ANNUAL REPORT

OF THE

FEDERAL TRADE COMMISSION

FOR THE

FISCAL YEAR ENDED JUNE 30, 1916

WASHINGTON
GOVERNMENT PRINTING OFFICE
1916

FEDERAL TRADE COMMISSION

EDWARD N. HURLEY, Chairman.
WILLIAM J. HARRIS, Vice Chairman
JOSEPH E. DAVIES.
WILL H. PARRY.

LEONIDAS L. BRACKEN, Secretary.

ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION.

WASHINGTON, D.C., *November 15, 1916.*

To the Senate and House of Representative:

The Federal Trade Commission, in compliance with statute, herewith submits to Congress its annual report for the fiscal year ending June 30, 1916.

This report is the second annual report of the Commission, but the first to cover a full year, the Commission having been originally organized on March 16, 1915.

THE COMMISSION.

According to its organic act, the Commission elects its own chairman. The Commission has adopted the policy of annual rotation of the chairmanship, the order or service in that capacity to be according to the seniority of appointment. This arrangement went into operation on July 1, 1916, with the intention that subsequent changes in the chairmanship should take place at the beginning of each fiscal year. The vice chairmanship was regulated in like manner, the incumbent of this position becoming chairman after serving one year.

Although occurring since the close of the fiscal year, it should be noted that the office of one commissioner became vacant through the fact that the Senate did not confirm the nomination of Hon. George Rublee. Mr. Rublee served on the Commission, however, pending the Senate's action from the original date of organization until the expiration of his commission at the end of the last session of Congress, and throughout the fiscal year covered by this report. We desire to express our appreciation of the exceptionally valuable service which he rendered while a member.

GENERAL ORGANIZATION OF THE STAFF.

The staff of the Commission is organized in three main departments, namely, administrative, legal, and economic.

The administrative department is under the direction of the secretary, who is also the formal channel of communication between the Commission and the other departments. The assistant secretary, acting solicitor, and chief clerk are directly under the secretary, as well as the chiefs of the docket, mails and files, supplies, and stenographic divisions.

The Commission had an advisory counsel as the head of the legal department during a part of the fiscal year, but this office is now vacant because the present appropriation makes $5,000 the maximum

salary payable to member of the staff. Subordinate legal officers were the chairman of the law board of review, the board which considers and reports to the Commission on all questions of law submitted to it, especially questions of law involving the quasi judicial or administrative powers of the Commission; the chief examiner, who has general supervision of the legal staff; and the assistant counsel.

The economic department during the fiscal year under consideration was placed under the direction of a chief economist, subordinate to whom were the assistant chief economist, and the chief of the division of corporation reports. It may be noted, however, that since the close of the fiscal year the organization of this department has been changed and that the economic work is now under the supervision of an advisory economic board. The immediate conduct of the complicated and frequently changing subjects of investigation within this department are entrusted to economists, accountants, and other experts assigned thereto from time to time.

The functions of the Commission, especially those of a quasi judicial or administrative character, involve the consideration of both legal and economic aspects of trade problems, hence the staff of the Commission, also, is coordinated in its legal and economic departments in order to secure effective cooperation. This is accomplished through the joint board of review, which is composed of representatives of both the legal and economic departments. The chairman of the law board of review is also the chairman of the joint board of review.

LEGAL DEPARTMENT.

The organization of the legal department has already been described in general terms. Its duties are, primarily, to assist the Commission in the enforcement of section 5 of the Trade Commission act, which prohibits unfair competition in interstate commerce and also sections 2, 3, 7, and 8 of the Clayton Act , which prohibit, respectively, certain price discriminations, tying contracts, intercorporate stock holdings, and interlocking directorates.

The Commission is also charged in the act creating it with certain duties respecting the enforcement of the Sherman Antitrust Act, namely:

(1) At the request of the President of either House of Congress, to investigate and report respecting alleged violations of the antitrust acts (sec. 6, par d.).

(2) At the request of the Attorney General, to make recommendations as to the readjustment of the business of any corporation alleged to be violating the antitrust acts, so that it may thereafter construct its business in harmony with the law (sec. 6, par. e).

(3) At the request of courts, to recommend appropriate decrees in antitrust cases (sec. 7).

(4) Upon its own initiative, to investigate the manner in which decrees in antitrust cases are being carried out (sec. 6, par. c).

Again, even in connection with that portion of the Commission’s work which is primarily economic or advisory in character, questions are constantly arising which call for expert legal assistance, not