision, should exclude the same from the findings and order. Moreover, the statute says :

"The findings of the commission as to the facts, if supported by testimony, shall be conclusive."

The word "testimony," according to "Words and phrases," means "A statement made by a witness under oath in a legal procedure," and "It does not include documents."

Let us suppose that in one of these cases there is an appeal taken to the circuit court of appeals by a respondent. Will the court say there Is any testimony, there upon which the language objected to Is based which makes the testimony conclusive upon the court?

There has been no testimony as to what the ultimate consumer understands by the language referred to in paragraph 8, and the resolution of the association as to the use of the word "compound" is an ex parte declaration of producers.

For the foregoing reasons, while I concur in that part of paragraph 8 of the modified findings referring to "pure" and "shellac," I dissent from the language wherein the word " shellac," when associated with the word "compound," denotes that shellac is the "principal and predominant element," and I dissent from the language used in paragraph 2 in the modified order finding American shellac or shellac, to wit, "a product which is not pure shellac, but in which shellac gum is the principal and predominant element, unless accompanied by the word 'compound' in equally conspicuous letters."

DISSENT OF COMMISSIONER NUGENT

I am not in agreement with a majority of my colleagues in this matter.

Section 8 of the modified findings of fact and the modified order entered against the Don-O-Lac Co. are, obviously, based upon a resolution adopted by the National Varnish Manufacturers' Association on or about November 13, 1922. The association, according to the findings of fact, is composed of manufacturers "producing over three-fourths of the total production of varnish

in the United States."

I quote the resolution referred to :

"Whereas the term 'shellac' has been applied not only to products composed of shellac gum dissolved in alcohol, but also to compounds of shellac and other materials; and

"Whereas these practices, if continued, will result in the debasement of the term 'shellac,' confusion in the trade, and deception of purchasers : Now, therefore, be it

"Resolved, That the term 'shellac' on labels or in advertising means only shellac gum cut or dissolved in alcohol; that if such shellac be reduced, reinforced, or modified the term 'shellac' shall likewise be modified by the addition of the word 'compound' in conspicuous letters; that if the shellac content be less than 50 per cent of the solid content by weight of the material, the word 'shellac' shall not be used on labels or advertising, except as a part of the formula, if printed, except in connection with the word 'substitute' or 'imitation'; be it further

"Resolved, That this information shall be plainly shown on all containers, bills, contracts, and letters of quotations. It is recommended that product containing less than 50 per cent by weight of shellac be sold under arbitrary trade brands the modified of fact, approved by a majority of the findings commission, reads in part as follows :

"The word 'compound' indicates adulteration, modification, or reduction to only such extent that the word 'shellac' used in conjunction therewith denotes that shellac gum is the principal and predominant element of the compound, aud that the word 'substitute' as a qualification for the word 'shellac' indicates an adulteration, modification, or reduction in the amount of shellac gum present to such an extent that shellac gum is not the principal and predominant element of the compound."

It is plainly apparent to my mind that the association Intended that a commodity which contains less than 100 per cent, and 50 per cent or more "of the solid content by weight of the material" of shellac gum cut in alcohol, shall be marked as "compound," and that the word " compound " shall appear on the label in conspicuous letters where the word "shellac " is used to indicate the product. Also, that a commodity containing "less than 50 per cent of the solid content by weight of the material" of shellac gum cut in alcohol shall be sold as a "substitute" or "imitation," and when the word "shellac " appears on the label the word "substitute" or "Imitation" in conspicuous letters shall appear thereon.

Paragraphs 2 and 3 of the modified order made and entered herein by majority vote of the commission are as follows:

"2. Using the words 'American Shellac' or the word ' Shellac' alone or in connection with any other word or words to designate a product which Is not pure shellac, but in which shellac gum is the principal and predominant element, unless accompanied by the word 'compound' in equally conspicuous letters."

"3. Using the words 'American Shellac' or the word 'Shellac,' alone or in connection with any other word or words to designate a product which is not pure shellac and in which shellac gum is not the principal aud predominant element, unless accompanied by the word 'substitute' In equally conspicuous letters."

It will be observed that the words " principal " aud " predominant," in paragraph 8 of the findings aud In paragraphs 2 and 3 of the order, do not appear in the resolution adopted by the National Varnish Manufacturers Association above set out.

I am in accord with the statement contained in Chairman Thompson's dissenting memorandum that-"an article might be advertised as shellac compound that would contain only 85 per cent shellac and the other elements might well be 25 per cent copal., 25 per cent rosin, and 15 per cent Manila gum. Can anyone say that 35 per cent shellac is not the 'predominant' element as compared with the other elements in such a compound and would it not be the 'principal' element? Yet this percentage falls short of '50 per cent of the solid content by weight' of the material as declared by the resolution of the association.

"Would it not be possible for an element to be the principal and predominant one in a compound under paragraph 8 of the findings and yet weigh less than '50 per cent of the solid content by the weight of the material'"?

The same argument would apply with equal force where the constituent elements contained in the product are. for the purpose of illustration. shellac 35 per cent, copal 32 per cent, and

rosin 33 per cent.

In other words, in my judgment, any product in which shellac is the " principal and predominant element " can. under the modified order herein, be labeled and marketed as a "compound" even though the quantity of shellac gum therein be far " less than 50 per cent of the solid content by weight of

The findings approved and the order entered in this case are similar to those in a considerable number of like cases, and I am of the opinion that they do not fully remedy conditions prevailing in the varnish industry and are not in accordance with the resolution adopted by the National Varnish Manufacturers Association above quoted.

For the foregoing reasons I dissent from the action taken *by* a majority of my colleagues in approving that portion of paragraph 8 of the modified findings of fact above set out, as well as In making and entering paragraphs 1 and 2 of the modified order to cease and desist.

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.

Disposition : After hearing, the commission entered the following order, Commissioner Humphrey dissenting:

In is now ordered that the respondent, Holeproof Hosiery Co., its officers, agents, representatives, servants, and employees cease and desist from carrying into effect Its policy of procuring and enforcing resale prices at retail upon its holeproof products in the hands of customers by cooperative methods in which the respondent and its distributors, customers, and agents undertake to prevent others from obtaining the respondent's holeproof products at less than the prices designated by it--

(l) By inviting or soliciting directly or through its agents or employees from its dealer customers, reports or communications, oral or written, concerning price cutting by retail dealers, competitors of the dealers so reporting or communicating.

(2) By investigating through its officers, agents, or other employees, alleged instances of price cutting by retailers reported.

(3) By communicating with retailers reported to it by its customers as having sold its holeproof products at prices less than resale prices established by the respondent, and threatening to refuse further goods to such dealers.

(4) By acting upon reports or communications from its dealer customers concerning price cutting by retail dealers; competitors of the dealers so reporting or communicating by:

(*a*) Refusing or threatening to refuse further shipments of Holeproof products to the dealers so reported, unless and until such dealers have given specific assurance that they will maintain respondent's established prices in the future.

(*b)* Recording upon any list maintained by it, the names of any retail dealers reported to it by any customer as having sold Holeproof products at prices less than the retail prices established by respondent with the word " Black List " or other words intended to convey the intelligence that the dealer so reported is not to be sold any goods unless and until such dealer has given specific assurance that he will maintain respondent's established prices in the future.

(*c*) Utilizing numbers placed upon boxes or packages containing its Hole-proof products for the purpose of ascertaining the source of supply of any dealer reported to it as having sold said products at prices less than the retail prices established by respondent in order to cut off the supply of such products from the dealer so reported.

(5) By utilizing any other equivalent cooperative means of accomplishing the maintenance of the resale prices established by the respondent for its holeproof products.

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," employs 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 purchas-

ing 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.

Disposition: After hearing, a stipulation having been effected, the commission entered the following order:

It is ordered, In accordance with said stipulation, that the respondent, its officers, agents, and employees cease and desist from--

(1) The use of the phrase, "Federal bonds are better bonds."

(2) The use of the word "Federal" alone, in connection with the word, "bond" or "bonds," or with the word, "interest."

(3) The use of the word " Federal," alone, in designating or referring to any plan of issuing or marketing the securities dealt in by the respondent.

(4) Stating, either orally or in writing, that the bonds or obligations dealt in by the respondent are free from Federal normal income tax or any other governmental tax, if they, or any of them, be subject to such tax, not withstanding any agreement by the mortgagor or obligor in any such bonds or obligations to pay any such tax.

(5) Marketing any bonds on which appears the phrase " United States of America " or the likeness of any person whose portrait has been or is engraved on the currency or postal issues of the United States.

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.

Disposition : After hearing, the commission entered the following order :

It is now ordered that the respondent, Johnson Process Glue Co., its officers, agents, representatives and employees, do cease and desist from giving or offering to give, either directly or indirectly, to superintendents, foremen, or other employees of their customers or prospective customers, without the knowledge and consent of said customers, or prospective customers, any sum or sums of money, whether such money be given or offered.

(l) As an inducement to influence said employees to purchase from respondent glue or other products for and on behalf of the employers of said employees.

(2) As inducement to influence said employees to recommend such purchase to their employers.

(3) Or as reward for having Induced such purchase by their employers.

Complaint No. 1000.--Federal Trade Commission *v.* John C. Winston Co. Charge : The complaint relates that the respondent offers " 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 are charged in that the respondent's representation that the sum 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.

Disposition : A stipulation having been entered Into In lieu of testimony, the commission entered the following order:

It is now ordered that the respondent, the John C. Winston Co., its agents, representatives, servants, and employees, do cease and desist from directly or Indirectly

(l) Representing to the purchasers and prospective purchasers any consideration or price to be the real consideration or price for the purchase and sale

of any of its publications or services in connection therewith other than what Is in truth the real and customary consideration or price for the same.

(2) Representing to purchasers and prospective purchasers that any part of a combination offer Is in fact or In effect given free of charge when the recipient must pay a consideration for the whole or some element of the combination to be entitled to receive the alleged gift.

Appealed to the United States Circuit Court of Appeals for the Third Circuit, September 15, 1924.

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.

Disposition : A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that the respondent, the Smith-Kirk Candy Co., Its agents, representatives, and employees, do cease and desist from selling or offering for sale candy or confections upon the wrapper or container of which is any inscription or illustration representing or suggesting, directly in indirectly, other than the true composition of said candy or confection or the true contents within said wrapper or container.

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.

Disposition: A stipulation having been entered Into in lieu of testimony, the commission entered the following order:

It is now ordered that respondent, Blue Valley Creamery Co., Its officers, directors, agents, representatives, and employees, cease and desist from attaching to shipping cans or containers not belonging to respondent any plates or tags bearing shipping instructions such as "When full ship to the Blue Valley Creamery Co.," or their equivalent, without the consent of the owner of such cans.

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 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, Samuel Katz and Samuel Davidson, do cease and desist from using the words "English Broadcloth" as a label or brand for shirts or other garments, unless such garments be made from broadcloth made in and Imported from England.

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 mines against which the respondents compete, 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 ordered that the respondent, Interstate Fuel Co., a corporation organized under the laws of Missouri, its agents, servants, representatives, and employees, and the respondent White Ash Coal Co., a corporation organized and existing under and by virtue of the laws of Missouri, its agents, servants, representatives, and employees, cease and desist from making use of, by advertisement or otherwise, the words "Mount Olive," alone or in combination with other words in any way whatsoever, in connection with the sale or offering for sale of coal in commerce, unless the said coal Is produced at mines located at Mount Olive, Ill., or within a small district contiguous thereto, including Staunton, in the aforesaid State.

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, 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, Nashua Manufacturing Co., a New Hampshire corporation, and Walter Rayliss, Robert Amory, and Charles L. Crehore, copartners doing business under the name and style Amory, Browns & Co., and the officers, agents, representatives, servants, and employees of respondents cease and desist from directly or indirectly--

(1) Attaching or causing to be attached to blankets manufactured and/or sold by respondents in interstate commerce and containing no wool whatsoever, any label or brand containing the word "wool," alone or in combination with the word "nap" (as "wool nap"), or in combination with any other word or words, unless such label or brand shall contain other words aptly and conspicuously disclosing the fact that the blanket so bearing such label or brand contains no wool whatsoever.

(2) Using in advertisements, or on containers or otherwise in connection with the offering for sale or selling of blankets manufactured and/or sold by respondents or any of them, and containing no wool whatsoever, the word "wool," alone or in combination with the word "nap" or in combination with any other word or words, unless and except it shall be accompanied by some other word or words aptly and conspicuously disclosing and making known the fact that such blankets contain no wool whatsoever.

Complaint No. 1080.--Federal Trade Commission *v.* Wisconsin Cooperative Creamery Association, its officers, directors, and members, et al. Charge: 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.

Disposition: After hearing, the commission entered the following order:

It is ordered that the above-named respondents, and each of them, and their agents, representatives, servants, employees, and all other persons acting for or under them, do cease and desist-From combining among themselves or with others to hinder, obstruct, or prevent the sale of oleomargarine which has been or may be brought into Wisconsin in interstate commerce, and particularly from combining to ob-

struct, hinder, or prevent the purchase in interstate commerce of oleomargarine by the retail dealers and meat markets of Polk County, Wis., or the sale by said dealers and meat markets of oleomargarine so purchased; and from entering into any agreement or understanding with retail dealers or meat markets or others with a view to preventing said retail dealers, meat markets, or others from purchasing oleomargarine in interstate commerce or from selling oleomargarine so purchased.

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 of dairy products, has offered and given competitors' 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 competitors, 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.

Disposition: After hearing, the commission entered the following order:

It is now ordered that the respondent, E. O. Olsen, trading as Worthington Creamery & Produce Co., his agents, servants, employees, and representatives, do cease and desist from--

(1) Inducing or attempting to induce employees of competitors to breach their contracts with such competitors and enter the employment of respondent.

(2) Inducing or attempting to induce employees of competitors, who are intrusted and charged with the duty of procuring, serving, dealing with, and holding for the benefit of said competitors large groups of their patrons, at various stations operated by said competitors, to breach their contracts with said competitors and deliver to respondent the good will and patronage so enjoyed by and belonging to said competitors.

(3) Inducing or attempting to induce the owners of building rented and used as stations by competitors to terminate such tenancies by said competitors and rent the said buildings to respondent.

(4) Interfering or attempting to interfere In any other manner with the contractual relations existing between competitors and their respective agents and employee who are engaged In the production, manufacture, transportation, purchase, or sale of any dairy product.

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 a 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 said 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.

Disposition: After hearing, the commission entered the following order:

Now, therefore, it is ordered that the respondent, Republic Products Co., a corporation organized and existing under the laws of Ohio, David Bernsteen, its secretary, its agents, servants, representatives, and employees cease and desist from--

(1) Making use of, by advertisement or otherwise, the word " Paramount" alone or in combination with other words, or in any way whatsoever, in connection with the sale or offering

for sale of lubricating oil in interstate commerce unless the said oil is the product of the Klein Manufacturing Co., trading as the Great Lakes Refining Co.

(2) Representing or suggesting in connection with the sale or offering for sale of lubricating oil in Interstate commerce that the Republic Products Co. and the Great Lakes Refining Co. are one and the same company, or that the Republic Products Co. Is the successor of the Great Lakes Refining Co. and Is selling the product formerly sold by the Great Lakes Refining Co.

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 as 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.

Disposition: A stipulation having been entered into In lieu of testimony, the commission entered the following order:

It is now ordered that respondent, his agents, servants, and employees, and representatives do cease and desist--

From employing or using In connection with the sale of silverware which has not been made In Sheffield, England, the name "Sheffield" alone or in combination with any other name or with any word, sign, symbol, or device, to describe or designate such silverware either by stamping or impressing the name "Sheffield" thereon or in any other manner.

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.

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, its officers, directors, agents, and employees, shall cease and desist from--

(1) Using the words " Pure shellac" or " shellac" alone or in connection with a color adjective unless the product designated is pure shellac gum dissolved or cut in alcohol.

(2) Using the word " shellac" alone or in connection with any other word or words to designate a product which is not pure shellac but in which shellac gum is the principal and predominant element unless accompanied by the word " compound" in equally conspicuous letters.

(3) Using the word " shellac" alone or in connection with any other word or words to designate a product which is not pure shellac and in which shellac gum is not the principal and predominant element. unless accompanied by the word " substitute" in equally conspicuous letters.

Commissioners Nugent and Thompson dissenting, based upon their views as expressed in Docket 924.

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 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.

Disposition: A stipulation having been entered Into in lieu of testimony, the commission entered the following order:

It is now ordered that the respondent, Waterproof Paint & Varnish Co., Its officers, agents,

representatives, servants, and employees, cease and desist from directly or indirectly employing or using the label or brand " Government," or any similar descriptive label or brand, on paint, varnish, or allied products or upon the containers thereof, except either (1) when the paint, varnish, or allied products has been obtained from the United States Government, or (2) when the paint, varnish, or allied product has been manufactured for, and accepted by, the United States Government; or (3) when the paint, varnish, or allied product has been made In accordance with some United States Government formula, specification, or requirement, and the word or term Indicating the United States Government is joined or used with some other words or terms Indicating compliance with some United States Government formula, specification, or requirement (e. g., made in accordance with Government W. D. Specifi-

cation No. 97); or (4) when the paint, varnish, or allied product has been obtained from some Government other than the United States Government and the word or term used to Indicate government is joined or used with some other word or term indicating the Government from which the paint, varnish, or allied product was obtained (e. g., French Government waterproof paint) ; or (5) when the paint, varnish, or allied product has been manufactured for, and accepted by, some government other than the United States Government and the word or term used to Indicate government is joined or used with some other words or terms indicating the government for which the paint, varnish, or allied product was manufactured and by which It was accepted (e. g., Canadian Government waterproof paint) ; or (6) when the paint, varnish, or allied product has been manufactured In accordance with the formula, specification, or requirement of some government other than the United States Government and the word or term used to indicate government is joined or used with some other words or terms indicating compliance with the formula, specification, or requirement of the government In accordance with whose formula. specification, or requirement the paint, varnish, or allied product has been manufactured (e. g., made in accordance with specification of the Italian Government)

Complaint No. 1104--Federal Trade Commission *v*. Adolph Greenspan. Irvine Greenspan. 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 no factory of their own, mislead and deceive the purchasing public by depicting in catalogues the exterior and interior view of a factory claimed to be that of the respondents, 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, when 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.

Disposition: A stipulation having been entered into In lieu of testimony, the commission entered the following order:

It is now ordered that the respondents. Adolph Greenspan, Irvine Greenspan. and Saul Goodman, partners doing business under the firm name and style of Lewis Feather Bed & Pillow Co., Individually and as a partnership do cease and desist from--

(1) Representing in any manner that respondents, or any of them, manufacture commodities offered for sale or sold by them unless and until respondents do actually manufacture such commodities.

(2) Representing in any manner that the prices at which they sell or offer to sell commodities are lower than prices previously charged by them for like commodities when such Is not the fact.

(3) Representing that commodities sold or offered for sale by them at varying prices differ in quality and make according to the scale of prices at which such commodities are sold or offered for sale when such Is not the fact.

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.

Disposition: A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that the respondent, Lapat Knitting Mills, Its officers. agents, representatives, and employees cease and desist from directly or indirectly-

(1) Representing by labels. brands, advertisements, or descriptions that hosiery manufactured and sold by It, a part of which is made of silk and other parts are made of cotton, are " pure silk" or " pure thread sill:," unless the difference between this type of hosiery and that which Is wholly made of

pure silk is clearly and definitely stated in the label, brand, advertisement, or description.

(2) Using the words "pure silk" or "pure thread silk" without equally distinct and permanent qualifications in labels, brands, of description of hosiery, a part of which, such as the leg or boot, Is made of silk, and other parts, such as the top, toe, heel, and/or sole, are made of cotton.

It Is further ordered that the complaint against Sobel Hosiery Co. (Inc.) be dismissed because the said company has ceased doing business.

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.

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, M. G. Berg and S. S. Sanson, partners, doing business under the name and style Hercules Hosiery Mills, their agents, representatives, servants, and employees do cease and desist from directly or indirectly--

(1) Advertising describing and/or representing in any manner or form that respondents are manufacturers of the products which they sell or offer for sale unless and until they in truth and in fact are the manufacturers of such products.

(2) Advertising, labeling or representing the hosiery which respondents sell or offer 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 knitted or woven flat and open, has been cut so that, when closed, it makes a shaped hose.

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.

Disposition: A stipulation having been entered into in lieu of testimony, the commission dismissed the case as to Glidden Co. and entered the following order: It is now ordered that respondent, Forest City Paint & Varnish Co., its officers, agents, representatives, servants, and employees, cease and desist from using the words, "U. S. Marine" or words of similar import on labels, in advertising matter, or otherwise, to describe or designate paint which Is not manufactured by or for the United States Government.

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.

Disposition: A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that the respondents, Joseph Gilbert and Jacob Gilbert, partners, doing business under the trade name and style of American Feather Bed & Pillow Co., individual and as a partnership, do cease and desist from--

l. Representing in any manner that respondents, or any of them, manufacture commodities offered for sale or sold by them, unless and until respondents do actually manufacture such commodities.

2. Representing that commodities sold or offered for sale by them at varying prices differ in quality and make, according to the scale of prices at which such commodities are sold or offered for sale, when such is not the fact.

Complaint No. 1135.--Federal Trade Commission *v.* Samuel Seligsohn. 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.

Disposition: A stipulation having been entered into In lieu of testimony, the commission entered the following order:

It is now ordered that the respondent, Samuel Seligsohn, do cease and desist from advertising or representing in any manner that he is a manufacturer of the articles offered by him for sale, unless and until respondent does actually manufacture such articles.

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" in labeling said cigars, thereby furthering the deception, 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, James B. Hall, Jr. (Inc.), a corporation, its officers, agents, and employees, do cease and desist from--

(1) Using the word " Havana" as descriptive of cigars unless such cigars be made entirely from tobacco grown in the Island of Cuba.

(2) Representing In any manner that cigars other than those manufactured entirely from tobacco grown in the island of Cuba, are Havana cigars.

(3) Advertising or representing in any manner whatsoever that any of the tobacco going into the manufacture of cigars manufactured by it was grown upon a plantation or plantations in the island of Cuba owned by It, when such is not the fact.

Complaint No.1138.--Federal Trade Commission *v.* Edwin Cigar Co. (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 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.

Disposition: A stipulation having been entered into in lieu of testimony, the commission

entered the following order:

It is now ordered that the respondent, Edwin Cigar Co. (Inc.), a corporation, its officers, agents, and employees, do cease and desist from-

(1) Using the word " Havana" as descriptive of cigars unless such cigars be made entirely from tobacco grown in the Island of Cuba.

(2) Representing in any manner that cigars other than those manufactured entirely from tobacco grown in the island of Cuba are Havana cigars.

(3) Advertising or representing in any manner whatsoever that any of the tobacco going into the manufacture of cigars manufactured by It was grown upon a plantation or plantations in the island of Cuba owned by it, when such is not the fact.

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.

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. F'. Fliegelman, cease and desist from--

(1) Making use of the slogan "Direct from factory to you," or any slogan of like import, In advertising his merchandise or offering same for sale.

(2) Representing by any means that he is a manufacturer, when in truth and fact respondent is not a manufacturer.

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.

Disposition: After hearing, the Commission entered the following order:

Therefore it is now ordered that the respondent, Samson Rosenblatt, do cease and desist from directly or indirectly-

(1) Advertising or offering for sale under a representation of perfect condition baking powder which had been manufactured and furnished to the United States Government for use in the World War.

(2) Selling or offering for sale under a representation of perfect condition baking powder which had materially deteriorated.

Complaint No. 1146.--Federal Trade Commission *v.* Ideal Baby Shoe Co. Charge: Unfair methods of competition are charged in that the respondent manufacturer 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.

Disposition: After hearing, the Commission entered the following order:

Now, therefore, it is ordered that the respondent, Ideal Baby Shoe Co., now Surwalk Baby Shoe Co., Its officers, agents, and employees, do cease and desist from--

(1) Using as a part of the corporate name of the respondent the word " Ideal" or any other word or combination of words likely to be confused with the name " Ideal Baby Shoe Co."

(2) Using the words " Ideal" or " Ideal Baby Shoe" on Its letterheads, billheads, or otherwise, in connection with the sale of its shoes.

(3) Directly or indirectly suggesting by the use of any word, mark, label, or otherwise that the goods of the respondent are the goods manufactured by Mrs. Adra L. Day, doing business under

the trade name of Ideal Baby Shoe Co.

Complaint No. 1147.--Federal Trade Commission *v.* John Moir, William T. Rich, Harry L. Jones, Fred A. Flood, Warren F. Kimball, Charles R Butler, Carlton 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.

Disposition: After hearing, the commission entered the following order:

It is now ordered that the respondents, John Moir, William T. Rich, Harry L. Jones, Fred A. Flood, Warren F. Kimball, Charles R Butler, Carlton Moseley, and Henry T. Brown, partners doing business under the trade name and style Chase & Sanborn, their officers, agents, representatives, servants, and employees, cease and desist from--

(1) Entering into contracts, agreements, or understandings with dealers, or any of them, that respondents' products are to be resold by such dealers at prices specified or fixed by respondents.

(2) Procuring, either directly or Indirectly, from its dealers promises or assurances that the prices fixed by respondents will be observed by such dealers.

(3) Requesting their dealers to report the names of other dealers who do not maintain respondents' resale prices, or who are suspected of not maintaining the same.

(4) Seeking the cooperation of dealers in making effective their price-maintenance policy by manifesting to dealers an intention to act upon reports sent In by them of variations from the suggested prices, by the elimination of the price cutter, or by informing dealers that price cutters reported who would not give assurance of adherence to the suggested resale prices had been or would be refused further sales.

Appealed to the United States Circuit Court of Appeals for the First Circuit June 5, 1925.

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.

Disposition: After hearing, the commission entered the following order:

It is now ordered that the respondent, Marinello Co., its officers, agents, reprepresentatives, servants, and employees cease and desist from--

(1) Entering into contracts, agreements, or understandings with dealers. or any of them, that respondent's products are to be resold by such dealers at prices specified or fixed by respondent.

(2) Procuring, either directly or indirectly, from its dealers, agreements, promises, or assurances that the prices fixed by respondent will be observed by such dealers.

(3) Requesting Its dealers to report the names of persons who do not maintain respondent's resale prices, or who are suspected of not maintaining same.

(4) Seeking the cooperation of dealers in making effective Its resale price maintenance policy by manifesting to dealers an intention to act upon all reports sent in by them of variations from the suggested prices, by the elimination of the price cutter; by informing dealers that price cutters reported who would not give assurance of adherence to the suggested resale prices had been or would be refused further sales ; by employing its salesmen to Investigate the charges of price cutting reported by dealers and advising dealers of that fact.

(5) From cutting off or endeavoring to cut off the sources of supply of a dealer not buying direct from respondent on account of such dealer's failure to observe respondent's suggested resale prices.

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.

Disposition: A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that respondent, its agents, servants, employees, and representatives do cease and desist-From employing or using in connection with the sale of silverware which has not been made in Sheffield, England, the name " Sheffield" alone or in combination with any other name or with any word, sign, symbol, or device, to describe or designate such silverware either by stamping or impressing the name "Sheffield" thereon or in any other manner.

Complaint No. 1161.--Federal Trade Commission *v.* Abraham Ash, doing business under the trade name and style of Abraham Ash Co. Charge: Unfair methods of competition are charged 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, 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, his agents, servants, employees, and representatives, do cease and desist from employing or using In connection with the sale of silverware which has not been made in Sheffield, England, the name " Sheffield," alone or in combination with any other name, or with any word, sign, symbol, or device, to describe or designate such silverware either by stamping or Impressing the name " Sheffield" thereon, or in any other manner.

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 and 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.

Disposition: After hearing, the commission entered the following order:

It is now ordered that the respondent, Louis Leavitt, his agents, representatives, servants, and employees, do cease and desist from, directly or Indirectly--

(1) Designating and describing a product by means of brands, labels, or otherwise, by use of the terms " Gold-seal combination white lead," or " Combination white lead," unless the product so designated and described actually contains sulphate of lead or Carbonate of lead or the two In combination as Its principal and predominant ingredient" to the extent of not less than 50 per cent by weight of the product."

(2) Using and employing any other designation, brand, or label upon the containers of products which falsely represent the relative quantity of genuine white lead contained in said product.

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 of *F.* Jacobson & Sons. Charge: Unfair methods of competition are charged in that the respondents label and sell their men's shirts, made from materials manufactured 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.

Disposition: A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It Is now ordered that the respondents, Ferdinand Jacobson, Joseph C. Jacobson, Harry S. Jacobson, Moses Jacobson, and Samuel Jacobson, doing business as F. Jacobson & Sons, individually and as *a* partnership, do cease and desist from--

Using the words " English broadcloth" as a label or brand for shirts or other garments unless such garments be made from broadcloth made in and Imported from England.

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.

Disposition: A stipulation having been entered into in lieu of testimony, the commission entered the following order:

It is now ordered that respondent, T. M. Sayman Products Co., its officers, directors, agents, servants, and employees cease and desist from carrying into effect any resale price-maintenance policy by means of contracts or combinations or by cooperative methods in which respondent and its distributors, customers, and agents undertake to prevent others from obtaining the company's products at less than the prices designated by It--

(1) By entering into agreements of contracts, express or implied, with its customers, in which agreements or contracts said customers undertake or agree to resell respondent's products at prices fixed and determined by respondent.

(2) By the practice of requesting customers to report the names of dealers who do not observe such resale prices.

(3) By the practice of reporting to wholesale or jobber customers the names of retail dealers who do not observe such resale prices.

(4) By causing dealers to be listed as undesirable purchasers who are not to be supplied with the products of respondent company unless and until they have given satisfactory assurances of their purpose to maintain such designated prices in the future.

(5) By employing salesmen or agents to assist in such resale price maintenance plan by reporting dealers who do not observe such resale prices.

(6) By utilizing numbers or symbols marked, stamped, or perforated upon the wrappers or containers of respondent's products with a view to ascertaining the names of dealers who sell said products at less than the suggested prices, or who sell to others who sell at less than such prices, in order to prevent such dealers from obtaining the products of the respondent.

(7) By utilizing any other equivalent cooperative means of accomplishing the maintenance of resale prices fixed by the respondent.

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 a merchandising system adopted by it 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 for .the enforcement of said resale prices, 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, James Heddon's Sons, a corporation, its officers, agents, representatives, servants, and employees, cease and desist from--

(1) Entering into or procuring from dealers contracts, agreements, under-standings, promises, or assurances that respondent's products are to be resold by them at prices specified or fixed by respondent.

(2) Requesting its dealers to report the names of persons who do not maintain respondent's resale prices or who are suspected of not maintaining same.

(3) Seeking the cooperation of dealers in making effective its resale price maintenance policy by advising dealers of its intention to act upon reports sent in by them of variations from its suggested prices, by the elimination of the price cutter, or by informing dealers that price cutters reported who would not give assurances of adherence to its suggested resale prices had been or would be refused further sales.

Complaint No. 1199.--Federal Trade Commission *v*. The NuGrape Co. of America. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of a concentrate or sirup, has adopted " NuGrape" as the trade name or brand for its product and the resulting beverage, and thus, as well as by its labels and advertising, indicates that such product is composed in whole or in part of the juice of the natural

fruit of the grape, when In fact it 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 the juice from the natural fruit of the grape and to divert the trade from truthfully marked goods, In alleged violation of section 5 of the Federal Trade Commission act.

Disposition: A stipulation having been entered into as to certain of the facts, and testimony having been taken, the commission entered the following order:

It is now ordered that the respondent, the NuGrape Co. of America, its officers, agents, representatives, servants, and employees, do immediately cease and desist from directly or indirectly--

(1) Using or authorizing the use in connection with the sale in commerce of NuGrape sirup or NuGrape beverage of any pictorial representation of grapes or grape vineyards, or any words, pictures, or symbols stating or suggesting that NuGrape is made from grapes or grape juice in any advertising matter, whether newspaper advertisements, posters, signs, wall hangers, or otherwise.

(2) Shipping or authorizing the shipment of such advertising matter in commerce to bottlers or dealers handling NuGrape sirup or beverage, or to any other person whomsoever, or at all.

(3) Using or authorizing the use on bottles or other containers of NuGrape beverage of words, pictures, or symbols of the character described in paragraph (1) hereof.

(4) Using or authorizing the use of the name " NuGrape," whether on advertising matter relating to the sirup or beverage NuGrape, or on bottles or other containers of the beverage NuGrape, without accompanying the said name "NuGrape" in every instance with an explanation in close proximity to the word " NuGrape" and in letters at least one-half as high and one-half as wide as the letters used in the accompanying word "NuGrape," and of heaviness of color and style of lettering which will render them at least equally as conspicuous in proportion to their height and width as the letters in the accompanying word "NuGrape," which explanation shall contain the statement that NuGrape is an Imitation and Is not grape juice. The following may be used for this explanation: "Imitation grape--not grape juice."

Complaint No. 1200.--Federal Trade Commission v. Louis Batlin. Charge:
Unfair methods of competition are charged in that respondent engaged In the sale, as a jobber, of electroplated ware, causes to be stamped or impressed thereon the words "Sheffield," "Sheffield Plate Made in U. S. A.," and other similar designations containing the word " Sheffield," thereby tending to create the impression, contrary to fact, that such silver-plated ware was manufactured in Sheffield, England, and is of the high quality associated with genuine " Sheffield silver" and " Sheffield plate," and tending to Injure competitors who do not misbrand their products, 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, his agents, servants, employees, and representatives do cease and desist-From employing or using in connection with the sale of silverware which has not been made in Sheffield, England, the name "Sheffield" alone or in combination with any other name or with any word, sign, symbol, or device to describe or designate such silverware either by stamping or Impressing the name " Sheffield" thereon or in any other manner ; and

From making representations through advertisements, letterheads, or other stationery, or in any manner whatsoever, that he is the owner of or controls an establishment in which he manufactures the silverware which he sells, unless and until he actually owns and operates, or directly and absolutely controls, a manufacturing establishment wherein is made any and all

silverware by him sold or offered for sale by or through any advertisement or other representations of ownership of such an establishment.

Complaint No. 1202.--Federal Trade Commission *v*. W. H. May and B. V. May, partners doing business under the trade name and style May Hosiery Mills. Charge: Unfair methods of competition are charged in that the respondents, engaged in the manufacture and sale of hosiery, label and sell certain of their products as "Made of cotton and art silk in the U. S. A.," when in

fact said hosiery contains no silk whatever, thereby tending to deceive and mislead 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, W. H. May and B. V. May, doing business under the name and style of May Hosiery Mills, and their officers, agents, representatives, servants, and employees cease and desist from directly or indirectly using as labels or brands on hosiery sold by them, or on the containers thereof, or in advertisements thereof, the word " silk," or any modification thereof, unless (1) the hosiery on which it is used is made entirely of the silk of the silk worm, or (2) where the hosiery is made partly of silk it is accompanied by a word or words aptly and truthfully describing the other material or materials of which such hosiery is in part composed.

Complaint No. 1204.--Federal Trade Commission *v.* Puritan Silk Corporation, a corporation. Charge: Unfair methods of competition are charged in that respondent engaged in the wholesale distribution of fabrics advertises and sells certain of Its products as " Novelty silks" and " Puritan silks', when in fact said products are not made from silk, thereby tending to misled and deceive the purchasing public as to the quality of said fabrics, 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, Puntan Silk Corporation, its officers, agents, representatives, servants, and employees cease and desist from directly or indirectly using in any form, way, or manner whatsoever the word " Silk," or any modification thereof, to describe a fabric unless (1) the fabric to describe which it is used Is made entirely of silk derived from the cocoon of the -silkworm, or (2) where the fabric is made partly of silk is accompanied by a word or words aptly and truthfully describing the other material or materials of which such fabric is in parts composed.

Complaint No. 1205.-Federal Trade Commission V. W. C. Mahaffey, W. S. Mahaffey, and K. Hendricks, copartners trading as Mahaffey Bros. & Hendricks. Charge: Unfair methods of competition are charged In that the respondents, engaged in the printing of stationery, hold themselves out to be " Process engravers" and advertise and sell their products as " Process engraved" when In fact the process used by the respondents is not one of engraving but involves printing to resemble in appearance or simulate the Impression made from engraved plates, 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 testimony, the commission entered the following order:

Now therefore it is ordered that the respondents, W. S. Mahaffey, W. C. Mahaffey, and K. Hendricks, copartners trading as Mahaffey Bros. & Hendricks, and their representatives, agents, and employees, cease and desist--

From using the terms " Process Engravers," " Process Engraving," or the words " Engraving," " Engravers," or " Engraved," either alone or in combination with any other word or words, in their advertisements or upon their business stationery to designate or describe stationery sold by them, the lettering, inscription, or designs on which is or are not impressions from engraved plates or dies.

Complaint No. 1206.--Federal Trade Commission v. National Remedy Co., Charles S. Jones, Sadie E Jones, R C. Snell. Charge: Unfair methods of competition are charged in that the respondents, in the sale of stock and poultry medicines and remedies, misrepresent their retail dealers' contract as a mere agreement on the part of the retailer to place on sale the respondents'

products and to receive as compensation for said sales a percentage of the amount for which the remedies are sold, when In fact, said contract purports to bind the retailer to supply the respondent corporation with the names of at least 100 customers to whom the respondent corporation may send sales letters and to render to the respondent company monthly accounts of and remittances for the commodities sold during the life of the contract, failing in which the retailer shall immediately become Indebted for the amount of the Invoice value of the goods delivered, less a trade discount ; and in that the respondents intimidate and coerce dealers to make such payments by sending letters purporting to be written by and to be the demand of a collection agency which is in

fact pretended and fictitious, and by threatening legal proceedings, 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, National Remedy Co., its officers, agents, representatives, servants, and employees, and R C. Snell, cease and desist from directly or indirectly

(1) Falsely representing the nature and character of any instrument or document used in negotiating or consummating sales of poultry or stock foods, medicines, or remedies.

(2) Obtaining or attempting to obtain signatures of customers or prospective customers to contracts used by respondent which are or may become contracts for the sale of respondent's products, by false representations concerning the character, effect, and terms of said contracts, and more particularly by the use of false representations to the effect--(*a*) that its said products will be placed in the signer's store for display ; (*b*) that the signer is not to buy and pay for said products but will be allowed a commission of 33 1/3 per cent of the sale price thereof to the consumer as compensation; (*c*) that the agents of respondent will call periodically upon the signer to collect for, check up, and replenish. said goods; (*d*) that its contract is merely an order ; (*e*) that the agents of respondent would furnish to the signer blank forms for the list of the names of his customers and monthly inventories.

(3) In preventing the signers from reading its said contracts by trickery in (*a*) urging the signer to haste in affixing his signature ; (*b*) in soliciting the signer for his signature when customers arrive or when signer's attention is otherwise distracted ; (*c*) in holding its said contracts as to make it difficult or impossible for the signer to clearly see all or part of the said contract ; (*d*) falling to furnish the signer a copy of the contract he has signed.

(4) Soliciting or obtaining payment from the signers of its contracts by falsely stating or representing (*a*) that it has refused to accept products the signer has returned and storage charges are accumulating thereon ; (*b*) that It has placed a claim in the hands of a collection agency ; and (*c*) in writing the signers in the guise of a fictitious collection agency demanding payment therefor.

Complaint No. 1208.--Federal Trade Commission v. Reliance Varnish Co., B. G. Robertson and B. J Robertson, individually and as president and vice president, respectively, of said Reliance Varnish Co. Charge: Unfair methods of competition are charged in that the respondents offer and give substantial sums of money to employees of furniture and automobile manufacturers, with-out the knowledge or consent of the employers of said employees, to induce said employees to purchase the respondents' varnishes and allied products in preference to similar products of competitors of the respondent corporation, 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, Reliance Varnish Co., B. G. Robertson, and B. J Robertson, and each of them, their officers, agents, representatives, servants, and employees, cease and desist from giving or offering to give, either directly or indirectly, to superintendents, foremen, or other employees of their customers or prospective customers, without the knowledge and consent of such customers or prospective customers, any sum or sums of money, whether such money be given or offered--

(1) As Inducements to Influence said employees to purchase from respondents, or any of them, any varnish or other product for and on behalf of the employers of said employees.

(2) As inducements to influence said employees to recommend such purchases to their employers.

(3) Or as rewards for having induced such purchases by their employers.

It is further ordered that said respondents, their officers, agents, representatives, servants, and employees, cease and desist from directly or indirectly giving or offering to give to such employees of their customers or prospective customers, without the knowledge and consent of such customers or prospective customers, any sums of money or other things of value for any purpose whatsoever.

Complaint No. 1209.--Federal Trade Commission *v*. Jacob C. Winter and Titus A. Smith, partners doing business under the trade names and styles

J C. Winter & Co. and Key West Cigar Co. Charge: Unfair methods of competition are charged in that the respondents, engaged in the manufacture of cigars in the State of Pennsylvania, advertise and sell their product as " Key West Perfectos" and thereby tend to mislead the purchasing public Into the belief that the respondents' cigars are manufactured in the Key West district from the Havana tobacco there used, 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 ordered that the respondents, Jacob C. Winter and Titus A. Smith, partners doing business under the trade names and styles of J C. Winter & Co. and Key West Cigar Co., their agents, representatives, and employees, cease and desist from directly or indirectly using the words "Key West" alone or in combination with any other word
or words on labels, brands, or legends on cigars or on the containers thereof, or in advertisements used in connection with the sale or distribution of such cigars, if such cigars are in fact not made in the city of Key West or In the Key West district in the State of Florida and are not manufactured from tobacco grown on the island of Cuba.

Complaint No. 1217.--Federal Trade Commission V. Mitchell Blank, doing business under the trade name and style Hagen Import Co. of New Jersey. Charge: Unfair methods of competition are charged In that the respondent, engaged in the purchase of merchandise in the United States for resale, tends to mislead and deceive the purchasing public to believe that he is an importer dealing In imported commodities by using the trade name " Hagen Import Co. of New Jersey," and In that the respondent tends to further deceive the public by advertising and labeling a domestic product as " Imported Bavarian Old Time Barley Malt Extract;" 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, Mitchell Blank, his representatives, agents, servants, and employees, do cease and desist from--

(1) Using and displaying the word " Import" or the word " Imported" in a trade name or in catalogues, labels, circulars, literature, advertisements, or otherwise in connection with the sale of goods, wares, or merchandise which is not imported into the United States from a foreign country.

(2) Using the label " Imported Bavarian Old Time Barley Malt Extract," or any mark or brand or label bearing the word " Imported," either alone or in combination with other word or words, to designate and describe a barley malt extract or other product which is not Imported Into the United States from a foreign country.

(3) Using In soliciting orders or making sales of barley malt extract the word " Bavarian," either alone or In combination with other word or words, upon the container or label of an extract of barley malt unless said extract of barley malt was made in Bavaria, a foreign country, and imported into the United States.

(4) Representing or advertising by means of letters, circulars, newspapers, labels, brands, marking, or other means whatsoever, that the said respondent, Mitchell Blank, trading under the name and style of Hagen Import Co. of New Jersey, is an importer of goods, wares, or merchandise sold or offered for sale when said statement or representation is untrue and false.

Complaint No. 1220.--Federal Trade Commission *v.* Bart & Guttman (Inc.), trading as the New England Manufacturing Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the purchase and resale of tablecloths, bedspreads, toweling, and similar

linen and cotton products, indicates by the use of its trade name and by picturing a mill or factory on its stationery and letterheads that It Is a manufacturer, when in fact it does not own, operate, or control a mill or factory ; and in that its pictorial representation of the mill or factory is in simulation of that appearing on the stationery of its competitor, Monument Mills, thereby tending to mislead the public to believe that it controls the mill or factory of its competitor or that the respondent and said Monument Mills are one and the same, 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 respondent, Barth & Guttman (Inc.), its agents, representatives, servants, and employees, do cease and desist from directly or indirectly:

(1) Doing business or trading in or selling bedspreads, tablecloths, toweling, or any other linen or cotton goods under the name or style of "The New England Manufacturing Co.," or "The New England Manufacturing Co. (Inc.)," or any other trade name which includes the word " Manufacturing," or any word or words of like import, unless and until said respondent actually owns or operates a factory or mill in which bedspreads, tablecloths, toweling, or other linen or cotton goods sold by it are manufactured.

(2) Advertising, describing, labeling, marking, or representing in any manner or form that respondent Is the manufacturer of the bedspreads, tablecloths, toweling, or other linen or cotton products which it sells or offers for sale, unless and until it is in truth and in fact a manufacturer of said products.

(3) Using the name "The New England Manufacturing Co." or "The New England Manufacturing Co. (Inc.)," or the word " Manufacturing," or any word or words of like import or any words, phrases. or sentences upon the order blanks, letterheads, or any other literature distributed by it in the course of Its business which indicate or create the impression that said respondent manufactures the bedspreads, tablecloths, toweling, or other linen or cotton goods sold or offered for sale by it, unless and until respondent does actually manufacture said articles.

(4) Using the picture or pictorial representation of a factory or mill, either alone or in conjunction with the name " The New England Manufacturing Co." or " The New England Manufacturing Co. (Inc.)," or the word "Manufacturing," or any word or words of like import upon its order blanks, letterheads, or other stationery or on any literature distributed by it in the course of its business which indicate or create the impression that respondent manufactures the bedspreads, tablecloths, toweling, or other linen or cotton articles which it sells or offers for sale, unless and until said respondent does actually manufacture said articles.

Complaint No. 1221.--Federal Trade Commission v. John P. Olsen, E W. Malang, and H. H. Hentschell, copartners, trading under the style and firm name of Ozark Creamery Co. Charge: Unfair methods of competition are charged in that the respondents prepare their butter in units weighing 3 ½, 7, and 14 ounces, respectively, and packed said units in cartons, correctly labeled as to weight of contents but resembling in shape and appearance the cartons in which the standard-weight units are packed, thereby placing in the hands of retailers an instrument which enables and encourages them to commit a fraud on the consuming public by removing said units from the correctly marked cartons for sale as standard-weight units of butter, 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 respondents, John F. Olsen, E W. Malang, and H. H. Hentschell, copartners, trading under the style and firm name of Ozark Creamery Co., and each of them, and their agents, employees, and servants, do cease and desist from selling or offering for sale, to distributors, dealers, or others butter In shapes, sizes, and/or dress in imitation of or resembling the standard or recognized shapes, sizes, or dress 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. 1230.--Federal Trade Commission v. F. W. Dobe. Charge: Unfair methods of competition are charged in that the respondent, engaged In the business of teaching mechanical drafting by correspondence, publishes various false and deceptive statements which

tend to mislead the public to believe that the respondent is a highly qualified and experienced draftsman at the head of the drafting department of a large and important enterprise ; that he will undertake to place his pupils in lucrative positions, and that the instructions, tools, equipment, and materials necessary for pupils will be given free of charge, 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, F. W. Dobe, his agents, representatives, servants, and employees, do cease and desist from directly or indirectly

representing orally or by written statement in the form of advertisements, letters, or otherwise:

(*a*) That respondent is at the head of a corporation engaged in the business of consulting engineer, and employing a large force of draftsmen, unless and until such be the fact.

(*b*) That respondent will furnish instruction capable of fitting a pupil to receive a salary of $250 or more per month, without charge other than the original cost of $90 for the said course, unless and until the average salary received by said pupils who have finished said course shall amount to $250 or more per month.

(*c*) That respondent will give free instruction to those pupils who assist In securing other pupils for the same course, unless and until such be the fact.

(*d*) That respondent will give free to pupils the necessary tools and supplies such as drafting instruments, drawing tables, boards, etc., needed in the prosecution of their courses, unless and until such be the fact.

(*e*) That a great demand exists in the United States for mechanical draftsmen at a salary of $250 or more per month, unless and until such be the fact.

(f) That upon finishing respondent's course of Instruction, pupils will have no difficulty in obtaining employment through respondent's efforts or otherwise at salaries of $250 or more per month, unless and until such be the fact.

Complaint No. 1235.--Federal Trade Commission *v.* Carmina Mustari and Cav. Francesco Bragimo, partners, doing business under the trade name and style Bramu Packing Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the sale of cooking and salad oils at whole-sale under the trade name " Granola," labeled their product to simulate In general appearance, color, and design the labeling and wrapping employed by the Corn Products Refining Co. in preparing for sale Its cooking and salad oil "Mazola," and in soliciting orders for and making sales of said Granola to retail dealers suggested that said Granola might be passed off to the consuming public as and for said Mazola, thereby tending to mislead the consuming 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 ordered that the respondents, Carmina Mustari and Cav. Francesco Bragimo, doing business under the trade name and style, Bramu Packing Co., their representatives, agents, servants, and employees, do cease and desist:

(1) From placing the word " Granola" upon the containers in which the oil sold and distributed by respondents is marketed.

(2) From selling or offering for sale or otherwise disposing of cooking or salad oil or other oil for food purposes in any container bearing any imitation of the word " Mazola" or so similar to the word " Mazola" in design or sound as to be calculated to confuse the oil product or products of respondents with the oil product " Mazola" of the Corn Products Refining Co.

(3) From selling or offering for sale or otherwise disposing of cooking or salad oil or other oil for food purposes in any container of yellow and brown coloring matter or design of dress in imitation of coloring matter and design of dress of the container of the oil product "Mazola" sold and distributed by the Corn Products Refining Co.

(4) From inducing and enabling or procuring retail dealers to substitute cooking or salad oil or other oil for food purposes sold and distributed by respondents for the oil product "Mazola" sold and distributed by the Corn Products Refining Co. and from doing any other act or thing directly or Indirectly to cause the substitution of respondents' product or products for the product " Mazola" of the Corn Products Refining Co.

Complaint No. 1237.--Federal Trade Commission *v*. A. Singer and Charles Schaffer, partners, doing business under the trade name and style California Grape Growers Exchange. Charge: Unfair methods of competition are charged in that the respondents, engaged in the purchase and sale of California grapes in carload lots, simulate the name of the California Grape Growers Exchange, a marketing association of some 650 persons engaged In the production of grapes in the State of California, and thereby tend to mislead the purchasing public to believe that the respondents are the said marketing association or a sales agency thereof, 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, A. Singer and Charles Schaffer, do cease and desist from--

(1) Using as a trade name or trade-mark or label the name or words “California Grape Growers Exchange” or any other combination of words likely to be confused with the words “California Grape Growers Exchange"; and

(2) From using the words “California Grape Growers Exchange” on letterheads, billheads, advertising or otherwise, in connection with the sale of grapes.

Complaint No. 1239.--Federal Trade Commission *v.* J W. Murphy. Charge: Unfair methods of competition are charged in that the respondent, engaged in the publication of a weekly periodical simulated the name of the Saturday Evening Post, published by the Curtis Publishing Co., and sought to procure subscriptions to his periodical by misleading and deceiving the public to believe that the publication for which the respondent was soliciting subscriptions was the said Saturday Evening Post published by the Curtis Publishing Co., 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, J W. Murphy, cease and desist from directly or indirectly--

(1) Publishing or circulating a publication published by him at Burlington, Iowa, or elsewhere, under the name or designation “The Saturday Evening Post,” or soliciting subscriptions or advertisements therefor ; and

(2) Using, employing, or appropriating said name or designation In any manner in connection with his publishing business.

Complaint No. 1240.--Federal Trade Commission *v.* Sandow Tool Co., a corporation. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of machinists’ small tools, caused certain of its steel rulers to be stamped with the brand or legend “B & S,” in simulation of the well-known mark by which the products of the long-established Brown & Sharpe Manufacturing Co. may be identified, 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 testimony, the commission entered the following order:

It is now ordered that the respondent, Sandow Tool Co., its officers, agents, representatives, servants, and employees, cease and desist from-

(1) Imprinting or stamping the trade-mark or brand “ B&S” upon the products manufactured and sold by it ; and

(2) Using, employing, or applying said trade-mark or brand in any manner in connection with the sale of its said products.

Complaint No. 1249.--Federal Trade Commission *v.* New York Twine Mills Company (Inc.). Charge: Unfair methods of competition are charged in that the respondent, engaged in the purchase and resale of twine, string, and other cordage, and having no mills of Its own, tends to mislead and deceive the trade and consuming public by the use of the word “Mills” In its corporate name, thereby indicating that it is a manufacturer and that its customers by dealing with the respondent save the profits of middlemen, 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, New York Twine Mills Co. (Inc.), its successors, officers, directors, agents, servants, and employees, cease and desist from doing

business under the corporate name and style of New York Twine Mills Co., or any other corporate name which Includes the words "Twine Mills" or "Mills" unless and until such respondent actually owns or operates a mill or mills in which it manufactures the products which It sells.

Complaint No. 1255.--Federal Trade Commission *v.* Civil Service School (Inc.), Charge: Unfair methods of competition are charged in that the respondent, engaged in the business of giving courses of instruction by mail designed to enable students to pass the examination of the Civil Service Commission, makes numerous false and misleading statements directly asserting or importing and implying that the respondent is an agency of or is connected with the Civil Service Commission, and is engaged in securing employees for the Government which seeks to obtain employees through the instrumentality

of the respondent that the president of the respondent was formerly an examiner in the employ of the Civil Service Commission, and that the respondent guarantees employment in that department of the Government for which its students or prospective students are seeking to qualify themselves 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 ordered that the respondent, Civil Service School (Inc.), its officers, agents, representatives, servants, and employees, do cease and desist from--

(1) Using and displaying the words "Civil Service" in its corporate name or upon its letterheads, stationary, letters, advertisements, circulars, literature or other advertising matter or otherwise in connection with the solicitation for customers or students or the sale of its course or courses of instruction.

(2) From publishing and circulating, or causing to be published and circulated throughout the various States of the United States, advertisements, circulars, booklets, letters, circular letters, literature, or any other printed or written matter wherein it is stated, implied, or imported or held out to the public--

(*a*) That it is a part of the United States Government or of the United States Civil Service Commission or in any manner connected therewith.

(*b*) That the United States Government is in need of employees to be selected, appointed and employed from the register of eligibles of the United States Civil Service Commission when such is not the fact.

(*c*) That the United States Government is seeking employees through respondent.

(*d*) That its customers or students will secure employment in the civil service of the United States.

(*e*) That an examination or examinations prescribed by Civil Service Commission is or are pending when not announced by said Civil Service Commission.

(*f*) That R. E. Terry, respondent's president, formerly was an examiner of the United States Civil Service Commission.

(*g*) That respondent guarantees to its customers or students employment by the United States Government.

Complaint No. 1277.--Federal Trade Commission *v*. Boni & Liveright (Inc.), Charge: Unfair methods of competition are charged in that the respondent advertised its " Modern Library " volumes as " bound by hand in limp leather" and "hand bound in flexible style," when In fact said books were bound in a cloth binding simulating leather in texture and appearance but containing no leather whatsoever, thereby tending to mislead and deceive the purchasing public and to injure competitors who sell books bound in heather, 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, Boni & Liveright (Inc.), its agents, employees, and representatives, to cease and desist from--

(I) Using or employing the words "Limp Leather" or "Limp Croftleather," in advertising literature catalogs, pamphlets, or otherwise, to describe the binding of books which are bound with any material other than leather; or

(II) Using or employing the words " Limp Croftleather" upon the covers of books which are bound in materials other than leather; or

(III) Using or employing the word " Leather," either alone or in combination with any other

word or words, except the words “Imitation,” “Artificial,” or “Substitute,” to describe the bindings of books which are bound in material other than leather.

2. ORDERS OF DISMISSAL

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.

Disposition: Dismissed without prejudice after hearing.

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.

Disposition: Dismissed without prejudice.

Complaint No. 424.--Federal Trade Commission v. Lautz 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 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 for 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 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.

Disposition: Dismissed, respondent having gone out of business.

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.)

Disposition: Dismissed, the practice of guaranteeing the price of a commodity against decline being not in and of itself an unfair method of competition within the intent and meaning of the Federal Trade Commission act. Commissioners Nugent and Thompson dissenting.

DISSENT OF COMMISSIONERS THOMPSON WITH CONCURRENCE OF COMMISSIONER NUGENT

The commission (by majority vote) has issued orders to dismiss cases under Docket Nos. 425, 426, and 522, in each of which it was alleged that the respondent was using an unfair method of competition in agreeing to guarantee its jobbers against any subsequent decline in price of soap that it might name. The length of the time of the guaranty in the several cases differs.

While not treating the cases as joined, a majority of the commission has dismissed them with identical orders, which state that " the practice of guaranteeing the price of a commodity against decline is not in and of itself an unfair method of competition within the intent and meaning of the Federal Trade Commission act.

I regret that I am unable to concur in the dismissals for several reasons. First, I believe that the members of the industry to which the respondents belong are victims of a system, not of their own desire but inevitable in an industry when any corporation of sufficient financial power can put into practice a guaranty against decline In price, since all of the others are compelled to do likewise. Second, I dissent from the reason given for the dis-

missals, especially in view of the fact that it goes far beyond the position taken by the commission on February 15, 1921, when, after a most exhaustive investigation in conference or " trade practice submittal with many industries in regard to the aforesaid practice, it said that it would " consider each case of complaint of this character upon the facts shown in the specific case, applying the legal tests thereto." On that occasion more than 350 manufacturing and selling concerns, including trade associations, were represented, and all the then members of the commission were present. No testimony was taken, nor was there anyone present representing the public or the retail trades. There were, however, among those present many differing views expressed both for and against the practice.

Among the many statements made against the practice were the following: That it tended to produce overbuying and speculation on the part of the jobbers who purchase more than they would on a pure price-competition basis; that manufacturers hold up the decline as long as possible if guaranties are out, thus producing higher prices than supply and demand justified; that on a rising market the jobber gets the profits and not the manufacturer, and therefore should bear the loss ; that manufacturers do not get any guaranties on the raw materials they purchase for their products, while they are put to the expense of providing for funds necessary to meet a decline in their manufactured article that may be forced upon them; that this expense is added to the cost of the manufactured article and eventually the ultimate consumer pays it; that the practice puts a premium upon ignorance, inefficiency, inexperience, and incompetency eventually to the detriment of the ultimate consumer; that it gives a larger manufacturer a decided advantage over a small one who may not have as large a surplus for emergency but who is otherwise a good and efficient merchant ; that it produces sales of a product on the basis of the merchant's credit rather than the quality of his product; that one manufacturer guaranteeing against decline in price forces the entire industry to follow, since the jobber will not patronize the one who does not guarantee when others do ; that no benefit accrues to the purchasing public, since the retailer, on a falling market, moves the goods on his shelf first, these goods having carried their part of the overhead expense of the warranty from the manufacturer to the jobber; that under the system the least progressive and most speculative jobber benefits the most, as he gets the largest rebates ; that the final cost of all rebate paid by the manufacturer falls upon the consuming public; that since the practice encourages overbuying it brings on a reaction in the form of a slump, thus producing over certain periods of time an unstabilized market causes an increased number of failures and thereby wipes but many competitors who have to pay rebates on a falling market and who were forced into the practice against their will.

There were a number of reasons given in favor of the practice and many of those present supported them. As none of the statements for or against the practice were based on the cross-examination of witnesses under oath, and as neither the public nor any of the representatives of the retail trade were present some members of the commission could not reach a final conclusion as to the propriety of the practice, and, as there was also a difference of opinion among the members, it was resolved that in the future all cases coming before it would be tried on the facts in the particular case.

So far as I am aware, no additional study had been made by the commission. In view of its declaration then made and the injunction laid upon the commission In section 5 of Its act that It should consider unfair methods of competition in the light of "the interest of the public." I am of the opinion that we should not dismiss the cases under consideration or others that may come before us under the general declaration that, regardless of the facts in a case, the practice of guaranteeing the price of a commodity against decline is not an unfair method of competition.

If it is true that all merchants are required to give the guaranty when one starts it; if it causes

an additional expense to the manufacturer which expense is carried on down to the ultimate consumer ; if it causes careless buying on the part of the jobbers which does not benefit but injures the ultimate consumer, and if the practice on a declining market causes a number of failures of competitors, then it would seem that in the public interest this practice should at least raise a question as to its fairness.

It has been asserted that this practice is a so-called economic one and is not of such a legal character that it would come within the jurisdiction of the commission over unfair methods of competition. This same argument was

made in regard to the so-called "Pittsburgh base" method of competition in the steel industry when that method was under consideration in the case of the Commission *v.* the United States Steel Corporation. There, too, a great conference was had with men engaged in that industry and many ex parte statements, made in good faith, were presented to the commission. Upon considering these statements the commission dismissed the case and thereby upheld the practice. At that time I dissented from the commission's order, and among my reasons gave the one that I now urge--that while the practice might be an economic one, yet it also might appear when witnesses were subjected to examination and cross-examination under oath), to be condemned by section 5 of the Federal Trade Commission act. Subsequently the commission having before it the record of a most searching and careful trial of the facts, issued an order forbidding the so-called Pittsburgh base" practice. The final record in that case revealed the fact that the economic practice was at the same time an unfair method of competition.

It has been further asserted that when all those engaged in an industry indulge In a practice such as that involved herein it can not be unfair to any of the competitors, but that idea was destroyed by the Supreme Court of the United States when it held in the case of the Winstead Hosiery Company *v.* Federal Trade Commission that the test was whether the method there condemned was unfair to the public. Of course, the practice in the Winstead case was in no sense similar to the one here, but it would seem to me that the test would be the same.

ln the practice here considered, if it were to appear, as it does in at least two of the cases under consideration, that the respondent was compelled to use the practice; that it caused loss and waste for which the ultimate consumer must pay; and that it had the effect of eliminating competitors who could not Indulge in the practice, or, having so indulged against their will, were caught In a falling market and put out of existence, then I believe that there would be reasonable grounds for considering this practice to be an unfair method of competition. It might be well also to consider in cases of this character whether modern business is not breaking down a principle born of long experience in the common law, namely, that once title and possession in property passes to another that there should be no legal responsibility cast upon those who no longer have possession or control of it

In Docket 522 there was no testimony taken. There was a stipulation in the record signed by the respondent in which it stated its belief that there was little, if any, benefit derived by the general public or the retail trade as a result of the rebates paid to the respondents. It also admitted that the effect of its practice was to give the respondent an undue and unfair advantage over competitors who were unwilling or financially unable to extend the jobbers' assurances or a guaranty against reduction in the price of the soap sold; that the practice encouraged jobbers to hold stocks in excessively large quantities in anticipation of a rise for the purpose of realizing a speculative profit to the injury of the public, and it deterred respondents from reducing the price list on their cost in accordance with the reductions in the manufacturing cost, all of which affected the public adversely.

In Docket 426 officers of the respondent company testified in substance that the company was forced to adopt the guaranty system because their competitors had done so; that while their guaranty system was on the price rose from $4 in April, 1916, to $7.75 in November, 1921; that they were unable to discontinue the practice so long as others continued it; that the practice is more popular on a rising market than on a declining one and has a tendency to reckless buying; that the respondent was compelled to pay a number of guaranties with money which it could have well used for other purposes on a falling market; that jobbers bought more heavily on a rising market because they felt safe.

Another witness in the same case testified that his company tried to shorten the period of time

of guaranty and to cut off guaranties on a rising market; that it withdrew the unlimited guaranty in 1916 because there was an abnormal condition and they wanted to curb the enormously increasing purchases by the jobbing trade, which purchases he felt were for speculative purposes; that in 1919 it paid out $150,000 direct losses on its guaranties; that increased purchases by the jobbers caused the retail merchants to do likewise.

In Docket 426, Mr. Lautz, formerly president of Lautz Bros. & Co., testified that the unlimited guaranty was a dangerous practice because in abnormal

times it promoted speculation; that his company had to give guaranties be-cause other companies did.

In all of these cases the witnesses were either officers of the several respondents or representatives of other companies in the same industry. No witness from the retail trade or representing the public was examined.

I have discussed the aforementioned cases in a group, not because they have been joined by the commission, but because the commission has considered them together and has issued an order in each which is identical.

For the foregoing reasons I dissent from the orders of dismissal in each of the said cases.

I concur. John F. Nugent, commissioner.

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.

Disposition: (Ante, complaint 425.)

Complaint No. 427.--Federal Trade Commission v. B. T. Babbitt (Inc.). Charge: Using unfair methods of competition in the sale of soap, soap powders, and other cleaning compounds, 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 for 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 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.

Disposition: Dismissed.

Complaint No. 428.-Federal Trade Commission *v.* Curtice Bros. Co. Charge: Using unfair methods of competition in the sale of canned-food products by making a practice of giving guaranties against declines in the list price of its canned-food products and of giving rebates to compensate its customers for such decline, thereby obtaining an unfair advantage over competitors, encouraging jobbers to hold excessive stocks for the purpose of realizing a speculative profit, to the injury of the public, and deterring respondent from reducing list prices in accordance with reductions in cost, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed without prejudice.

Complaint No. 429.--Federal Trade Commission *v.* Joseph Campbell Co. Charge: Using unfair methods of competition in the sale of canned soups, by guaranteeing its jobbers in the wholesale grocery trade against the decline in price of good 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 for 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 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.

Disposition: Dismissed, respondent corporation having been dissolved.

Complaint No. 522.--Federal Trade Commission *v.* Rub-No-More Co. Charge: Using unfair competition in the sale of soaps.

Disposition: (Ante, complaint 425.)

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 $195,750 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.

Disposition: Dismissed, Commissioners Nugent and Thompson dissenting. (Memoranda of dissent to be filed later.)

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 manufacturers 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, a 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 Stoehr a director of both the American Bottle Co. and the Graham Glass Co. since respondent acquired the capital stock of said companies.

Disposition: Dismissed after hearing. Commissioners Nugent and Thompson dissenting. (Memoranda of dissent to be filed later.)

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.

Disposition: Dismissed after hearing.

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.

Disposition: Dismissed after hearing.

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 l)y 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.

Disposition: Dismissed after hearing.

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. (Wimiteland, 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.

Disposition: Dismissed after hearing, Commissioners Nugent and Thompson dissenting. (Memoranda of dissent to be filed later.)

Complaint No. 801.-Federal Trade Commission *v.* Adolphe Scimwobe (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 im-porting 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.

Disposition: Dismissed, Commissioner Nugent dissenting.

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.

Disposition: Dismissed.

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.

Disposition: Dismissed.

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.

Disposition: Dismissed.

Complaint No. 880.--Federal Trade Commission *v.* Douglas Fir 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.

Disposition: Dismissed, Commissioner Thompson dissenting.

DISSENT OF COMMISSIONER THOMPSON

I dissent from the decision of the commission in the above-entitled cause of action for the reason that, in my opinion, the Douglas Fir Exploitation & Export Co. and the 107 other respondents, comprising 79 lumber companies and 28 individuals, are guilty, both on the law and the facts, of unfair methods of competition done in the furtherance of a conspiracy contrary to Section 5 of the Federal Trade Commission act.

This proceeding is the outgrowth of an extensive investigation of the entire lumber industry of the United States by the commission, covering among others

activities of the West Coast Lumbermen's Association, which includes in its membership most of the respondent lumber companies named in this complaint. The facts were reported to Congress on June 9, 1921, charging curtailment of production, price control of logs and lumber, concentration of supplies of Douglas fir in the hands of a few, enhancement of prices, affiliating with British Columbia loggers for the purpose of continuing the advancement of prices, exchanging with southern pine and western pine manufacturers notices of price action for the purpose of securing harmonious prices, and other charges, all of which were supported by letters, documents, and data of the manufacturers of Douglas fir and other lumber.

On May 3, 1922, the Federal Trade Commission issued a complaint against the Douglas Fir Exploitation & Export Co. and 107 others charging them with a conspiracy to hinder and obstruct competition in the sale and distribution of lumber in interstate and foreign commerce. It should be noted at this juncture that the respondent Douglas Fir Exploitation & Export Co. as named in the complaint is a corporation organized and existing under and by virtue of the laws of the State of Washington in 1913, and in active operation since 1916.

The respondents were charged with meeting together from time to time during the period covered from 1916 to 1922, fixing prices and terms at which they agreed to and did sell lumber in interstate and foreign commerce; and in furtherance of the conspiracy to hinder and obstruct competition 17 separate overt acts were alleged, including affiliation with the West Coast Lumbermen's Association for the purpose of developing a monopoly in the manufacture and sale of lumber.

On February 21, 1923 with the approval of the commission, the conspiracy charge of the complaint was amended by language charging an overt act to the effect that from 1915 to 1922. with the aid and assistance of the West Coast Lumbermen's Association. the Pacific Lumber Inspection Bureau, and the Douglas Firm' Exploitation & Export Co , respondents did fix prices and terms at which they would agree and did agree to sell lumber and logs in commerce, compelling purchaser to buy upon a uniform price and upon uniform terms as fixed by them. The aforementioned association and bureau were not made parties to the suit, and hence would not be subject to any order of the Federal Trade Commission in the premises.

Practically all the respondents denied the allegations of the complaint and alleged. as a matter of defense, that the Douglas Fir Exploitation & Export Co. was an organization engaged solely in export trade within the meaning of an act of Congress approved April 10, 1918, known as the export trade act (Webb-Pomerene law). The respondents also moved to strike out said amendment which the commission had approved, but their motion was overruled.

After taking 6,000 pages of testimony with over 1,200 exhibits, and after consideration of oral argument and written briefs, the commission entered an order dismissing the complaint herein without prejudice.

It appears from the record in this case that the respondent companies and individuals heretofore referred to are engaged in and control to a large extent the manufacture and sale of Douglas fir lumber on the Pacific coast. About 80 per cent of their output is sold in the domestic market and distributed throughout the United States. The remaining 20 per cent is sold through the Douglas Fir Exploitation & Export Co. to exporters, f. a. s. at Pacific coast ports, for resale in foreign countries.

As to the 80 per cent sold in the domestic market, it is shown by a preponderance of evidence that respondents curtailed production, and agreed upon prices at which the lumber should be sold from 1915 to 1922, inclusive. In furtherance of the conspiracy respondents held meetings, exchanged correspondence, and operated an "open-price plan." Base-price lists, discount sheets, weekly barometers, and daily market bulletins were issued.

The West Coast Lumbermen's Association, although not named as a respondent in this case, served as a central agency through which meetings were arranged, price lists issued, the "open-price plan" developed and maintained, the production of lumber curtailed, and information incident to the furtherance of the conspiracy was distributed. Some of the respondents were officers and many were active member of the association.

Base price lists were compiled by committees, of which the respondents were active members, and were formally approved and adopted by the lumbermen's associations. They were shown to have been in use In the rail trade (ship-

ments by railroad from Pacific Coast States to inland and eastern points) and in the domestic-cargo trade (shipments by water from Washington and Oregon ports to California and other domestic ports) since 1909, and in sales to ex porters for resale to foreign countries since 1911. Prices on base price lists represented the market values on detailed specifications of lumber (fir, cedar, spruce, and hemlock) as determined by respondents at the time the lists were compiled, and were revised from time to time as values increased. In some lists freight rates also were computed.

Base price lists were used as a basis for quotations, and current "discount sheets" were issued at more frequent intervals to cover market variations. These read "on" or "off" the prices quoted in the base list.

From 1915 to 1920 respondents agreed upon *32* uniform discount sheets in the rail trade. About 1920 there seems to have been some apprehension as to the legality of the uniform sheets and their compilation and adoption at price fixing meetings. Thereafter respondents issued individual sheets, open meetings for the fixing of prices were less frequent, and more reliance was placed upon the information afforded by the "open-price plan" of their trade association , the West Coast Lumbermen's Association, which in respondents' opinion would serve the same purpose as the uniform discount sheet.

Under the " open-price plan " market information and trade statistics were collected and disseminated by the trade association. Weekly and daily reports were made by the respondents and other lumber manufacturers, and from these reports the weekly "barometer," the "daily market bulletin," and other reports were compiled.

The "barometer" took the place of the old-fashioned meetings for the purpose of curtaining production (of which meetings there is abundant evidence during 1915, 1916, and 1917). It is a compilation of statistics on volume of production and orders shipped and unshipped in the rail, domestic cargo, and export trade, and includes a graphic "barometer" showing at the center a point of "normal production" arbitrarily determined, with a colored mercury running up the barometer tube to represent the percentage relationship of Shipments and orders to production. If the point of "normal production" is approached too closely, thus serves as a warning to curtail manufacture. Seven hundred and fifty copies of the barometer were distributed each week.

The "daily market bulletin," which took the place of the uniform discount Sheet, was compiled from daily reports on prices made by the respondents and other lumbermen to their trade association. The bulletin covered the total volume of sales during one day, the high price, the low price, and a "prevailing price," which was computed by the association from the combined reports, and these statistics were based on actual orders taken in the rail trade. Six hundred and ninety-one copies of the daily market bulletin were distributed each day to the general public and 237 copies to the manufacturers contributing this information for compilation.

The extent of the respondents' affiliation with the West Coast Lumbermen's Association and the value of the "open-price plan " and other facilities afforded by the trade association are reflected in the fact that these respondent lumber companies pay to the association each year more than $100,000 for membership dues alone.

The respondent's "open-price plan" is practically identical with the "open competition plain" condemned by the Supreme Court in the American Column & Lumber Co. *v*. United States, *257* U. S. 377. The barometer and sales reports are similar to those used by the Maple Flooring Manufacturers's Association' and meld to be unlawful in United States v. Maple Flooring Manufacturers' Association. (District Court of the United States for the Western District of Michigan, S.D., December 19, 1923.) The same system of basic lists, discount sheets,

barometers, and market reports was used by the Southern Pine Association and condemned by the Department of Justice in a bill Inn equity filed against that association and others in the District Court of the United States, Eastern District of Missouri, in 1921.

Not only were prices fixed and price lists issued by the fir manufacturers but the evidence in this proceeding shows numerous admissions by the respondents that they adhered to prices agreed upon. Respondents' salesmen and agencies are distributed throughout the United States. It is therefore apparent that home builders all over the country have been affected by this price control.

As to the remaining 20 per cent of the respondents' output which was sold to exporters on the Pacific coast, there is evidence to substantiate the charge that in an effort to monopolize the business of manufacturing fir lumber for sale to exporters, and to control the prices and terms of sale at which said exporters must buy, the respondent individuals and companies conspired to hinder and obstruct the operation of independent competitive mills and also restrained the trade of export houses selling in competition with the respondent Douglas Fir Exploitation & Export Co.

On the one hand, respondents threatened and coerced independent competitive mills to join the conspiracy in order to curtail the supply of exporters buying from the independent mills. On the other hand, attempts were made to force exporters to deal exclusively with the respondents (later modified to 85 per cent of the exporter's purchases, but all purchases were required to be at prices fixed by respondents) in order to curtail the market and control the prices of competitor mills. As stated by one respondent: "Our only hope is to make things so hard for them that they will be compelled to Join us for their own salvation." Price cutting in special markets, price agreements with Canadian mills and with inland or "rail" mills in Oregon and Washington, an attempt to curtail steamship facilities of competitors, and other unfair means were used in furtherance of the conspiracy to control the manufacture and sale of fir lumber to exporters and to hinder and obstruct the trade of competitive mills and of export houses selling in competition with the respondent Douglas Fir Exploitation & Export Co.

Respondents attempt to justify their acts by a plea that they are operating in accordance with the provisions of the export trade act (Webb-Pomerene law) , and that the only course that the commission may pursue is a proceeding under section 5 of that act. This contention is without support in the face of the facts presented. The export trade act grants exemption from the antitrust laws to an association organized for the purpose of and solely engaged in export trade, "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."

In view of this provision the export trade act can not be cited as a justification or excuse for the acts of these respondents in a conspiracy to fix prices and lessen competition in the domestic market and to restrain the export trade of domestic competitors. Nor is there anything in that act that circumvents or limits or controls the powers of the commission to proceed under the Federal Trade Commission act to prevent persons, partnerships, or corporations from using unfair methods of competition in interstate and foreign commerce.

In a proceeding under the Federal Trade Commission act the operation of the Douglas Fir Exploitation & Export Co. as an association under the export trade act is not at issue. That association is not a party to this proceeding. The respondents in this complaint are 28 individuals, 79 lumber companies, and the Douglas Fir Exploitation & Export Co. as a corporation of the State of Washington, incorporated in 1913 and in active operation since 1916. The violations charged cover a period from 1915 to 1922, beginning several years prior to the passage of the export trade act in 1918, and include activities of the respondents far beyond those for which an export association might hope to claim exemption under the export trade act ; i.e.:

(1) Controlling the production and price of fir lumber for sale to domestic consumers

throughout the United States; and

(2) Hindering and obstructing the trade of competitors in an effort to monopolize the business of manufacturing fir lumber for sale to exporters and to control the price and terms of sale at which said exporters must buy for resale in their foreign business.

As to that portion of the respondents business, 20 per cent, in which sales are made to exporters, respondents alleged in defense that papers, including a proposed “policy,” were filed with the Federal Trade Commission, that the commission neither approved nor disapproved the papers, and that therefore the silence of the commission was a “complete justification" for respondents’ acts. The mere filing of papers, however, did not place the commission in a

position to rule in advance upon the operation of the proposed policy. The motives that lay behind that policy were not divulged. The commission was not advised that it was the purpose of respondents to force independent competitors out of business or into the respondents' organization, in order to form a monopoly so complete as to dominate the business of selling fir lumber to exporters and to control the price and terms of sale at which said exporters must buy. It was not possible to foresee the violations of law which are now brought out by the testimony and evidence in this proceeding. The silence of the commission or the failure to rule in advance can not now be cited as a "complete justification" or any justification of the respondents' acts.

Moreover, this defense applies only to respondents' sales to exporters ; it does not controvert charges of violation in manufacture and sale in the domestic market, which is 80 per cent of the respondents' business.

Respondents contend that the proceeding should be dismissed on the ground that the complaint was amended and that the amendment constituted an entirely new cause of action relating to an entirely new subject matter and relating to entirely new persons who were not even made parties to the suit. The amendment, however, as hereinbefore stated, merely added an overt act to the conspiracy already charged. No new parties were added, and there can be no defense of surprise in view of the fact that the original complaint had charged the respondents with affiliation with the West Coast Lumbermen's Association, and considerable testimony and evidence had been introduced to show that respondents had obtained the aid and assistance of that association and of the Pacific Lumber Inspection Bureau. The association and the bureau were not made respondents, no order could be entered against them, and they could not be heard to complain as to the amendment. Can it be contended seriously that dismissals should be predicated upon such a defense as this?

In my opinion, the evidence and the law in this case justified an order under section 5 of the Federal Trade Commission act requiring the 108 respondents to cease and desist from conspiring and doing the acts charged in the complaint, and the commission erred in entering an order dismissing the complaint "without prejudice." Presumably the language "without prejudice " reserves the right to the commission to reinstate the case at any time, using the evidence now at hand in addition to what may be hereafter taken, and does not deter-mine whether the methods used by the respondents are disapproved.

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.

Disposition : Dismissed after hearing, Commissioner Nugent dissenting.

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.

Disposition: Dismissed after hearing, respondent having in only one instance followed the practice complained of, and having agreed that the offence will not be repeated; Commissioner Nugent dissenting.

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, 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.

Disposition: Dismissed, the charges being included in the complaint in Docket No.1276.

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 thereafter 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.

Disposition: Dismissed, Commissioner Thompson dissenting.

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.

Disposition: Dismissed without prejudice, Commissioner Thompson dissenting.

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.

Disposition: Dismissed without prejudice. after hearing, for hack of public Interest. Commissioners Nugent and Thompson dissenting. (Memoranda of dissent to be filed later.)

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 business 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 stoppers, 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.

Disposition: Dismissed.

Complaint No. 917.--The American Tobacco Co., 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.

Disposition: Dismissed without prejudice, after hearing. for lack of public Interest, Commissioners Nugent and Thompson dissenting. (Memoranda of dissent to be filed later.)

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 purchases 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.

Disposition: Dismissed after hearing, Commissioners Nugent and Thompson dissenting.

DISSENT OF COMMISSIONERS THOMPSON AND NUGENT

We are unable to agree with the majority in directing the dismissal of this case for the following reasons :

Respondent association was charged with concerted action to coerce manufacturers into guaranteeing jobbers against loss on unsold goods resulting from a decline in the manufacturers' selling price. The association filed its answer denying the main allegations of the complaint, and evidence was taken before an examiner, after which the case was briefed and argued orally before the commission. The facts were as follows :

Respondent association includes more than 85 per cent of all the wholesale grocers located in the lower peninsula of Michigan and is in a position to accomplish results for its members in keeping with the strength of its combined membership. Other things being equal, wholesalers naturally prefer to deal with manufacturers who guarantee their product against decline and who rebate to the jobbers on their unsold stocks when a decline occurs. One of the effects of a guarantee against decline, and of this respondent jobbers were well aware, is that It places all jobbers on an equal cost basis and thus nullifies the competitive advantage of those who might buy on the decline when prices were lower.

When prices declined in 1920 and 1921 respondent associations's secretary formally advised his members that if he were a buyer he "would favor buying from those manufacturers who gave some semblance of protection against decline." Shortly after this the secretary in a bulletin to his members strongly criticized and condemned the policy of a certain manufacturer in refusing to guarantee against decline and to rebate the jobbers on unsold stocks and advised them, " It seems to me that if this Is the policy of these people, then in the future I would look to the manufacturers who give some semblance of protection."

The advantages of patronizing manufacturers who guaranteed against decline and the admonitions of the secretary to give preference to them brought forth a number of requests from the members for a list of guaranteeing manufacturers. The president of the association testified that such a list was especially useful to newer members of the association, that the older members discussed the possibility of the newer ones changing their policy, and that the manufacturers guaranteeing against decline thought they should be given the preference by jobbers in purchasing as against the non-guaranteeing manufacturers. Under these circumstances a list of nearly 100 manufacturers who guaranteed their products against decline was circulated among the members of respondent association. The secretary admitted under oath that his purpose In circulating this list was to supply information so that members who had been buying from manufacturers not guaranteeing against decline might transfer their patronage to the manufacturers of similar products named on the list circulated. The president of the association testified that the list was valuable particularly to new members as " a guide to a buyer who was not acquainted where he could buy various products that were guaranteed as against some manufacturers who did not guarantee." It was the plain purpose and intent of the foregoing acts to bring about a refusal to patronize non-guaranteeing manufacturers.

In the so-called Gratz case the Supreme Court held that practices may amount to unfair methods of competition under the Federal Trade Commission act when they are " against public policy because of their dangerous tendency unduly to hinder competition " *(253* U. S. 421).

This principle was reaffirmed in the Beech-Nut case (257 U. S. 441). In the Gratz case Mr. Justice Brandeis elaborated the doctrine of " dangerous tendency." While his was a dissenting opinion. the statement here quoted was in no way in conflict with the language of the majority opinion. He said :

"If it (the commission) discovered that any business concern had used any practice which would be likely to result in public injury--because in its nature it would tend to aid or develop into a restraint of trade--the commission was

directed to intervene before any act should be done or condition arise violative of the antitrust act. * * * Its purpose in respect to restraints of trade was prevention of diseased business conditions, not cure."

Mr. Justice Brandeis quoted to the same effect from the report of Senator Cummins in submitting the bill to the Senate which declared unfair methods of competition unlawful.

There is no question that if a boycott had actually taken place these respondents would have been guilty of violating the antitrust act. In my judgment therefore this is lust the sort of case that the Federal Trade Commission was created to handle, since it involves a practice which "in Its nature would tend to aid or develop into a restraint of trade" and the commission should act before "a condition arise violative of the antitrust act."

As a matter of fact the Federal courts have held that a dangerous tendency toward restraint of trade is enough to constitute a violation of the Sherman Antitrust Act. In Swift & Co. *v.* U.S. (196 U.S. 375) the Supreme Court stated that where acts are not sufficient in themselves to produce a forbidden result :

"An intent to bring it to pass is necessary in order to produce a dangerous probability that it will happen. But when that intent and the consequent dangerous probability exist, this statute, like many others and like the common law in some cases, directs Itself against that dangerous probability as well as against the completed result."

In two trade association cases the Supreme Court held that such practices were a violation of the Sherman Act. because of "inevitable tendency" and "necessary tendency "to destroy competition. (U. S. *v*. American Linseed Oil Co. et ah. and U. S. *v*. American Hardwood Lumber Co. et al.) In Lawler *v*. Loewe (235 U. S. 522) the Supreme Court. held that" irrespective of compulsion or even agreement to observe its intimidation, the circulation of a list of unfair dealers manifestly intended to put the ban upon those whose names appear therein, among an important body of possible customers, combined with a view to joint action and in anticipation of such reports is within the prohibition of the Sherman Act, and it is Intended to restrain and restrains trade among the States."

In the present case all non-guaranteeing manufacturers were condemned as unfair, one of them by name, and admonitions were given not to buy their goods. Then the names of guaranteeing manufacturers were circulated, admittedly serving the identical end as a list of non-guaranteeing manufacturers.

The issue here is whether the commission must wait until trade has already been restrained by an actual boycott before it can act or whether it should forbid a practice, the intent and tendency of which is to create a boycott and thus restrain trade. There has been some criticism in business circles because the commission is not authorized under the law to give advisory advance opinions on matters involving business practice. here is an opportunity provided by law for the commission to express an opinion concerning a certain trade practice already taken place before some other trade associations embarks upon an enterprise similar to that of these respondents. The case has been dismissed without any statement] to respondents that their intentions and actions were unlawful or wrongful and without any stipulation on the part of respondents that they will not again indulge therein. In the absence of any findings upon which to base the order or enlighten the public or the business world the effect of the dismissal must necessarily lead the respondent association and other trade associations throughout the country to believe that there is nothing unfair or unlawful in attempting to use their organizations as blacklisting and boycotting agencies.

For these reasons and because the acts of respondent association were so clearly within the purview of the act creating the commission and the principles and precedents adopted by the

Federal courts in restraint of trade cases, we dissent from the action of the commission dismissing this case.

REPLY TO DISSENT OF COMMISSIONERS NUGENT AND THOMPSON, BY COMMISSIONERS VAN FLEET, HUNT, AND HUMPHREY

It is fundamental law that a judgment must be based on the allegations of a complaint and that if the complaint is not proved the case must fall. Also the complaint must state a cause of action and if it does not no order can be entered thereon. This was decided to apply to proceedings by this commission by the Supreme Court in the Gratz case. (253 U. S. 421.)

The charge in this case was that respondents united to and did coerce certain manufacturers to give guaranty against; decline in price. The proof was that no such thing occurred. One of the regular trial examiners of the commission was appointed to take the evidence in this case and to make and report to the commission his finding of the facts. He did so. After a full hearing and argument the majority believes his finding to be correct. His finding on this point is as follows :

"There is no evidence in the record of any concerted action on the part of the members of the association and no evidence of any policy or plan to coerce or attempt to coerce manufacturers in guaranteeing against price decline."

The complaint charged the respondents with doing these things and the proof showed that they did not do these things. And yet the minority dissents! In fact the minority does not claim that the complaint was proved but thinks the commission should issue an order against the respondents to "cease and desist" something they never did, because in their opinion there was a "dangerous tendency" on the part of respondents to do it. The idea seems to be to order them to cease and desist from ever thinking of doing any such thing. In the opinion of the majority the jurisdiction of the commission is not so broad.

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-syrup 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.

Disposition: Dismissed after hearing, commissioners Nugent and Thompson dissenting. (Memorandum of dissent; by Commissioner Thompson to be filed later.)

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.

Disposition : Dismissed.

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 under 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.

Disposition : Dismissed.

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, thus tending to obstruct commerce and freedom of competition, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed without prejudice, after hearing, Commissioner Nugent dissenting.

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.

Disposition : Dismissed.

Complaint No. 958.--Commission *v*. Ohio Dairy Co. Charge : Unfair methods of competition in commerce are charged in that respondents'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 quality 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.

Disposition : Dismissed.

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 p rice at which the members o f 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.

Disposition : Dismissed without prejudice, after hearing, for lack of public interest, Commissioners Nugent and Thompson dissenting. (Memoranda of dissent to be filed later.)

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.

Disposition : Dismissed without prejudice for lack of public interest. Commissioners Nugent and Thompson dissenting. (Memoranda of dissent to be filed later.)

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 competition and restrain the natural flow of commerce, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : Dismissed without prejudice for lack of public interest. Commissioners Nugent and Thompson dissenting. (Memoranda of dissent to be filed later.)

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 Proctor & 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 Proctor & Gamble Distributing Co. in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : After hearing, the complaint was dismissed. no interstate commerce being shown. Commissioners Nugent and Thompson dissenting.

Complaint No. 1000.--Federal Trade Commission *v*. The Charles H. Elliott Co. Charge: Unfair methods of competition are charged in that the respond-

ent, 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.

Disposition : Dismissed without prejudice.

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 of 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 Sales Corporation, thereby misleading and deceiving the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : Dismissed.

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.

Disposition : Dismissed without prejudice for lack of public interest, Commissioners Nugent and Thompson dissenting. (Memoranda of dissent to be filed later.)

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 Egry Register Co., falsely asserting that a court decision in favor of the respondent has had the effect of canceling all orders placed with said Egry 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 Egry Co. and its customers ; falsely representing its register as superior in quality ; and circulating statements to the effect that the Egry 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.

Disposition : Dismissed.

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.

Disposition: Dismissed without prejudice, a new complaint incorporating other charges being issued against respondent Armand Co. et al.

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.

Disposition: Dismissed, practices charged having been discontinued. Commissioners Nugent and Thompson dissenting.

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.

Disposition : Dismissed.

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 their 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.

Disposition : Dismissed.

Complaint No. 1027.--Federal Trade Commission *v*. Panama Rice Milling Co. Charge: Unfair methods of competition are charged in that 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.

Disposition : Dismissed.

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.

Disposition: Dismissed without prejudice after hearing for lack of public interest, Commissioners Nugent and Thompson dissenting. (Memoranda of dissent to be filed later.)

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; l. Finkelstein, treasurer; W. F. Smulyan, secretary; their successors, and its members; Central Tobacco Jobbers' Association of Pennsylvania, an unincorporated organization, its officers, G. H. Stalhman, 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 subjobbers 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.

Disposition: Dismissed without prejudice for lack of public Interest, Commissioners Nugent and Thompson dissenting. (Memoranda of dissent to be filed later.)

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.

Disposition : Dismissed.

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 maintain, 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.

Disposition : Dismissed.

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 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.

Disposition : Dismissed, respondent having gone out of business.

Complaint No. 1046.--Federal Trade Commission *v.* Joseph Feldman and Gertrude Feldman, doing business under the name and style of Roxford Knit ting 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 Flonne 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.

Disposition: Dismissed without prejudice, as respondent could not be located.

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.

Disposition : Dismissed.

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.

Disposition : Dismissed without prejudice, for lack of public Interest, Commissioners Nugent and Thompson dissenting. (Memoranda of dissent to be filed later.)

Complaint No. 1071--Federal Trade Commission *v.* The C. T. Sweet Co., a. corporation. Charge : Unfair methods of competition are charged in that the respondents engaged in the sale of ship chandlery, offers and gives sums of money and other things of value to employees and representatives of steamship owners without; the knowledge or consent of such owners as an inducement to influence said employees and representatives to purchase from the respondent, In alleged violation of' section 5 of the Federal Trade Commission act.

Disposition : Dismissed after hearing, no interstate commerce having been shown, Commissioners Nugent and Thompson dissenting.

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 forcing said competitor out of business, In alleged violation of section 2 of the Clayton Act and section 5 of the Federal Trade Commission act.

Disposition : Dismissed after hearing.

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 import nature, qualities, and characteristics not possessed by said soaps, thereby tending to mislead and deceive the purchasing public in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : Dismissed, respondent being no longer engaged in the manufacture of soap.

Complaint No. 1086.--Federal Trade Commission *v*. lnecto (Inc.). Charge : Unfair methods' of competition are charged in that the respondent, in advertising its liquid human hair dye known as "Inect-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.

Disposition : Dismissed, respondent having gone out of business.

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 charged 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.

Disposition : Dismissed without prejudice, evidence being insufficient to sustain the charges of the complaint.

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, and 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 a practical monopoly in the purchase of said commodities, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : Dismissed.

Complaint No. 1105.--Federal Trade Commission *v.* Rosenberg & Gordon (Inc.), Park Bros. & Rogers Co. 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

Disposition : Dismissed after stipulation, respondent Rosenberg & Gordon (Inc.) having gone out of business, and respondent, Parks Bros. & Rogers (Inc.), having in only one instance followed the practice complained of.

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 as 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 foodstuffs and groceries doing business in the territories served by respondent wholesale 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.

Disposition : Dismissed after hearing.

Complaint No. 1109.--Federal Trade Commission *v.* James McCord Co., Waples-Platter Grocer Co., Carter Grocery Co., C. G. Quillian. Charge : Unfair methods of competition are charged in that the respondents 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.

Disposition : Dismissed, evidence submitted being insufficient in law to warrant the issuance of an order to cease and desist.

Complaint No. 1113.--Federal Trade Commission *v.* McKesson & Rob bins (Inc.), Schieffelin & Co., The Druggists Circular (Inc.) Charge: Unfair methods of competition are charged in that the respondents conspired and co operated 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 business of competitors, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : Dismissed.

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.

Disposition : Dismissed.

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-Brantinghmam 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.

Disposition : Dismissed, Commissioners Nugent and Thompson dissenting.

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 being to supplies 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.

Disposition: Dismissed without prejudice, no Interstate commerce being involved.

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 regulating 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.

Disposition : Dismissed.

Complaint No. 1124.--Federal Trade Commission *v.* Zellerbach Paper Co., Western Newspaper Union, Carpenter Paper Co. of Utah. Charge: Unfair methods of competition are charged in that the respondents, engaged In the sale of paper 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 when so revised remaining uniform and the same for each respondent, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : Dismissed.

Complaint No. 1125.--Federal Trade Commission *v.* Mack, Miller Candle Co. Charge: 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 the rules, laws, regulations, and customs of 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.

Disposition: Dismissed, respondent having so modified its business practices as to remove the cause of the complaint, Commissioners Nugent and Thompson dissenting.

DISSENT OF COMMISSIONER THOMPSON WITH CONCURRENCE OF COMMISSIONER

NUGENT

On the 21st day of February, 1924, the Federal Trade Commission issued and served a complaint on the respondent, Mack, Miller Candle Co., charging it with unfair methods of competition in the following particulars :

PARAGRAPH 1.--Respondent is a corporation organized under the laws of the State of New York with its principal office and place of business in the city of Syracuse, in said State. It is engaged in the manufacture of candles

of the United States. It causes said candles when so sold, to be transported from its said principal place of business in the city of Syracuse, N. Y., into and through other States of the United States to said purchasers at their respective points of location. Among the candles thus manufactured and sold by respondent are candles designed and used for religious purposes, as hereinafter more fully described and hereinafter called "altar" candles. In the course and conduct of its aforesaid business, respondent is in competition with other individuals, partnerships, and corporations likewise engaged in the manufacture and/or sale of candles Including, "altar" candles, in Interstate commerce.

PAR. 2. "Altar" candles referred to in paragraph l hereof are candles used by various religious denominations and churches in religious ceremonies, and more than 50 per cent of the total ingredients of said candles is, by the laws, rules, regulations, and customs of some of said religious denominations and churches, required to be beeswax. Respondent well knew and understood "altar" candles to be candles as described herein.

PAR. 3. Respondent, in the course of its business described in paragraph l hereof, manufactures and sells to said religious denominations and churches so requiring "altar" candles to contain more than 50 per cent of beeswax certain candles purporting to be " altar " candles as defined in paragraph 2 hereof, and as required by the said denominations and churches, and which said candles were falsely branded, labeled, advertised, and otherwise represented by respondent as complying with rules, laws, regulations, and customs of said religious denominations and churches as to beeswax content, and to contain beeswax in an amount of more than 50 per cent of the total ingredients of said candles.

The fact is that the "altar" candles, so being falsely branded, labeled, advertised, represented, and so being sold by respondent as "altar" candles, do not comply with the rules, laws, regulations, and customs of said religious denominations and churches ; and do not contain an amount of beeswax which is more than 15 per cent of their total ingredients.

The aforesaid false branding, labeling, advertising, and representing of said candles by respondent has the capacity and tendency to, and does, mislead and deceive purchasers and prospective purchasers of "altar" candles into the belief that said candles so manufactured and sold by respondent as and for " altar " candles contain more than 50 per cent of beeswax as required by the aforesaid rules, laws, regulations, and customs of the said religious denominations and churches, and causes said purchasers to purchase said candles In that belief.

PAR. 4. Many of respondent's, competitors, referred to in paragraph l hereof manufacture and/or sell "altar" candles, which contain beeswax in the required amount of more than 50 per cent of the total ingredients of said candles, and who do not represent and sell as "altar" candles containing beeswax In an amount less than aforesaid required per cent.

On March 11, 1924, the respondent answered, denying in toto the allegations contained in paragraphs 2, 3, and 4 of the complaint. The denial was given to the press and published.

Subsequent to the filing of the answer, the respondent executed a stipulation in which it admitted that prior to May 23, 1923, it sold throughout; the United, Sates candles packed in boxes and labeled as follows : "altar Beeswax Candles Manufactured by Mack, Miller Candle Company" admitted that said candles contained less than 50 per cent of beeswax; admitted that said label had the tendency and capacity to mislead and deceive purchasers Into the erroneous belief that these candles did contain more then 50 per cent of beeswax and were candles constructed in accordance with the rules of the church specifying the beeswax content necessary in candles which were required to be used In certain religious services.

Respondent asserts that on May 23, 1923, an examiner of the commission called at respondent's place of business and on that date respondent abandoned the use of said

objectionable labels and destroyed all of such labels as were then on hand ; that respondent replaced said labels with others which describe said candles containing less than 50 per cent of beeswax as " White Wax Candles." Respondent asserts that it has not since May 23, 1923, used the words " altar beeswax," or either of them, In branding or labeling any candles except those actually composed of more than 50 per cent beeswax.

In the above-mentioned stipulation, respondent agrees that it will continue to refrain from using the words “altar beeswax,” or either of them, in labeling, branding, or describing any of its candles containing less than 50 per cent of beeswax, and respondent further agrees that “in the event this action shall be dismissed by the commission without the issuance of a cease and desist order, this stipulation may be used against respondent at any future date, provided that respondent shall fail to abide by its aforesaid agreement.”

Upon the submission of said stipulation, the commission, by majority vote, on the 14th day of January, 1925, entered the following order:

"It is ordered that the complaint herein be, and the same is hereby, dismissed for the reason that the respondent has so modified its business practices as to remove the cause of the complaint.”

The respondent has been in the business of manufacturing candles for a number of years and makes candles for illuminative, decorative, and religious purposes. We are concerned here only with those candles intended for religious purposes.

The Roman Catholic Church, which purchases such candles, has certain rules (rubrics) which require that certain candles are essential and must be burned upon the altar during various of its religious ceremonies (to wit, 2 candles at low mass, 6 at high mass, and 14 at benediction). Additional (nonessential) candles may be burned during these ceremonies and may or may not contain beeswax, according to the will of the pastor. The aforesaid church rules (rubrics) provide that the aforesaid essential candles must contain more than 50 per cent of beeswax. This requirement is not viewed lightly by the church, since these candles are burned upon the altar during the sacramental mass and other ceremonies and have a special significance.

Some of the candles manufactured by respondent and labeled “Altar Beeswax Candles” were secured in the open market by the commission and submitted to the United States Bureau of Standards for analysis, and the analyses showed that the candles contained only 11.5 per cent of beeswax.

It is asserted in the business world by some groups, and just as strongly contested by others, that the commission can be more effective in correcting unfair business practices by dismissing complaints without a finding of fact and without the issuance of a cease and desist order in cases where the respondent has discontinued the practice complained of.

In creating the Federal Trade Commission, Congress intended to set up a body that would be corrective in the business world. The courts have since amplified this conception by using the word “ prophylactic” in describing the commission’s attitude toward business--that is, not only corrective, but preventive, in its process.

Inasmuch as the present case is typical of many that come before the commission, which it is insisted we should dismiss without any findings of fact and order to cease and desist, it becomes necessary to consider whether in doing so the commission plays a prophylactic part in its method of handling such cases.

We have here a set of facts alleged in the complaint which was initiated by manufacturers in the same business and not by the commission, showing that for some time previous to and while the investigation was in progress by the commission, the respondent was carrying on a practice which, it now admits, “ had a tendency and capacity to mislead and deceive purchasers.” This practice was discontinued while the Investigation was being made (respondent being aware that the investigation was under way) and prior to the time the complaint was issued. But the complaint, having been issued and served, the respondent filed an answer on March 11, 1924, denying all of the essential charges. This answer having been published, the business world, including the competitors of respondent, and the purchasers of Its product who had been relying

upon the representations of the respondent, were thus informed that respondent challenged and denied the commission's charges. Subsequent to the filing of the answer by the respondent, and the publicity on the same, competitors of the respondent, through the press, began to call attention to the charges of the Federal Trade Commission and its complaint.

Ten months went by and then the commission issued an order which is now made public, dismissing the complaint "for the reason that the respondent has so modified its business practices as to remove the cause of complaint."

How can such an order, without any findings of fact, convey any information to the public relative to the facts, or advise other manufacturers engaged in

this particular industry of the practices which the commission deems to be unfair, and which will enlighten its members for their Information and guidance and thus the commission become prophylactic? While it is in no sense the duty or desire of the commission to persecute business men, nevertheless, when a corporation has practiced a deception, it must Inevitably suffer some hardship if there is to be established a legal precedent for the information and guidance of all members of the industry. This can not be done unless the commission, after functioning in such a case as the present one, publishes the facts upon which the order is based. Such facts will then chart the sea of fair competition for the future on the practice complained of.

Moreover, it seems to me that competitors of respondent who have sold candles which were honestly branded, and who have lost trade and profit which should under fair competition have accrued to them and which were acquired by the respondent through unfair practices, have a right to expect this commission to give to honesty and square dealing some measure of recognition and reward by publicly condemning unfair practices and those pursuing them. Moreover, the public has the right to know those who are dealing unfairly with it, so that it can use its choice and discretion in placing its future business. Only in this way will there come to be established in the business world a distinct esprit de corps which will at least make " honesty the best policy".

In the early period of the commission's history, it tried to set up standards through what were known as "conference rulings". These rulings were brought about, when an informal complaint was made against a party, by the commission going through the same procedure that it now employs except that the commission did not name the offender when it gave out the findings. That practice, while much more valuable than the present one of not giving out any findings, was a failure--so much so that the commission at the time was severely criticized for being inept. A reading of the conference rulings, of which there were many, explains the reason for this. These rulings were little heeded by the business world. In fact, there was often more than one conference ruling on almost identical subjects and situations. It was not until the commission tied up the ruling with the name of the offender that it began to function with effect.

The making of wrong a personal matter causes a shrinking by the offender and may be a hardship on him, but the rights of the consuming public to be put upon notice, and of the competitor to be protected from unfair business practices, far outweighs the damage done to the reputation of the one committing the wrong.

When the commission learned that respondent's competitors, after respondent had filed its answer denying the charges, were using the complaint to advertise the charges against respondent, the commission ordered this practice to cease. We would do well to consider that if the commission continues its policy of Issuing complaints and dismissing them, as in this case, without findings informing the public and the competitors as to what was done, it would be only human for the competitors to indulge in the practice of advertising the respondent's shortcomings in order that they may get even for the losses that they have sustained by reason of such practices.

In a statement with respect to practices involving deceit, bad faith, etc., the "unfair competition bureau of the paint and varnish Industry", through its representative, M. Q. Macdonald, says:

"Publicity in proper cases quickens the conscience of the entire Industry and leads to a concerted movement to correct the conditions all along the line. * * * The commission should give greater weight to the welfare of the industry affected and the purchasing public, than the interests of the single respondent who has been guilty of fraudulent conduct."

For the above reasons I am constrained to dissent from the order of the commission.

I concur. John F. Nugent, commissioner.

Complaint No. 1126.--Federal Trade Commission v. Jean Jordeau (Inc.). Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of a 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.

Disposition: Dismissed.

Complaint No. 1128.--Federal Trade Commission *v.* Boehmer 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.

Disposition: Dismissed.

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 purchasers 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.

Disposition: Dismissed.

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 cutters and employing other cooperative means for the 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.

Disposition: Dismissed after stipulation, practices complained of having been abandoned; Commissioners Nugent and Thompson dissenting.

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.

Disposition: Dismissed for lack of public interest, Commissioner Thompson dissenting.

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 sale of its products and the prices to be charged therefor on the condition that the purchaser thereof 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' product will not be dealt in, thereby tending to hinder and obstruct competition, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed, Commissioner Nugent dissenting.

Complaint No. 1167.--Federal Trade Commission V. Robert F. MacKensie Co. Charge: The complaint relates that the respondent manufactures and markets an 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 purchasers, 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 its candles 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 act.

Disposition: Dismissed after stipulation, Commissioners Nugent and Thompson dissenting.

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.

Disposition: Dismissed, contracts questioned in the complaint having expired and not been renewed.

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.

Disposition: Dismissed, contracts questioned in the complaint having expired and not been renewed.

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 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 sections 2 and 3 of the Clayton Act.

Disposition: Dismissed, contracts questioned in the complaint having expired and not been renewed.

Complaint No. 1171.--Federal Trade Commission *v.* The Larrowe 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

"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.

Disposition: Dismissed.

Complaint No. 1177.--Federal Trade Commission *v.* H. R. Mallinson & Co. a corporation. Charge: Unfair methods of competition are charged 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.

Disposition: Dismissed, practices complained of having been discontinued; Commissioners Nugent and Thompson dissenting.

STATEMENT BY THE COMMISSION

It has not been the practice of the commission to publish stipulations entered into with respondents for the settlement of cases. The majority believes, when the party agrees upon the facts with the commission and engages therein to cease the practice complained of, the stipulation should not be published or made use of in any way unless the respondent violates its agreement to cease the practice.

DISSENT OF COMMISSIONER THOMPSON, CONCURRED IN BY COMMISSIONER NUGENT

I am unable to agree with Commissioners Van Fleet, Hunt, and Humphrey, the majority of the commission, in the dismissal of the complaint in this case for the following reasons:

The respondent is a Delaware corporation having mills and manufacturing plants in the cities of Astoria and Brooklyn, N. Y.; Trenton, Paterson, and West Hoboken, N. J.; Allentown and Erie, Pa.; and has sales branches in the cities of Chicago, San Francisco, and Montreal. The commission issued a complaint charging It as follows:

PAR, 2. Respondent has manufactured and sold in interstate commerce under the trade names or brands, "Roshanara Crepe," "Hoos-Hoo," "Velora," "Thisldu," "Chinchilla Satin," and various other trade names and brands, certain fabrics which are not made entirely of silk produced from the cocoon or the silkworm, hereafter called silk, but contain wool and/or artificial silk, and/or other materials not silk, in varying proportions. In the course of Its business and for the purpose of Inducing the public to purchase its products, respondent has caused to be published in various periodicals and papers circulated between various States of the United States, and on signboards, and has supplied to various dealers and customers throughout the United States advertising matter in which it has advertised to the public its products, including the brands named above and others not made entirely of silk, as silks, and particularly under its trade-mark " Mallinson's Silk de Luxe" and the slogans "The world's most beautiful silks," "The silks that are internationally recognized as fashion's criterion," "The height of refinement is expressed in every fold of Mallinson's Silk de Luxe," "The name 'Mallinson" on the selvage is a silk bond for your Identification," and "The national silks of international fame," and others; such advertising has been general and Indiscriminate as to respondent's products; said advertising and said trade-mark and slogans severally and collectively import and imply and have the capacity and tendency to mislead and deceive and do mislead and deceive a substantial part of the purchasing public into the belief that its products sold under said trade names or brands recited at the beginning of this paragraph, and others not made entirely of silk, are composed entirely of silk,, with the tendency and effect of unfairly hindering and suppressing competition In the sale of textiles and fabrics made entirely of pure silk, and similar fabrics not made wholly of silk but not misleadingly advertised.

PAR. 3. Respondent, in the course of its business in the manufacture and sale of Its products

bearing the trade names or brands “Roshanara Crepe,” “Hoos-Hoo,” “Velora,” “Thisldu,” “Chinchilla Satin,” and of others not made entirely of silk, but consisting in part of wool and/or artificial silk and/or other materials not silk, In varying proportions as described in paragraph 2, has marked or labeled the selvage of these fabrics at intervals of a few feet, and the ends of the boards about which the bolts of said fabrics are wound, as placed on sale, with the trade-mark or slogan “Mallinson’s Silk de Luxe,” Such markings and labelings import and imply and have the capacity and tendency to mislead and deceive and do mislead and deceive a substantial part of the purchasing public into the belief that said fabrics are composed entirely of silk, contrary to the fact, with the tendency and effect of unfairly hindering

and suppressing competition in the sale of textiles and fabrics made entirely of silk and of similar fabrics not made wholly of silk, but not misleadingly labeled.

Par. 4. There are a considerable number of competitors of respondent who are manufacturing textiles or fabrics composed throughout of silk produced from the cocoon of the silkworm, and others who manufacture fabrics composed in part of silk and part of other materials, which are not misleadingly advertised or labeled, which said products are sold in competition with the products of respondent, more particularly described in paragraphs 2 and 3 hereof.

Subsequent to the issuance of the complaint. Mr. Hanson, vice president, and Alfred L. Rose, counsel for respondent, had a conference with the commission which occurred on July 23, 1924. At this conference Mr. Hanson said that up until the middle of April of this year (1924) it had never dawned upon him "that they were doing anything wrong, or anything different" from the rest of the industry, and it was not until a member of the industry called their attention to their advertising about the middle of April, in which they were advertising fabrics containing wool thread or artificial thread as "Millinson's Silk de Luxe" that there might be something that they should look into.

In view of the statement of the vice president of this company, attention is called to what the commission had theretofore done in seeking to eliminate just such unfair practices as are charged in the complaint. In 1917 the com- mission issued "Conference Rulings," which were given wide publicity by the news and trade association papers, condemning the misleading labeling and advertising of silk. Each one of the conference rulings was based upon an actual case before the commission. When the commission issued the ruling and gave out the publicity, it did not give the name of the respondent. since it expected that business, which had frequently declared that all it wanted was to be "advised" with respect to unlawful practices, would then cease practices that were prohibited.

In conference ruling No. 49 the commission condemned the labeling of a fabric as "Oxford and Cambridge Silks," when it contained only 15 per cent cocoon silk (that made from the cocoon of the silkworm) and 85 per cent of other materials. In conference ruling No. 50 it condemned the labeling and advertising of an article as "St. Regis Silk" when it contained no genuine or cocoon silk. In other rulings at that time it publicly condemned the use of phrases such as "Silk, or Amure," "Palemoor Silk," "Manitowa Silk," "Toyama Silk." "Savoy Washable Art Silks," "Agra Silks," "Sand Silks," " Silkine," " Silkine Darning Cloths," " Silkine Crochet,." " Silkine Art Thread," when they contained only a part of silk and the rest either artificial silk. cotton, wool, or other materials. Wherever a conference ruling was issued the unnamed respondent had agreed to cease and desist from the false labeling and advertising, as has respondent in the present case.

Despite these rulings, many of those engaged in the industry paid no attention to the commission's action.

On the 30th day of October, 1918, the commission issued a complaint against the Winsted Hosiery Co. charging it with misbranding and false advertising knitted goods. This was tried publicly in the city of New York. The principle involved was exactly the same as involved in this case, and if the word " wool " in that case were substituted in the present case it would be, to all intents and purposes, identical. The commission issued its order to cease and desist from the practices complained of from which an appeal was taken by the Winsted Hosiery Co. to the Circuit Court of Appeals for the Second Circuit, located in the city of New York, where the case was argued and submitted, and the court rendered a decision that was given wide publicity by the press, setting aside the commission's order. From this decision the commission applied for a writ of certiorari to the Supreme Court of the United States on April 24, 1922, which was

granted. After argument the Supreme Court handed down a decision reversing the circuit court of appeals and sustaining the commission and condemning a practice similar in all respects to the one here in question.

In its order the commission required the respondent in that case to cease branding and advertising its goods as “all wool,” “gray wool,” “natural worsted,” “Australian wool,” etc., unless they were all wool.

Probably no case affecting the manufacturing world has been given more publicity by the press.

On January 8, 1922, the commission was ad vised that the National Association of Hosiery and Underwear Manufacturers adopted the following resolution in labeling and branding their product:

"The word 'Silk' or the words 'Pure thread silk' in combination, or other similar words used in connection with silk, should be applied only where actual silk of the silk cocoon is used without any other yarn. Where cotton or other material not silk is used in the top, toe, heel, or reinforcement, qualifying words to that effect should be used in the labels and advertising."

In addition to this the commission has issued complaints and orders in 24 cases involving practically the same questions of false advertising and misbranding of silks, as exist in this case. In all of these cases widespread publicity was given to the complaint and the orders. of the 18 orders issued to cease and desist from the practice complained of 16 were issued long prior to the time when respondent says it first had notice that it was not doing right.

Moreover, the record shows that Mr. Mallinsonn, the president of the company, was interviewed by a representative of the commission as to various substances contained in his products, on May 16, 1923.

On page 33 of the record made at the conference between the commission, Mr. Hanson, and Mr. Rose, one of the commission's examiners, Mr. Clark, the head of the New York office of the commission, stated as follows:

"The examination of this case went on long prior to the time that this new method of labeling was adopted. I mean the company was fully aware that the commission was investigating the question of whether the practice was proper or not. Mr. Mallinson was interviewed in 1923 on the subject of silk de luxe containing other than silk."

In view of the foregoing circumstances is it not little short of absurd for respondent, through its representative, to come before the commission, on the ground that it did not know in 1924 that it was doing anything wrong in advertising its products as silks de luxe, and seek to settle this case by a stipulation in which the commission must agree that no order to cease and desist shall be issued? It is very difficult to understand how respondent could assert, as its representative did before the commission, "that up until April of this year (1924) it never dawned upon me that we were doing any thing wrong or anything different."

Moreover, it seems to me utterly illogical and unfair to have issued complaints and orders against many other companies, a number of which were much smaller concerns and to discriminate in favor of respondent by not issuing an order against it, particularly in view of the admissions on its part before and in the stipulation hereinafter referred to.

After the conference with the commission the respondents executed a stipulation as to the facts in the case upon which is based the commission's order of dismissal, which order states that the complaint was "dismissed for the reason that the practices complained of have been discontinued." Paragraph 2 of the stipulation, after admitting the charges as set forth in paragraph 2 of the complaint, says:

"Such advertising has been general and indiscriminate as to respondent's products; said advertising, and said trade-mark and slogans, severally and collectively, *have a capacity and tendency to mislead the purchasing public into the belief that respondent's products sold under said trade names or brands recited at the beginning of this paragraph, and others com posed in part of other materials than silk, are composed entirely of silk.*" (Italics mine.)

Paragraph 3 of the stipulation, after admitting that respondent used the trade names and brands as set forth in paragraph 3 of the complaint, states that in the sale and manufacture of these products " and of others not made entirely of silk, but consisting in part of wool and/or artificial silk and/or other materials not silk, in varying proportions, as described in paragraph 2, has

marked or labeled the selvage of these fabrics at intervals of a few feet, and the ends of the boards about which the bolts of said fabric are wound, as placed on sale, with the trade-mark or slogan 'Mallinson's Silk de Luxe.' *Such markings have the capacity and tendency to mislead the purchasing public into the belief that said fabrics are composed entirely of silk."* (Italics mine.)

In paragraph 5 of the stipulation respondent admits that " a number of its competitors manufacture textiles or fabrics composed of silk produced from the cocoon of the silkworm, and others who manufacture fabrics composed in part of other materials, of which the labels and/or adver-

tising carry no description of the contents or correct description thereof, which said products are sold in competition with the products of respondent more particularly described in paragraphs 2 and 3 hereof."

In 1923 the respondent issued an elaborate catalogue called " The Blue Book," with the words on the front page in large type, " The Blue Book of Silks de Luxe, Spring and Summer, 1923." On almost if not every page there is in pronounced type the words " Mallinson's Silks de Luxe," with the following language at the bottom of many pages: "The word ' Mallinson on the selvage assures you of the genuine."

Also on many pages are the various trade names of the articles sold by respondent, such as "Roshnara Crepe," "Chinchilla Satin," "Hoos-Hoo," "Velora," "Klo-Ka," "Thisldu."

According to Mr. Mallinson's own statement, the above-named articles which they manufactured and sold in connection with the advertising phrase, " Silks de Luxe," contained materials in addition to cocoon silk, such as wool, artificial silk, artificial filling, etc.

In addition to the Blue Book, the respondent advertised extensively in the press, and particularly in the rotogravure sections of the newspapers and on billboards, using the phrase in prominent type, "Mallinson's Silks de Luxe."

On the west side of the New York Central tracks on the Manhattan side of the Harlem River there was a sign 10 feet high by 35 feet in length, prominently displaying by day and by illumination at nights, the following words :

"It's so easy to find
"The World's Finest Silks
"Just look for this name on the selvage
"Mallinson's Silks de Luxe"

This sign was intended to attract the attention of the millions of passengers coming into New York on the New York Central and the New York, New Haven & Hartford Railroad trains.

The fabrics of respondent appear on the shelves of merchants and are shown to the ultimate consumer with a white label pasted to each end of a board upon which a bolt of material is wound, with the trade name of the material thereon, such as "Suzanna Crepe," and the trade-mark " Mallinson's Silks de Luxe" more prominently displayed, or with the trade-mark alone appearing.

In view of the foregoing facts the question arises as to whether the commission should not make findings that will enlighten the public. Is respondent entitled to preferential treatment in the form of an order of dismissal as against those competitors who have had findings and orders to cease and desist issued against them?

The statement is constantly being made, without apparent consideration of the statute, that the commission can be of greater service to the public when a case of this kind arises and complaint has issued and the respondent is guilty, by dismissing the case upon the agreement that the respondent will discontinue the practice, than by making findings as to the facts and issuing an order to cease and desist, which are made public. This record shows and the records of the commission are overwhelming on the point, that the silk industry, and particularly the respondent, had a thorough warning given to them. This warning and advice through "conference rulings" had been given in the manner in which many business interests have often asserted is the proper way to inform an industry. The conference rulings, however, demonstrated their utter ineffectiveness in deterring respondent and many others from continuing the practices condemned by the commission as unfair.

Moreover, a public declaration by the commission did not halt respondent, nor did the issuance of the complaints and orders against many of its competitors. lt was not until long after

the commission's investigators began calling upon and investigating this respondent's practices that it decided to make a change.

As the complaint against respondent has been dismissed for the sole reason that it has discontinued the practices complained of, the public is not advised in the matter as it was by the orders to cease and desist issued against the respondent's competitors. The public, should it read the order of dismissal, will naturally ask itself what the practices were that the commission complained of, and not having the complaint at hand, will be left in the dark.

The only way that it can be informed is by the publicity of the findings showing just that was done by respondent and what it now admits it has

done and what it agrees to cease and desist from doing. In this way, a public sentiment and opinion may be built up which may tend to put business on notice, protect the public from false advertising and misrepresentation and at the same time help those honest manufacturers who are greatly handicapped in selling articles made of real cocoon silk by such practices as those followed by the Mallinson Co.

It can not well be contended that this case should be dismissed because it would cost thousands of dollars of the taxpayers' money to go forward with it. The commission already has in its possession the advertising of the respondent and the tests of the United States Bureau of Standards, and the admissions of respondent made long before it signed the stipulation, showing that its advertising was false ad misleading. To complete the trial of the case would cost a very small sum of money.

For the foregoing reasons, I am constrained to dissent from the opinion of the majority in this case.

HUSTON THOMPSON,
Commissioner

I concur.

JOHN F. NUGENT,
Commissioner

Complaint No. 1179.--Federal Trade Commission *v.* Friedrich & 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 ton the quality and properties of said toilet preparations. in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed.

Complaint No. 1185.--Federal Trade Commission *v.* Tivoli-Union Co., John C. Cavos. Charge: Unfair methods of competition are charged in that the respondents, engaged in the sale of a malt beverage named " Flag-Staff 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.

Disposition: Dismissed for hack of public interest. Commissioner Thompson dissenting.

Complaint No. 1190.--Federal Trade Commission *v.* U. S. Sanitary Specialties Corporation. Charge: Unfair methods of competition are charged 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.

Disposition: Dismissed without prejudice.

Complaint No. 1207.--Federal Trade Commission *v.* H. M. Griggs & E. G. Griggs, copartners, trading as H. M. Griggs Cigar Co. Charge: Unfair methods of competition are charged in that the respondents, engaged in the manufacture of cigars in the State of Georgia from tobacco grown elsewhere than on the island of Cuba, label their product as "Tampa," thereby misleading

the purchasing public to believe that the respondents' cigars are manufactured in the Tampa district in the State of Florida from the Havana tobacco there used, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed, respondent now manufacturing its cigars in Tampa, Fla.

Complaint No. 1210.--Federal Trade Commission v. Dr. C. H. Berry Chemical Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of toilet preparations, simulates the name, labels, and containers of its competitor, the long-established and favorably known Ella R. Berry Pharmacal Co.; and in that the respondent by the use of its corporate name indicates that its preparations are made under the

supervision and according to the formulas of one Dr. C. H. Berry, it being charged that in truth and fact there is not and never has been a Dr. C. H. Berry, or other physician, in charge of or in any wise connected with the respondent's business, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed for lack of public interest; Commissioners Nugent and Thompson dissenting.

Complaint No. 1212.--Federal Trade Commission v. Banner Foundry & Furnace Co., the Banner-Mahoning Furnace Co., P. T. McGuckian, William A. Garver, C. Ed. Smith, Jr., individually and as president, vice president, and secretary and treasurer, respectively, of the Banner Foundry & Furnace Co., and president, secretary and treasurer, and vice president, respectively, of the Banner-Mahoning Furnace Co. Charge: Unfair methods of competition are charged in that the respondent corporations, engaged in the manufacture of furnaces and heaters, simulated the product of the XXth Century Heating & Ventilating Co., of which the respondents McGuckian and Garver formerly were officers and directors, and substituted the respondents' repair parts for dealers' supplies of said competitor's parts; and in that said individual respondents, having obtained the XXth Century Co.'s list of customers and its stationery, wrote in behalf of the respondent corporations and thereby tended to create the false impression that the XXth Century Co. was interested in the manufacture and sale of Banner heaters; and, further, in that the respondents induced employees of said competitor to leave its employ by offering and giving employment with respondents, all in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed for lack of public interest; Commissioners Nugent and Thompson dissenting.

Complaint No. 1222.--Federal Trade Commission *v.* South Texas Wholesale Grocers' Association, its officers and members. Charge: Unfair methods of competition are charged in that respondents, in an effort to hamper, hinder, and obstruct the Proctor & Gamble Distributing Co. in freely selling its soaps, soap products, and cooking fats to retailers as well as to wholesalers at prices based on quantities purchased, combined and undertook to employ cooperative means of boycotting the products of the said company as a means of coercing it to return to its former practice of selling to wholesalers only, the respondents thereby tending to suppress competition and to obstruct the natural flow of commerce in the territory served by respondents, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed without prejudice.

Complaint No. 1227.--Federal Trade Commission *v.* Harry Blum. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture of cigars in New York, N. Y., labels his product as " Havana " or " Havana," thereby tending to mislead the purchasing public to believe that the respondent's cigars are manufactured entirely of tobacco grown on the island of Cuba when in fact none of said cigars are made entirely from Cuban tobacco, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed after stipulation, practices complained of having been discontinued; Commissioners Nugent and Thompson dissenting.

Complain t No. 1228.--Federal Trade Commission v. Knickerbocker Knitting Mills Co., a corporation. Charge: Unfair methods of competition are charged in that the respondent, by the use of its corporate name and the statement "Manufacturers of knitted outerwear," tends to mislead the purchasing public to believe that it is a manufacturer and that its customers save the profits of the middlemen, when in fact the respondent purchases its knitted goods for resale and has no interest in any factory or mill, in alleged violation of section 5 of the Federal Trade

Commission act.

Disposition: Dismissed, respondent having amended its articles of incorporation so as to change its name to "Knickerknit " (Inc.).

Complaint No. 1229.--Federal Trade Commission *v.* Tremont & Suffolk Mills, a corporation, Arthur J. Cummock, Samuel S. Widger, Arthur R. Sharp, and John W. Blodgett, copartners, trading as Catlin & Co. Charge: Unfair methods of competition are charged, in that the respondents, manufacturer and sales agents, respectively, tend to mislead and deceive the purchasing

public by labeling certain cotton blankets with the term "wool finish," in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed without prejudice, practices complained of having been discontinued; Commissioners Thompson and Nugent dissenting.

Complaint No. 1256.--Federal Trade Commission *v.* Advance Paint Co., a corporation. Charge: Unfair methods of competition are charged, in that the respondent, engaged in the manufacture and sale of stains, varnishes, and shellacs to furniture manufacturers, labels and advertises one of its products as "Improved O-Shellac," thereby indicating that said product is shellac or shellac varnish composed wholly of genuine shellac gum dissolved in alcohol when, in fact, said product contains other ingredients or substitutes for genuine shellac gun and/or alcohol in alleged violation of section 5 of the Federal Trade Commission ion act.

Disposition: Dismissed, no deception and no public interest being involved: Commissioners Nugent and Thompson dissenting.

Complaint No. 1259.--Federal Trade Commission v. Certain-teed Products corporation. Charge: Unfair methods of competition are charged, in that the respondent, engaged in the manufacture and sale of linoleum, oilcloths, and kindred products, acquired the capital stock of Thomas Potter Sons & Co. (Inc.), and the physical assets of the Cook Linoleum Co., and the Standard Inlaid Manufacturing Co., its competitors, thereby tending to eliminate com petition, restrain trade, and create a monopoly, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed, Commissioners Nugent and Thompson dissenting.

Complaint No. 1266.--Federal Trade Commission *v.* Empress Manufacturing Co. Charge: Unfair methods of competition are charged, in that the respondent, engaged in the manufacture and sale of toilet preparations, advertises and labels its "Tausig's Improved Instantaneous Hair Color Restorer" to indicate that said preparation has been approved by the department of health of the city of New York when, in fact, there has been no such approval, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed, practices charged in the complaint having been discontinued and respondent having promised same will not be resumed.

Complaint No. 1284.--Federal Trade Commission *v.* The Coeur D'Alene Mill co., a corporation. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of lumber and lumber products, advertises and sells western yellow pine and western soft pine (*Pinus ponderosa*) as " Western white pine," thereby tending to mislead the purchasing public to believe that the said product is the same as or comparable with the favorably known white pine (*Pinus strobus*), and tending to injure competitors who market white-pine lumber and lumber products, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition: Dismissed, practices complained of having been discontinued previous to issuance of the complaint; Commissioners Nugent and Thompson dissenting.

Complaint No. 1285.--Federal Trade Commission *v.* Grande Ronde Lumber Co., a corporation. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of lumber and lumber products, advertises and sells western yellow pine and western soft pine (*Pinus ponderosa*) as " Western white pine," thereby tending to mislead the purchasing public to believe that the said product is the same as or comparable with the favorably known white pine (*Pinus strobus*), and tending to injure competitors who market white-pine lumber and lumber products, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : Dismissed, practices complained of having been discontinued previous to the issuance of the complaint; Commissioners Nugent and Thompson dissenting.

Complaint No. 1286.--Federal Trade Commission *v.* McGoldrick Lumber Co., a corporation. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of lumber and lumber products, advertises and sells western yellow pine and western soft pine (*Pinus ponderosa*) as " Western white pine," thereby tending to mislead the purchasing public to believe that the said product is the same as or comparable with the favorably known white pine (*Pinus strobus*), and tending to injure competitors who market white-pine lumber and lumber products, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : Dismissed, practices complained of having been discontinued before the issuance of the complaint; Commissioners Nugent and Thompson dissenting.

Complaint No. 1287.--Federal Trade Commission *v.* Deer Park Lumber Co., a corporation. Charge : Unfair methods of competition are charged In that respondent, engaged In the manufacture and sale of lumber and lumber products, advertises and sells western yellow pine and western soft pine (*Pinus pondero*) as "Western white pine," thereby tending to mislead the purchasing public to believe that the said product is the same as or comparable with the favorably known white pine (*Pinus strobus*), and tending to injure competitors who market white-pine lumber and lumber products, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : Dismissed, practices complained of having been discontinued previous to the issuance of the complaint; Commissioners Nugent and Thompson dissenting.

Complaint No. 1288.--Federal Trade Commission *v.* The Shevlin-Hixon Co., a corporation. Charge : Unfair methods of com petition are charged in that the respondent, engaged in the manufacture and sale of lumber and lumber products, advertises and sells western yellow pine and western soft pine (*Pinus ponderosa*) as "western white pine," thereby tending to mislead the purchasing public to believe that the said product is the same as or comparable with the favorably known white pine (*Pinus strobus*), and tending to injure competitors who market white pine lumber and lumber products, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : Dismissed, practices complained of having been discontinued previous to the issuance of the complaint, Commissioners Nugent and Thompson dissenting.

Complaint No. 1296.--Federal Trade Commission *v.* Melchior Ulmer and Milton Ulmer, copartners, trading as Lincoln & Ulmer. Charge : Unfair methods of competition are charged in that the respondents, engaged in the manufacture and sale of cigars, label their product with the word " No-Nic-O-Tine " and advertise and represent said cigars as made of tobacco from which the nicotine has been removed, when in fact nicotine is not completely absent, thereby tending to mislead the purchasing public and injure competitors who do not misrepresent their products, in alleged violation of section 5 of the Federal Trade Commission act.

Disposition : Dismissed, practices charged in the complaint having been dis continued and respondents having promised same will not be resumed, Commissioners Nugent and Thompson dissenting.

EXHIBIT 13

PROCEEDINGS PENDING JULY 1, 1925

NOTE.--On or immediately before June 30, 1925, the commission mailed orders to cease and desist terminating two of the proceedings shown as pending. This action, is properly reflected in the statistical tables, but not individually indicated because service upon parties at interest had not been effected at the close of the fiscal year.

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. 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. 266.--Federal Trade Commission *v*. Pictorial Review Co. Charge: Using unfair methods of competition in the sale of paper dress patterns, 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. (Doc. 594.)

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: At issue.

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 like 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; awaiting briefs.

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 competition; 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 collection 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., widose 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 therefore 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 briefs.

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 Loden Packing Co., an Ohio corporation, which corporation transferred all its business and property to the Loden 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. Kinimmoth 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 respondents in ave 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. 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: Before the Commission for final determination.

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. 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,; Kahaluu 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. 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: Awaiting briefs.

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: Awaiting briefs.

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: Awaiting briefs.

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: Awaiting briefs.

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: Awaiting briefs.

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. 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: (Awaiting briefs.)

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: (At issue)

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 Com mission act. Status: (Awaiting briefs.)

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 Zankor, and Jesse L. Lasky, in alleged violation of section 7 of the Clayton Act. Status: Awaiting examiners report.

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. 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 corpora 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 l 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. 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. 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 final argument.

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: Awaiting briefs.

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. 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 respondent's brief.

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 hat 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 prod-

ucts, 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. 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. 960.--Commission *v.* Texas-Mexia Drilling Syndicate; B. M. Hatfield, Sterling Syndicate, J. D. Johnson, Old Timers Oil Pool, Albert 5. 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 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. Wilie, 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 Hum-

ble 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: Awaiting briefs.

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. 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 respondents' 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. 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. 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 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 re respondents adopted a plan of hampering, obstructing, and preventing the Proctor & 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 Proctor & Gamble Distributing Co., in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting briefs.

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. 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 time 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. 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 patent 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. 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 : Before the commission for final determination.

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: At issue

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 un fair 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. 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. 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. 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, employs 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 : Awaiting briefs.

Complaint No. 1053.--Federal Trade Commission *v*. The Worrell Manufacturing Co. Charge : Unfair methods of competition are charged in that re-

spondent, 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. 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 :At issue on amended complaint.

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: At issue on amended complaint.

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 : At issue on amended complaint.

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 10 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. 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 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 S. Zorn and H. 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 : Awaiting briefs.

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: Before the commission for final determination.

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. 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-platted 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 a 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 simply 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 too "regular" dealers, and by other cooperative means, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Awaiting final argument.

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 : In course of trial.

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 flat ware 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 final argument.

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. 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 to 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 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 smile 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 ton 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 mind 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 mind contracting earning themselves to cooperate in the development of new inventions relating to radio and to exchange patents covering the results of the research and experiment of their employees in the art of radio, seeking thereby to perpetuate their control arid 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. 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, ion alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting briefs.

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 & Soon (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 on amended complaint.

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 : Awaiting briefs.

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 Manufac-

turing Co., in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting final argument.

Com*plaint 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 an 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 ans 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 co-operative means for the enforcement of its system of resale prices, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting final argument.

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 arid 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 sure 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. 1143.--Federal Trade Commission *v*. P. Perlmutter and C. W Quigley, partners doing business under the trade name and style P. arid Q Furniture Store. Charge : Unfair methods of competition are charged in that the respondents, engaged In the purchase sand 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 : In course of trial.

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 dating, and coercive measures in behalf of their subscribers, heretofore affiliated as the Northwestern Retail Coal Dealers Association, and with the said of the 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 independents and consumers, thereby obstructing and hindering competition, in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting examiner's report.

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 :Before the Commission for final approval.

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 Whole-sale 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 : Awaiting respondent's brief.

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 : Before the Commission for final approval.

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)* establishing 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 : In course of trial.

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 inn that the respondent retailers falsely indicate that the are fine manufacturers of the furniture which they inn 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 heather, 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 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 on amended complaint.

Complaint No. 1157.--Federal Trade Commission *v.* Benedict Manufacturing Co. Charge : Unfair methods of competition are charged in that the respondent, engaged inn 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, enlarge inn 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 on amended complaint.

Complaint No 1159.--Federal Trade Commission *v*. I. 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 on amended complaint.

Complaint t No. 1160.--Federal Trade Commission *v*. A.L. Wagner Manufacturing Co. Charge: Unfair methods of competition are charged in that the respondent, engaged I 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 on amended complaint.

Complaint No. 1162.--Federal Trade Commission *v*. The Rialto Silver Plated Ware Co. (Inc.) . Charge: Unfair methods of competition ion 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 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," 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 on amended complaint.

Complaint No. 11 65.-- 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. 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. 1174.--Federal Trade Commission *v*. Clayton 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 ans to the actual value of the respondent's product, in alleged violation on of Section 5 of the Federal Trade Commission act. Status : Awaiting briefs.

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. Quin, 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 : Before the Commission for final determination.

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 to 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. 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 8 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 8 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 in to 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 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, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

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 briefs.

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 specified 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. 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 no 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 : Before the Commission for final determination.

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 the is on 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: In course of trial.

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 healing 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 :In course of trial.

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 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. Status: In course of trial.

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 be 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 : At issue.

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 Joannes, 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-Turbush 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 Joannes, 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 Copps Co., Wilson Mercantile Co., Marshfield Grocer Co., Booth Newton Co., Joannes Bros. Co., Frank C. Schilling Co., Brelling Ines Co., National Grocer Co., Gandin 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: At issue.

Complaint No. 1198.--Federal Trade Commission *v.* Harry Chessler and Russell W. Chessler, partners, doing business under the trade names and styles Lexington Storage Warehouse Co. and Lexington Warehouse Co. Charge : Unfair methods of competition are charged in that the respondent signifies in its advertising that it is an agent for manufacturers of furniture selling direct to the consuming public, and that it deals in the favorably known Grand Rapids furniture, manufactured in Grand Rapids, Mich., when in fact the respondent is a retailer engaged in the resale, at prevalent retail prices, of furniture for the most part made by manufacturers in no wise connected with the furniture Industry of Grand Rapids, Mich., in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting final argument.

Complaint No. 1201.--Federal Trade Commission *v.* J. R. Speal, Hartman & Manahan, L. L. Hardesty & Co., Charles Jacobs, Rowe V. Clark, J. A. Morgan & Sons, W. K. Morgan & Co., Paul Brown, W. F. Allen & C. Charge : Unfair methods of competition are charged in that the respondents have combined and cooperated to eliminate competition In the purchase of strawberries in the producers' market for a large strawberry producing area, and thereby restrict the prices paid to an amount substantially less than the growers would receive under conditions of free and open competitive purchasing ; and in that the respondents thereafter cause their principals, without their knowledge or consent, to pay prices substantially in excess of the amounts paid by the respondents to the growers of the strawberries, thereby tending to enhance prices of said strawberries to a large number of the consuming public, in alleged violation of section 5 of the Federal Trade Com mission act. Status : In course of trial.

Complaint No. 1203.--Federal Trade Commission *v.* Barnes-Ames Co., Barnes-Irwin Co. Charge : Unfair methods of competition are charged in that the respondents, exporters of wheat, have accepted orders and received payment from foreign customers for wheat of a specified quality and, wilfully or through negligence, have delivered wheat of a quality inferior to that ordered and containing large quantities of chaff and other foreign substances, thereby tending to Injure the export trade generally, in alleged violation of section 5 of the Federal Trade Commission act. Status : At Issue.

Complaint No. 111.--Federal Trade Commission *v*. Seal Island Thread Co. (Inc.). Charge *:* Unfair methods of competition are charged in that the respondent sells certain of its cotton sewing thread as “Satin Silk” or “Satinsilk” adding, in some instances, in smaller and less conspicuous letters, the words “Mercerized Cotton” or “Perfect Substitute for Best Silk,” 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 : Awaiting respondent’s brief.

Complaint No. 1213.--Federal Trade Commission *v*. Landers, Fray & Clark, a corporation. Charge : Unfair methods of competition are charged In that the respondent enforced a merchandising system adopted by it of fixing and

maintaining certain specified uniform prices for the resale of its electrical heating and cooking appliances, employing cooperative means and methods for the enforcement of said system of standard prices, thereby tending to deprive the ultimate purchasers of the advantage in price which would obtain from the natural flow of commerce in said products under the conditions of free competition, In alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

Complaint No. 1214.--Federal Trade Commission *v.* The American Tobacco Co., a corporation; P. Lorillard Co. (Inc.), a corporation ; Liggett & Myers Tobacco Co. (Inc.), a corporation ; West Virginia Wholesale Grocers' Association Co., a corporation, its officers, directors, and stockholding members. Charge : Unfair methods of competition are charged in that the respondent jobbers combined and conspired, with the aid of the respondent, manufacturers, to fix uniform discounts or prices for the resale of cigars, cigarettes and other tobacco products, the respondent manufacturers refusing to sell to price cutters, all for the purpose and with the effect of eliminating competition, in alleged violation of section 5 of the Federal Trade Commission act. The charges were dismissed as to the American Tobacco Co. Status : At issue.

Complaint No. 1215.--Federal Trade Commission *v.* Motor Wheel Corporation. Charge : Unfair methods of competition are charged in that resplendent, engaged in the manufacture and sale of wooden wheels and steel disc wheels for automobiles and sundry parts and materials therefor, having acquired the businesses and assets of its competitors, Prudden Wheel Co. and Auto Wheel Co.; proceeded to and did acquire the corporate stock of Forsythe Bros. Co., the only competitor of the respondent during the year 1922 in the manufacture of steel disc wheels, thereby tending to lessen competition, restrain interstate commerce and to create a monopoly, in alleged violation of section 7 of the Clayton act. Status : At issue.

Complaint No. 1216.--Federal Trade Commission *v.* John R. Walker and American Woods Export Association, a corporation. Charge : Unfair methods of competition are charged in that the respondents engaged in the export of lumber, failed to fulfill contracts with foreign customers, delivered lumber of a different kind and of a lower grade and quality, and in less amounts, and at dates much later than those specified In said contracts and, with the intent and purpose of deceiving said customers, falsely invoiced their deliveries as of the kind and quality designated in said contracts, falsely representing said lumber as measured and inspected by the Lumberman's Bureau of Washington, D. C., thereby tending to bring into disrepute and injuriously affect the export trade in lumber, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

Complaint No. 1218.--Federal Trade Commission *v.* Chemo Company, a corporation. Charge : Unfair methods of competition are charged In that the respondent, engaged In the manufacture and sale of disinfectants, antiseptics, and soaps, offers and gives prizes or premiums to administrative officers and purchasing agents of public institutions, without the knowledge or consent of their principals, to induce said purchasers to buy the respondent's products in preference to those of Its competitors, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

Complaint No. 1219.--Federal Trade Commission *v.* Hayes Wheel *Co.* Charge : Unfair methods of competition are charged in that respondent, by acquiring all the outstanding common capital stock of the Imperial Wheel Co., tends to substantially lessen competition between the respondent and said Imperial Wheel Co., to restrain commerce in the sale of automobile wheels in certain territories and to create a monopoly in the sale and distribution thereof, in alleged violation of section 7 of the Clayton Act. Status : At issue.

Complaint No. 1223.--Federal Trade Commission *v*. Chicago Retail Lumber Dealers' Association, a corporation, its officers and members. Charge : Unfair methods of competition are charged in that the respondents combined and conspired to restrict and destroy competition and thereupon established and operated an "allotment pool," the object of which was to prorate and divide in advance the aggregate annual business of all the members on the basis of certain fixed and agreed percentages so that each member who did more business than that allotted to him should pay into the fund a uniform fixed percentage of the excess of business done by such member, and that each member doing less business than that allotted to him should be paid out of said fund the same uniform fixed percentage upon such deficiency in his business; and in that the respondents, to effectuate their object of restricting and destroying competition,

(*a*) prepared, Issued, and used an association price list as a basis for uniform selling prices; (*b*) prepared cost surveys as a basis for said price lists; and (*c*) established a special fund consisting of large cash deposits by the members, said deposits being forfeitable to respondent association in case of noncompliance with the terms and purposes of respondents' combination and conspiracy; and in that the respondents, in an effort to restrict and destroy competition of nonmember competitors, (*a*) threatened, intimidated, and coerced competing dealers for the purpose of securing and retaining their membership; (*b*) interfered with the purchase of necessary supplies from manufacturers and wholesalers by nonmember dealers; (*c*) selected certain members to compete with nonmember competitors without regard to the scale of association prices and jointly assumed the cost of such competition; (*d*) instigated malicious and vexatious litigation against nonmember dealers, and (*e*) adopted and used other concerted means and measures to hamper and obstruct the competition of nonmembers, all in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

Complaint No. 1224.--Federal Trade Commission *v.* Karl Sohn, Isaac Lewis, Bessie Lewis, B. Lewis (Inc.), a corporation, and Grand Rapids Furniture Clearance Warehouse. Charge: Unfair methods of competition are charged in that the respondents' trade name "Grand Rapids Furniture Clearance Warehouse," in conjunction with the respondents' advertising matter, tends to mislead the purchasing public to believe that the respondents' furniture is of Grand Rapids manufacture and quality and that the respondents are sales agents for the manufacturers of such furniture when in fact the furniture sold by the respondents is for the most part made at points other than Grand Rapids, Mich., and is sold at retail, all in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

Complaint No. 1225.--Federal Trade Commission *v.* Morris Weil and Elias Weil, copartners, doing business under the trade name and style, Associated Furniture Manufacturers Warehouse Co. and National Furniture Distributing Corporation, a corporation. Charge: Unfair methods of competition are charged in that the respondents' trade name and corporate name, and their advertising matter and pretended guaranty of Grand Rapids furniture manufacturers tends to mislead the purchasing public to believe that the respondents are sales agents for manufacturers and that the respondents' furniture is of Grand Rapids manufacture and quality, when in fact the furniture sold by the respondents is for the most part made at points other than Grand Rapids, Mich., and is sold at retail, all in alleged violation of section 5 of the Federal Trade Commission act. Status : Before the commission for final determination.

Complaint No. 1226.--Federal Trade Commission *v.* Double A Platinum Works (Inc.). Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture of unfinished jewelry known to the trade as "findings," stamps said findings as "Double A Platinum" or "A. A. Plat.", thereby tending to mislead the trade and public to believe that the respondent's products are composed of pure platinum, when in fact they are made of platinum alloyed with other metals, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

Complaint No. 1231.--Federal Trade Commission *v.* Champion Spark Plug Co. Charge. Unfair methods of competition are charged in that the respondent adopted and employs a merchandising system whereby it fixes and maintains certain specified uniform prices for the resale of its spark plugs, refusing to sell to price cutters and employing other cooperative means and methods for the enforcement of said system of fixed resale prices, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

Complaint No. 1232.-Federal Trade Commission v. Arkansas Wholesale Grocers Association. its officers and members, Searcy Wholesale Grocery Co., Arkansas Grocery Co., Brown-Hinton

Wholesale Grocery Co., J. Foster & Co., Silbernagel & Co. Charge : Unfair methods of competition are charged in that the respondents In an endeavor to confine the distribution of groceries and allied products to the so-called regular and legitimate channels of trade by which the distribution of goods Is effect ed via the wholesaler, attempted by means of Intimidation and boycott to coerce manufacturers and producers to refrain from supplying irregular dealers, and persecuted and harassed irregular dealers; and in that the respondents cooperated to suppress price competition, and encourage and support the maintenance of uniform prices established by manufacturers and producers, by (*a*) publishing lists of names of

manufacturers and producers enforcing a price-maintenance system and urging members of the respondent association to confine their purchases to such manufacturers and producers ; (*b*) seeking to induce and coerce manufacturers and producers to establish and enforce a system of resale price maintenance and threatening or intimating boycott If they do not adopt and enforce such a system, and (*c*) urging members of the respondent association to intimidate and boycott such nonconforming manufacturers and producers, all in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

Complaint No. 1233.--Federal Trade Commission *v.* Perniutit Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of Zeolite water softening apparatus and involved in patent litigation the current findings in which indicated that one competitive apparatus was and another was not an Infringement of the respondent's letters patent, attempted to Intimidate and coerce customers and prospective customers of its competitors and bring about their refusal to deal with or carry out their obligations with said competitors through fear of incurring liability to the respondent as infringers of respondent's patents, effecting such intimidation and coercion by publishing representations and advertisements that all competitive apparatus was in infringement, this without specifying the nature of the infringement or the name of the competing apparatus asserted to be in infringement, and that the decrees entered In the aforesaid litigation established the validity of the respondent's representations, all in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting examiner's report.

Complaint No. 1234.--Federal Trade Commission *v.* Superior Silver Company (Inc.). Charge : Unfair methods of competition are charged in that the respondent, engaged In the manufacture of silver-plated ware by the electroplating process, stamped its product "Superior Sheffield" and held itself out to be "manufacturers of Sheffield plate silver ware, using the trade-mark "Superior Sheffield," thereby tending to mislead the purchasing public to believe that it is a manufacturer of copper rolled plate similar to that known as "Sheffield," and that its product is of "Sheffield" quality, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue on amended complaint.

Complaint No. 1236.--Federal Trade Commission *v.* David J. Goldsmith, doing business under the trade name and style Hagen Import Co. of Pennsylvania. Charge : Unfair methods of competition are charged in that the respondent, engaged In the retail sale of merchandise purchased In the United States, tends to mislead the consuming public to believe that lie Is an importer and manufacturer by displaying the trade name "Hagen Import Co. of Pennsylvania" in conjunction with the statements "Importers--Manufacturers--Jobbers" and "European Office, Munich, Germany," and by labeling a domestic product as "Bavarian Style Old Time Malt Extract" in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

Complaint No. 1238.--Federal Trade Commission *v.* M. Rea Gano, Gano Moore Co., Gano Moore Coal Mining Co. (Inc.). Charge : Unfair methods of competition are charged in that the respondents. engaged in the business of exporting coal from the United States to South America, accepted orders and received payment from foreign customers for coal of a specified quality and quantity and willfully or through negligence delivered for the coal so ordered coal of a quality Inferior thereto, failed to make deliveries at the time specified and of the quantities ordered, refused to make deliveries contracted for except at Increased prices, and endeavored to induce customers to enter into agreements to disregard the export regulations of the United States Government, thereby tending to bring American trade Into disrepute with the South American buying public and to injure and damage the reputation and business of American exporters, In alleged violation of the Federal Trade Commission act as extended by the provisions of section

4 of the Webb Act. Status : At issue.

Complaint No. 1241.--Federal Trade Commission *v*. Julius Klorfein. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture of cigars In the States of New York and Pennsylvania and in the sale thereof, labels his product with the words "Havana," "Vuelta Abajo," and "Garcia" in connection with a design registered by him in the United States Patent Office as a trade-mark for cigars and causes the said words to appear as a part of said trade-mark when such is not the fact, thereby

tending to mislead and deceive the purchasing public to believe that the respondent's cigars are made wholly from tobacco grown in Cuba and either wholly or in part of tobacco grown in the Vuelta Abajo district by manufacturers of the surname "Garcia" and that the respondent was the first, and Is entitled to the exclusive right in the United States, to use the word "Garcia" in connection with the sale of cigars, all in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

Complaint No. 1242.--Federal Trade Commission *v.* Jacques E Greenberger and Carrie Greenberger; Individually and as copartners, trading as Big G Furniture Works, and Big G Furniture Works, a corporation. Charge : Unfair methods of competition are charged in that the respondents engaged in the purchase of furniture and its sale at retail, employ their trade and corporate names and advertise to mislead the purchasing public to believe that they are manufacturers and that said purchasing public in dealing with the respondents saves the profits of middlemen, all in alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting respondent's brief.

Complaint No. 1243.--Federal Trade Commission *v.* Jacques E Greenberger, Ernst Greenberger, and Normal J. Greenberger, partners doing business under the trade name and style Grand Rapids Furniture Manufacturers Warehouse Association, Grand Rapids Furniture Manufacturers Association (Inc.) , a corporation. Charge : Unfair methods of competition are charged In that the respondents, by the use of their trade name and corporate name and advertising slogans and statements, mislead the purchasing public to believe that they are manufacturers of furniture or authorized representatives of Grand Rapids manufacturers, when in fact they buy their furniture for sale at retail ; and in that the respondents practice fictitious price marking, refuse to refund money to dissatisfied customers, stating falsely that the furniture factories at Grand Rapids will not permit respondents to make such refunds ; and in that the respondents cause postcards to be mailed from Grand Rapids, Mich., to prospective customers, bearing statements to the effect that the respondents' place of business Is the only show room of the furniture manufacturers of Grand Rapids, Mich., all in alleged violation of section 5 of the Federal Trade Commission act. Status : Before the commission for final determination.

Complaint No. 1244.--Federal Trade Commission *v.* Louis W. Meyer, doing business under the trade name and style Grand Rapids Furniture Sales Co., and Western Furniture Manufacturers Exposition Inc., a corporation. Charge : Unfair methods of competition are charged In that the respondents, by the use of their trade name and corporate name and advertising slogans and statements, mislead the purchasing public to believe that the respondents are manufacturers of furniture or the authorized representatives of furniture factories located in Grand Rapids, Mich., when in fact the respondents purchase their furniture for resale at retail and do not in fact eliminate the profits of middlemen to the benefit of the consuming public, in alleged violation of section 5 of the Federal Trade Commission act. Status : In process of service.

Complaint No. 1245.--Federal Trade Commission *v.* B. Z. B. Knitting Co. Charge : Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of hosiery, advertised Its product as "fashioned" or "full fashioned" hosiery, when in fact said hosiery is not "fashioned" as the term is understood by the public, thereby tending to mislead and deceive the purchasing public, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

Complaint No. 1246.--Federal Trade Commission v. Knife Information Bureau, its secretary as such and individually, and sundry manufacturer members as such and individually. Charge : Unfair methods of competition are charged in that respondents are banded together for the

purpose of conducting and carrying out the “reporting plan” of the association, and are thus engaged in a wrongful and unlawful combination and conspiracy to fix uniform sales prices for their products and to stifle and suppress competition between and among the members, the “reporting plan providing, inter alia, for a report by each member of his standard prices, discounts, terms of sale, contract terms, and everything pertaining to his established sales policy affecting the market price of his goods, the secretary in turn distributing the information to the other members; changes in standard prices, etc., to be reported ; duplicates of each day’s invoices; reports of orders accepted ; reports of con tracts entered into with customers protecting them against a change in price;

etc.; secretary-treasurer may audit books of any member to ascertain correctness of the information furnished ; that as a result prices have been enhanced, and such enhanced prices are being maintained ; the bureau, through its secretary, with the aid and advice of various members, compiles and distributes to the members lists of uniform prices, terms, and discounts to be charged and allowed, which lists have been adopted by respondent members as their own and adhered to by them ; offending members are reported and disciplined ; etc., all in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

Complaint No. 1247.--Federal Trade Commission *v.* Allied Chemical & Dye Corporation. Charge : Unfair methods of competition are charged in that respondent by the acquisition of the stock or share capital of the Barrett Co., General Chemical Co., the Solvay Process Co., Semet-Solvay Co., and National Aniline & Chemical Co., (Inc.), tends to substantially lessen competition, to restrain commerce in various and sundry articles, products, and chemicals produced by said corporations, and to create in the respondent a monopoly in the lines of commerce In which said corporations were respectively engaged and especially in the chemicals and coal-tar products required in the production of dyes and dyestuffs, in alleged violation of section 7 of the Clayton Act. Status : At issue.

Complaint No. 1248.--Federal Trade Commission *v.* Fisk Rubber Co. Charge : Unfair methods of competition are charged in that respondent, engaged in the manufacture and sale of automobile tires; inner tubes, and other rubber pro-ducts has acquired and holds approximately 51 per cent of the share stock of the Federal Rubber Co. (the reorganized Federal Rubber Manufacturing Co., which company sold its product--tires, mechanical rubber goods, and sundries--through its subsidiary sales corporation, the Federal Rubber Manufacturing Company of Illinois) a former competitor, and that subsequent to such acquisition the Federal Rubber Co. transferred its assets to respondent and ceased to manufacture automobile tires and similar products ; that the effect of such acquisition is to substantially lessen competition between respondent on the one hand and the Federal Rubber Co. and the Federal Rubber Manufacturing Co. on the other hand ; and that such acquisition by respondent of such share stock Is contrary to law and in violation of section 7 of the Clayton Act. Chairman Vernon W. Van Fleet dissents. Status : At Issue.

Complaint No. 1250.--Federal Trade Commission *v.* Houbigant (Inc.). Charge : Unfair methods of competition are charged in that the respondent, engaged in the sale of perfumes and other toilet articles, enforces a merchandising system adopted by it of establishing and maintaining certain specified uniform prices at which its toilet articles shall be resold by retailers, refusing to sell to price cutters, and employing other cooperative means to prevent re-tailers from reselling at prices less than those established by the respondent, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

Complaint No. 1251.--Federal Trade Commission *v.* American Association of Advertising Agencies, its officers, executive board, and members ; American Press Association, a corporation ; Southern Newspaper Publishers' Association, its officers, directors, and members. Charge : Unfair methods of competition are charged in that the respondents are engaged In a combination and conspiracy affecting national advertising throughout the United States, entered into with the purpose of compelling national advertisers to employ respondent agencies or other advertising agencies in the placing of national advertising in newspapers throughout the United States and to prevent said advertisers from advertising directly in said newspapers at the minimum "net" rates and to compel said advertisers to pay at the maximum "gross" rates, employing various cooperative means to effectuate said combination and conspiracy the effect of which is to hinder and obstruct national advertising throughout the United States; to restrict

the distribution of such advertising, and of the type parts essential thereto, to channels and upon terms and conditions dictated by the respondents ; to restrict the publication of national advertising to newspapers selected and approved by the respondents; to compel newspaper publishers to charge for the publication of national advertising at maximum gross rates and to prevent them from according minimum net rates to direct advertisers ; to compel the employment of the respondents or other agencies as intermediaries in placing national advertising, or in the alterna-

tive to pay for direct advertising at the maximum gross rates and in addition thereto to prepare and distribute their advertisements at their own expense, and to hinder and obstruct the marketing of goods, wares, and merchandise, all in alleged violation of section 5 of the Federal Trade Commission act. Status : At Issue.

Complaint No. 1252.--Federal Trade Commission *v.* The Long-Koch Co., a corporation. Charge *:* Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of jewelry, stamped certain of its knives "10K" or "14K," thereby tending to mislead the purchasing public to believe that the mountings of said knives were made of 10 karat or 14 karat gold, when in fact said mountings consisted of metals other than gold, covered, faced, or veneered with gold in whole or in part, in alleged violation of section 5 of the Federal Trade Commission act. Status At issue.

Complaint No. 1253.--Federal Trade Commission *v.* Owosso Manufacturing Co., a corporation; the Wabash Screen Door Co., a corporation Philadelphia Screen Manufacturing Co., a corporation ; Sherwood Metal Working Co., a corporation; Porter Screen Co., a corporation ; the Continental Co., a corporation. Charge : Unfair methods of competition are charged In that the respondent. manufacturers of screen doors, window screens, and similar products entered Into a combination for the sale of their respective products, the respondent, Continental Co., being organized to act as a common selling agency, to apportion the orders, to establish exclusive territories, and to determine selling prices on the basis of the average cost to the respective manufacturers, thereby eliminating and destroying competition, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

Complaint No. 1254.--Federal Trade Commission *v.* The Coraza Cigar Co. Charge: Unfair methods of competition are charged In that the respondent in connection with the sale of certain of its cigars uses a trade-mark containing the words " Marshall Field," together with a portrait or likeness of Marshall Field, sr., and a coat of arms or seal similar to that used by the long established and favorably known Marshall Field & Co. in the sale of Its merchandise, thereby tending to mislead the trade and public into the belief that the respondent's cigars are manufactured and/or sold by Marshall Field & Co., in alleged violation of section 5 of the Federal Trade Commission act. Status : At Issue.

Complaint No. 1257.--Federal Trade Commission *v.* South Jersey Wholesale Confectioners Association, of Trenton, N. J., and its members. Charge : Unfair methods of competition are charged in that the respondents combined and conspired to fix uniform prices for the resale to retail dealers of certain of the candles handled by them and to prevent price-cutting wholesale dealers from obtaining goods, bringing pressure to bear on manufacturers supplying such offending dealers, and by boycott and threats of boycott seeking to prevent manufacturers from supplying such dealers, thereby tending to unlawfully suppress and hinder competition, In alleged violation of section 5 of the Federal Trade Commission act. Status : Awaiting briefs.

Complaint No. 1258.--Federal Trade Commission *v.* Grand Rapids Furniture Co., an Illinois corporation. Charge: Unfair methods of competition are charged in that the respondent falsely represented and pretended that it owned or operated a furniture factory at Grand Rapids, Mich. ; that It sold its furniture direct from manufacturer to consumer, thereby eliminating the middle-man's profit; that Its furniture was made at Grand Rapids, Mich.; that the respondent and the long-established and favorably known "Grand Rapids Furniture Co.," of Grand Rapids, Mich., were one and the same company ; and that the respondent was a selling agency through which the said Grand Rapids Furniture Co., of Grand Rapids, Mich., sold its furniture to the consuming public; and in that the respondent in the sale of certain upholstered furniture, the coverings and upholstery of which were composed entirely of materials and substances other than silk,

represent said coverings and upholstery as " genuine silk mohair," all in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

Complaint No. 1260.--Federal Trade Commission v. Edison Fixture Co. (Inc.), a corporation. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of a patented electrical fixture or device for the illumination of offices, stores, showrooms, factories, etc., adopted and used the word "Edison" as a part of its corporate name without license from Thomas A. Edison, thereby tending to mislead the

trade and purchasing public Into the erroneous belief that the respondent Is affiliated with or licensed by the said Thomas A. Edison and that it Is manufacturing under Edison patents, or is engaged In the sale of Edison products ; and In that the respondent falsely represented to customers and prospective customers that its product was sold on a two weeks trial, that the respondent would replace burnt-out lamps, clean, and keep the fixture or device in repair as long as the same remained on the premises of the purchaser, and that the lamps sold by respondent were of greater illuminating power than lamps of the same wattage produced by competitors, in alleged violation of section 5 of the Federal Trade Commission act. Status : In course of trial.

Complaint No. 1261.--Federal Trade Commission *v.* Cohn-Hall-Marx Co., a corporation. Charge : Unfair methods of competition are charged in that the respondent, engaged in the importation of cotton fabrics and the conversion thereof to simulate silk in appearance and finish, represents and advertises certain of Its fabrics as "Cocoon Cloth" and has adopted as a trade name, brand, or label the word "Cocoon," thereby tending to mislead and deceive the purchasing public into the belief that the respondent's cotton fabrics are composed of silk in whole or in part, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

Complaint No. 1262.--Federal Trade Commission *v.* Larrowe Milling Co., American Beet Sugar Co., Columbia Sugar Co., Continental Sugar Co., Garden City Sugar & Land Co., Great Western Sugar Co., Holland-St. Louis Sugar Co., Owosso Sugar Co., Toledo Sugar Co., Minnesota Sugar Co., Michigan Sugar Co., Northern Sugar Corporation, Iowa Sugar Co., Iowa Valley Sugar Co., Ohio Sugar Co., Menominee River Sugar Co., Spreckles Sugar Co., Santa Anna Sugar Co., Utah-Idaho Sugar Co. Charge : Unfair methods of competition in the sale and distribution of beet pulp are charged in that the respondent Larrowe Milling Co. has been given the exclusive right and privilege of selling all the beet pulp produced by the respondent sugar manufacturing companies for sale to manufacturers of and dealers in cattle feed, the respondent, Larrowe Milling Co., being kept advised of the quantity of beet pulp on hand and manipulating the market in such a manner as to secure high prices for all the beet pulp sold by it, thereby tending to suppress competition in price and to deny to the public the advantages in price which would obtain under conditions of natural and normal competition between the respondents, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

Complaint No. 1263.--Federal Trade Commission *v.* National Leather & Shoe Finders' Association, Its officers, executive committee. and members; Greater Boston and New England Leather and Finders' Credit Bureau; Central States Leather and Finders' Credit Bureau; Central West Leather and Finders' Credit Bureau; Northwestern Leather and Finders' Credit Bureau; Northern New Jersey Leather and Finders' Credit Bureau; Wisconsin Leather and Finders' Credit Bureau; New York State Leather and Finders' Credit Bureau; Shoe Finders' Board of Trade; Colorado Leather and Finders' Credit Bureau; Pittsburgh Leather and Finders' Credit Bureau; Philadelphia Leather and Finders' Credit Bureau; Baltimore Leather and Finders' Credit Bureau ; Greater New York Leather and Finders' Credit Bureau ; Capital Leather and Finders' Credit Bureau of Albany, N. Y.; Michigan Leather and Finders' Credit Bureau of Detroit : Illinois Leather and Finders' Credit Bureau (Inc.) ; Cleveland Leather and Finders' Credit Bureau ; Toledo Leather and Finders' Credit Bureau ; Cincinnati Leather and Finders' Credit Bureau ; St. Louis Leather and Finders' Credit Bureau ; Connecticut Leather and Finders' Credit Bureau; Virginia Leather and Finders' Credit Bureau ; Iowa and Nebraska Leather and Finders' Credit Bureau ; Missouri, Kansas, and Arkansas Leather and Finders' Credit Bureau ; Illinois State Leather and Finders' Credit Bureau ; Louisville Leather and Finders' Credit Bureau : Twin Cities Leather and Finders' Credit Bureau; Rubber Heel Club of America and

the officers and members thereof. Charge: Unfair methods of competition are charged In that the respondents have combined and conspired with the intent and effect of discouraging, stifling, and suppressing competition in price and otherwise In the sale and distribution of shoe findings and In shoe-repair service, and of confining such commerce to " regular" channels of trade and "legitimate" dealers, in alleged violation of section 5 of the Federal Trade Commission act. Status : At issue.

Complaint No. 1264.--Federal Trade Commission *v*. W. C. Blickenstaff, otherwise known as W. C. Blick, doing business under the trade name and style Standard Fountain Pen Co. Charge Unfair methods of competition are charged in that the respondent engaged in the sale of fountain pens at whole-

sale, supplies circulars and advertising matter to his dealers which describe said pens and bear purported regular retail prices (which are in fact factitious prices and greatly in excess of the real value of said pens) and further supplies coupons bearing statements to the effect that for one day only said coupons will be accepted at their face value in part payment for the respondent's pens at said regular retail prices, thus falsely representing that the pens will be sold for a limited the at a substantial reduction in price; and in that respondent causes certain of his pen points to be stamped "14K," thereby indicating that said points are 14 karat gold, when in fact they are made of an alloy simulating gold in color and appearance but containing no gold in substantial quantities, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Before the commission for final determination.

Complaint No. 1265.--Federal Trade Commission *v*. Baltimore Paint & Color Works (Inc.), a corporation. Charge: Unfair methods of competition are charged in that the respondent labels certain of its products as "Regulation Building Paint," "Cantonment paint," and "Army Building Paint," in conjunction with designations which simulate the specification, requisition, or order numbers appearing on surplus goods sold by the United States Government and commonly used by the War Department, when in fact the said paint is not surplus paint sold by the United States Government, and is not manufactured in accordance with Army specifications or Government requirements; and in that the respondent sold certain of Its products In cans or containers of the regulation standard shape and size of 1 gallon and one-half gallon, respectively, thereby leading the purchasing public to believe that said cans contained said quantities of paint, when in fact the respondent's cans contained, in varying quantities, less than 1 gallon, and one-half gallon, respectively, all in alleged violation of section 5 of the Federal Trade Commission act. Status: Before the commission for final determination.

Complaint No. 1267.--Federal Trade Commission *v*. G. H. Koppel, doing business under the trade name and style Cuban-American Sponge Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the purchase and sale of chamois-leather and sponges, falsely indicates on its business stationery and literature that it is a chamois tanner and manufacturer and operates chamois tanneries and sponge fishing fleets when in fact it is not engaged but purchases its leathers and sponges for resale, 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. 1268.--Federal Trade Commission *v*. Ameen Bardwil and George Bardwil, partners doing business under the trade name and style Bardwil Bros. Charge: Unfair methods of competition are charged in that the respondents, engaged in the importation of lace from China and the sale thereof, designates and sells said lace as "Irish" lace, thereby misleading and deceiving the purchasing public as to the quality and value of respondents' product and tending to injure its competitors who are in fact importers of Irish lace, in alleged violation of section 5 of the Federal Trade Commission act Status: At issue.

Complaint No. 1269.--Federal Trade Commission *v*. Shanghai Lace Corporation. Charge: Unfair methods of competition are charged in that the respondent, engaged in the importation of lace from China and in the sale thereof to the manufacturers of garments, describes its lace as "Irish picot," "Irish edge," and "Real Irish edge," thereby misleading and deceiving the purchasing public as to the quality and value of respondent's product and tending to injure competitors who are in fact Importers of Irish lace, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1270.-Federal Trade Commission *v*. Nanyang Bros, (Inc.). Charge: Unfair methods of competition are charged in that the respondent, engaged in the importation of lace

from China and the sale thereof to garment manufacturers, designates its lace as “Irish lace,” thereby misleading and deceiving the purchasing public as to the quality and value of respondent’s product and tending to injure competitors who are in fact importers of Irish lace, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1271.--Federal Trade Commission *v*. Wadeeh Rizcallah, Selin Katin, Badie Katin, partners doing business under the trade name and style W. Rizcallah & Co. Charge: Unfair methods of competition are charged in that the respondents, engaged In the importation of lace from China and the sale thereof to garment manufacturers, designate their lace as “Irish picot,”

"Irish beading," and "Real Irish edge," thereby misleading and deceiving the purchasing public as to the quality and value of respondent's product, and tending to injure competitors who are in fact importers of Irish lace, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1272.--Federal Trade Commission *v.* N. B. Bardwil, T. B. Bardwil, M. Bardwil, partners doing business under the trade name and style N. B. Bardwell & Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the importation of lace from China and the sale thereof to garment manufacturers, designates its lace as "Irish lace," thereby misleading and deceiving the purchasing public as to the quality and value of respondent's product and tending to injure competitors who are in fact importers of Irish lace, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1273.--Federal Trade Commission *v.* Abraham D. Sutton, David Sutton, Selim Sutton, partners doing business under the trade name and style A. D. Sutton & Sons. Charge: Unfair methods of competition are charged in that the respondents, engaged in the importation of lace from China and the sale thereof to garment manufacturers, designate their lace as "Irish picot," "Irish beading," and "Real Irish edge," thereby misleading and deceiving the purchasing public as to the quality and value of respondent's product, and tending to injure competitors who are in fact importers of Irish lace, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1274.--Federal Trade Commission *v.* Alfred Kohlberg (Inc.). Charge: Unfair methods of competition are charged In that the respondent, engaged in the importation of lace from China and the sale thereof to garment manufacturers, designates its lace as "Irish Swatow" and "Irish Siccawei," thereby tending to mislead and deceive the purchasing public as to the quality and value of the respondent's product and to injure competitors who are in fact Importers of Irish lace, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1275.--Federal Trade Commission *v.* Abraham Lian, George Marabak, R. Lian, William Lian, Michael Marabak, Joseph Marabak, John Marabak, Sahid Lian, partners doing business under the trade name and style Lian & Marabak. Charge: Unfair methods of competition are charged in that the respondents, engaged in the importation of lace from China and the sale thereof to manufacturers of garments, designate their lace as "Irish lace," thereby misleading and deceiving the purchasing public as to quality and value of respondents' product and tending to injure competitors who are in fact importers of Irish lace, In alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1276.--Federal Trade Commission *v.* Robert M. Lease Co. (Inc.), Lease Bros. Motor Co. (Inc.), Acoma Motors Co. (Inc.), Lease Motors Co. (Inc.), Lease Motors Export Sales Corporation, Panther Motor Co. (Inc.), Exporters and Importers Association of the World, Robert M. Lease, Irving Lease, Albert Lease, and John P. Agnew. Charge: Unfair methods of competition are charged in that the respondents, falsely representing themselves as manufacturers and vendors of new motor trucks and automobiles and contracting for the sale thereof for export with standard factory equipment and right-hand drive, made a practice of shipping motor trucks which were not new, many of the parts being old, used, rusted, or secondhand parts, and without complete factory equipment and right-hand drive, gave buyers no opportunity for examination or inspection of trucks prior to shipment, and refused to refund payments in excess of agreed of prices or for trucks returned or rejected for reason; and in that the respondent Lease Bros. Motor Co. (Inc.), by falsely representing that it had entered into the purchase of plant and equipment obtained a contract for the sale of certain chassis and the

payment of earnest money thereon, when in fact it had not entered Into the purchase of said properties and did not at any time intend to perform the said contract. thereby tending to bring discredit and loss of business to American manufacturers seeking foreign trade, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1278.--Federal Trade Commission *v.* John B. Stetson Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of hats, enforced a merchandising system adopted by it of fixing and maintaining certain specified uniform retail prices

for the resale of its hats, refusing to supply price cutters, and employing co operative means and methods for the enforcement of said system of resale prices, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1279.--Federal Trade Commission *v.* Rosenbush & Solomon Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the sale of paints, varnishes, and allied products, labels as "Orange Shellac" and "White Shellac" certain varnishes, composed of shellac gum and various substitutes thereof dissolved in alcohol, wherein shellac gum is not a principal and predominant element, and fails to indicate the facts except by stamping on said labels with a rubber stamp the word "Compound" in small and inconspicuous letters, thereby tending to mislead and deceive the purchasing public as to the value and quality of respondent's products and to injure competitors who label their product properly, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1280.--Federal Trade Commission *v.* Banner Silk Knitting Mills (Inc.), a corporation. Charge: Unfair methods of competition are charged In that the respondent, engaged in the sale and manufacture of textiles or fabrics which are not composed of silk in whole or in part, advertised and represented certain of its products as silk and furthered the deception by the adoption and use of the word "Silk" as a part of its corporate name, thereby tending to mislead and deceive the purchasing public and to injure competitors who label their products truthfully, in alleged violation of section 5 of the Federal Trade Commission act. Status: In course of trial.

Complaint No. 1281.--Federal Trade Commission *v.* Thomas E Powe, and F. C. Harrington, partners, doing business under the firm name and style Thomas E Powe Lumber Co. Charge: Unfair methods of competition are charged in that the respondents, engaged in the sale of lumber and wood products, have advertised and represented certain of their products as mahogany when in fact they consist of woods other than mahogany but resembling mahogany In general appearance, thereby tending to mislead and deceive the purchasing public and to injure competitors who represent lumber and wood products truthfully, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1282.--Federal Trade Commission *v.* Twinplex Sales Co., a corporation. Charge: Unfair method of competition are charged in that the respondent, engaged in the manufacture and sale of safety razor blade stoppers, offered and gave sums of money to salesmen in the employ of retail merchants, without the knowledge or consent of their employers, to induce said salesmen to sell the respondent's product to the exclusion of the products of its competitors, in alleged violation of section 5 of the Federal Trade Com mission act. Status: At issue.

Complaint No. 1283.--Federal Trade Commission v. Non-Plate Engraving Co. (Inc.), a corporation. Charge: Unfair methods of competition are charged in that the respondent. engaged in the printing of stationery, indicates by the use of its corporate name and its advertising matter that it is engaged in the business of engraving when in fact the process used by the respondent is not one of engraving but involves printing to simulate the impression made from engraved plates, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1289.--Federal Trade Commission *v.* F. Burkhalter, an Individual doing business under the trade name and style Royal Soap Co. Charge: Unfair methods of competition are charged In that the respondent advertises and represents its "Royal Medicated Cuticle Doctor Soap" as a high-grade medicated toilet soap of the regular value of 25 cents per cake, containing various ingredients having a curative and healing effect upon the skin, when in fact said soap is not medicated, is of the reasonable value of not more than 10 cents a cake, at which price it is habitually sold by retailers, and contains no ingredients having a curative and healing effect,

thereby tending to mislead and deceive the purchasing public as to the quality and value of respondent's product and to injure competitors who do not misrepresent their soaps, in alleged violation of section 5 of the Federal Trade Commission act. Status: At Issue.

Complaint No. 1290.--Federal Trade Commission *v.* Abrasive Paper and Cloth Manufacturers' Exchange, its officers and members. Charge: Unfair methods of competition are charged in that the respondents are engaged in an unlawful combination and conspiracy entered into with the purpose and in-

tention of unduly enhancing the prices of abrasives and of fixing uniform prices, terms, and discounts at and upon which the abrasives manufactured by the members should be sold, and of stifling and suppressing competition in the sale and distribution of abrasives, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1291.--Federal Trade Commission *v*. Midland Steel Products Co. Charge: Unfair method. of competition are charged in that the respondent, pursuant to the purposes of its incorporation, acquired the capital stock and the property, assets, and businesses, of the Parish & Bingham Corporation and Detroit Pressed Steel Co., thereby tending to substantially lessen competition, to restrain commerce in the sale and distribution of auto frames and frame parts and to create a monopoly therein, in alleged violation of section 7 of the Clayton Act and section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1292.--Federal Trade Commission *v*. Calumet Baking Powder Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of baking powders, has caused to be set forth statements and innuendoes untruthfully and unfairly representing that its competitor, Royal Baking Powder Co., packs its Royal Baking Powder in 6 and 12 ounce cans, instead of one-half pound and pound cans, for the purpose of cheating the public by passing off and causing the trade to pass off said 6 and 12 ounce cans as and for one-half pound and pound cans, respectively; and In that the respondent has adopted the practice of disseminating statements and comments calculated to further the interests of respondent and in disparagement and derogation of the products and businesses of its competitors, concealing its connection with the various methods through which said practice was carried into effect; and further in that the respondent falsely represented that the baking powder of its competitor, Royal Baking Powder Co., forms or tends to form a hard mass in the digestive tract in persons consuming food prepared therewith, its house-to-house canvassers and demonstrators making misleading comparisons and tests to deceive the purchasing public, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1293.--Federal Trade Commission *v*. Progress Paint Manufacturing Co., a corporation, and Regulation Paint Co., a corporation. Charge: Unfair methods of competition are charged In that the respondents label certain of their products with the words "Regulation Paint" and "Camp Mixed Paint" In connection with a shield or insignia simulating that which appears on the flag of the President of the United States or as is commonly used and recognized by the public as an insignia of the United States Government, thereby tending to mislead and deceive the purchasing public to believe that the respondent's products were declared and sold as surplus paint by the United States Government or manufactured in accordance with Army specifications or Government requirements; and in that the respondents have marketed their products through so-called Army and Navy stores, thereby furthering the deception, all In alleged violation of section 5 of the Federal Trade Commission act. Status: At issue on amended complaint.

Complaint No. 1294.-- Federal Trade Commission *v*. Plateless Engraving Co., a corporation. Charge: Unfair methods of competition are charged in that the respondent, engaged in process printing and in the sale of process printed stationery, by the use of the word "engraving" in its corporate name and advertisements tends to mislead and deceive the purchasing public into the erroneous belief that the respondent Is an engraving company engaged in the business of purchasing and selling engraved and embossed stationery, and tends to injure competitors who do not misrepresent their products, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1295.--Federal Trade Commission *v*. Chipman Knitting Mills, a corporation,

and Chas. Chipman's Sons Co. (Inc.), a corporation. Charge: Unfair methods of competition are charged in that the respondents' "seamless" hosiery is falsely represented as "form fashioned" hosiery, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not misrepresent their product, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1297.--Federal Trade Commission *v.* J. W. Kobi Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of

enforces a merchandising system adopted by it of fixing and maintaining specified uniform prices for the resale of its products, refusing to supply price cutters and employing cooperative means and methods for the enforcement of said system of resale prices, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1298.--Federal Trade Commission *v.* Wickwire-Spencer Steel Corporation. Charge: Unfair methods of competition are charged in that the respondent acquired the entire capital stock of the American Wire Fabrics Corporation which succeeded to the business of the American Wire Fabrics Co., a competitor of the respondent, thereby tending to eliminate competition, to restrain commerce in the sale and distribution of screen wire cloth and to create a monopoly, in alleged violation of section 7 of the Clayton Act. Status: Awaiting answer.

Complaint No. 1299.--Federal Trade Commission *v.* Heywood-Wakefield Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture of furniture, perambulators and other like articles which consist in whole or in part of a woven fabric resembling wicker-work, advertises and represents its wares as "wicker" wares when in fact the material used by the respondent is wood-paper pulp processed and worked into a form resembling withes or cordage, thereby tending to deceive the trade and purchasing public and to injure competitors who do not misrepresent their products, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1300.--Federal Trade Commission *V.* United States Roofing & Paint Co. (Inc.), a corporation. Charge: Unfair methods of competition are charged in that the respondent, engaged in the sale of colors, varnishes, asphalt shingles, prepared roofings, and similar products, labels said products with the letters "U. S.," either independently or in conjunction with other words, or in connection with the figure known as "Uncle Sam," thereby tending to mislead the purchasing public into the erroneous belief that the respondent's products were declared and sold as surplus by the United States Government, or manufactured in accordance with Government specifications or requirements, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1301.--Federal Trade Commission *v.* Windsor Cigar Co.; Benjamin Paris, doing business under the trade name and style, Paris Cigar Co.; Raphael N. Paris. Charge: Unfair methods of competition are charged in that the respondents engaged in the manufacture of cigars in the State of Pennsylvania and in the sale thereof, label their product "Havana Cadet," thereby tending to mislead the purchasing public to believe that said cigars are made of tobacco grown on the island of Cuba and to injure competitors who do not misbrand their products, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1302.--Federal Trade Commission *v.* George E Watson Co. Charge: Unfair methods of competition are charged in that the respondent's "Monogram" and "Faultless" paints are represented and labeled as strictly pure when in fact they contain large quantities of calcium carbonate and distillates of petroleum in lieu, respectively, of white lead and linseed oil, said paints containing correspondingly small quantities of white lead and linseed oil; and in that the respondent claims to be the manufacturer of said paints when in fact it purchases its paints for resale; thereby tending to deceive the purchasing public as to quality and manufacture, promoting the belief that persons buying from the respondent are dealing direct with the manufacturer and saving the profits of middlemen, and to injure competitors who do not misrepresent their products or the manufacture thereof, in alleged violation of section 5 of the Federal Trade Commission act. Status: Before the commission for final determination.

Complaint No. 1303.--Federal Trade Commission *v.* Isadore Sommerfield, doing business under the trade name and style of Dubiner & Sommerfield. Charge: Unfair methods of

competition are charged in that the respondent, engaged in the manufacture of cigars in the State of New York and the sale thereof, causes the words “Havana,” “Vuelta Abajo,” and “Garcia” to be placed on the boxes or containers in which his cigars are sold and the word “Garcia” to be placed on the bands of his cigars, the box labels carrying an outline map of Cuba and inscriptions in the Spanish language, that the cigars contained in said boxes were made of the best Vuelta Abajo tobacco, and that

the tobacco contained in them was guaranteed to be of the best Havana tobacco when in fact the respondent's cigars contain no more than a very small amount of Cuban-grown tobacco, thereby tending to mislead the purchasing public and to injure competitors who do not misrepresent their products, in alleged violation of section 5 of the Federal Trade Commission act. Status: Before the commission for final determination.

Complaint No. 1304.--Federal Trade Commission *v.* Reinhart & Newton Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture and sale of candies, has put into effect a scheme which is intended to induce the consuming public to participate in a lottery, its candies for sale at 1 cent each and uniform in appearance being packed in display boxes with prizes for the purchasers who choose candies which prove to have pink centers instead of the white or cream-colored centers, found in most of the candies thereby tending to induce the consuming public to purchase respondent's candies in preference to the products of its competitors who do not give prizes won by chances or otherwise, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1305.--Not released.

Complaint No. 1306.--Federal Trade Commission v. Maud B. Clough and W. H. Siebrecht, Jr., partners doing business under the trade name and style Siewin Co. Charge: Unfair methods of competition are charged In that the respondents, engaged in the manufacture and sale of a depilatory, falsely advertise and represent that their product kills and destroys the roots of the hair, thus preventing its regrowth, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not misrepresent their products, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1307.--Federal Trade Commission *v.* Norman J. Freeman and Myron Lewis, partners doing business under the trade name and style Ohio Shellac Co. Charge: Unfair methods of competition are charged in that the respondents, engaged in the sale of certain varnishes composed of shellac gum and/or various substitutes therefor dissolved in alcohol, wherein shellac gum is not the principal and predominant element, label said products as "shellac" without indicating that shellac gum is not the principal and predominant element of said varnishes, except that in some instances the word "compound" appears on the labels in small and inconspicuous letters, the respondents thereby failing to abide by the terms of an undertaking, agreement and stipulation heretofore entered into with the Federal Trade Commission to discontinue the misrepresentation of said products, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1308.--Federal Trade Commission *v.* Arnold Electric Co. Charge: Unfair methods of competition are charged in that the respondent, engaged In the manufacture and sale of electrically driven drink-mixing machines, has enforced a merchandising system adopted by it of fixing and maintaining specified uniform prices for the resale of its machines by dealers, refusing to supply price-cutters and employing cooperative means for the maintenance of its resale prices, thereby tending to suppress competition and to deprive the ultimate purchasers of advantages in price which would obtain from the natural and unobstructed flow of commerce in said machines under conditions of free competition, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1309.--Federal Trade Commission *v.* Chero-Cola Co. Charge: Unfair methods of competition are charged in that the respondent, engaged in the manufacture of a concentrate which when mixed with water and charged with carbonic acid gas forms a beverage designated "Chero-Cola," enforces a system of uniform contracts whereby the respondent seeks to and does maintain specified uniform prices at which said Chero-Cola is resold by respondent's bottler

vendees to retailers, thereby tending to suppress competition in the sale of said Chero-Cola and to deny to the retail trade and consuming public the advantages In price which would obtain from the natural and unobstructed play of competition in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1310.--Federal Trade Commission v. Willis J. Davis, and C. D. Swindt, partners doing business under the trade name and style Kanuga Cigar Co. Charge: Unfair methods of competition are charged in that the respondents, engaged in the manufacture of cigars in the State of Georgia

in the sale thereof, label certain of their products "Smoka Tampa," thereby tending to mislead the public into the belief that its cigars are made in the Tampa district, Florida, and are of Tampa quality, and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: At Issue.

Complaint No. 1311.--Federal Trade Commission *v.* Masland Duraleather Co., W. & J. Sloane. The respondent Masland Duraleather Co. Is engaged in the manufacture of imitation leather and the sale thereof through the respondent W. & J. Sloane. Charge: Unfair methods of competition are charged in that the respondents brand and label a coated fabric, made in imitation of but containing no leather, as "Duraleather," thereby enabling vendees to misrepresent articles made of respondents' product and injuring the business of competitors who do not practice misrepresentation; and in that the respondents' trade name "Duraleather" simulates the trade name "Duro," used for many years by their competitor A. C. Lawrence Leather Co., in advertising and selling Its product as "Duro leather," thereby tending to mislead and deceive the trade into the belief that the respondents' product is a product of the aforesaid competitor, all in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1312.--Federal Trade Commission *v.* B. W. Cooke, C. E. Wesch, Job-Way Home Study (Inc.). Charge: Unfair methods of competition are charged in that the respondents, heretofore doing business as "Coyne School of Drafting," "Associated Drafting Engineers," and "Chicago Auto Shops," conducting a correspondence school course in the art of mechanical and other forms of drafting and the trade of repairing automotive vehicles, made numerous false and misleading statements concerning said courses of instruction, the costs thereof, the giving of tools, appliances and supplies free of charge, and the results to be expected by pupils, and unlawfully coerced pupils to pay substantial sums of money claimed to be due and owing under the terms of fraudulently procured contracts, sending letters under the name of a fictitious collection agency, and fictitious notices and summons in simulation of legal documents, thereby misleading the public and injuring the business of competitors who do not misrepresent their courses of instruction, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1313.--Federal Trade Commission *v.* W. Harris Thurston (Inc.). Charge: Unfair methods of competition are charged in that the respondent, engaged in the importation and sale of cotton shirt fabrics, offers and sells under the trade name of "Nusylk" a certain imported fabric which has the appearance of silk but is made from cotton and contains no silk whatever, the words "all cotton" or "superfine cotton" appearing in small and inconspicuous letters in conjunction with said trade name, thereby tending to mislead the trade and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1314.--Federal Trade Commission *v.* S. Goodman and B. Cohen, partners doing business under the trade name and style Goodman, Cohen & Co. Charge: Unfair methods of competition are charged in that the respondents, engaged in the manufacture and sale of shirts, use a cotton fabric containing no silk whatever, but which has the appearance of silk, and label the shirts made therefrom with the name "Nusylk" (the words "all cotton" or "superfine cotton" appearing in small and inconspicuous letters), thereby tending to mislead the purchasing public to believe that the respondents' shirts are made of silk and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1315.-Federal Trade Commission *v*. A. Herskowitz, Morris Goldberg, Samuel

Bell, partners doing business under the trade name and style, Bell Cap Co. Charge: Unfair methods of competition are charged in that the respondents, engaged in the manufacture and sale of shop caps, label and advertise said product as "union made" when in fact the respondents do not employ members of any labor union in the manufacture of said shop caps, thereby tending to mislead and deceive the trade and consuming public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: As issue.

Complaint No. 1316.--Federal Trade Commission *v.* Indiana Quartered Oak Co. Charged: Unfair methods of competition are charged in that the respond-

ent, engaged in the sale of lumber and wood products, sells woods other than mahogany, but resembling mahogany in general appearance, as "mahogany" or "Philippine mahogany," thereby tending to mislead the purchasing public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1317.--Federal Trade Commission v. Reuben Berman, doing business under the trade name and style, Silktex Hosiery Mills. Charge: Unfair methods of competition are charged in that the respondent, engaged in selling direct to the consuming public, labels its hosiery with the words "Silktex " and " Silk " when in fact said hosiery is composed of but 15 per cent of silk and is interwoven with other material which is not true silk but which resembles silk in general appearance; and in that the respondent Indicates by the use of its business name that it operates mills and manufactures its hosiery thus saving the consumer the profits of middlemen, when in fact the respondent is not a manufacturer and does not own or operate any mill or mills but purchases its hosiery for resale, thereby tending to mislead the purchasing public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaint No. 1318.--Federal Trade Commission *v.* Louis Shapiro, Barney Shapiro and Frank B. Shapiro, partners doing business under the trade name and style of Shapiro & Sons. Charge: Unfair methods of competition are charged in that the respondents represent their men's clothing as made from all wool fabrics when in fact the garments sold by the respondents are made from a fabric containing a substantial amount of material other than wool, thereby tending to mislead and deceive the purchasing public and to injure competitors who do not practice misrepresentation, in alleged violation of section 5 of the Federal Trade Commission act. Status: At issue.

Complaints 1319, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327, 1328, and 1329 not released.

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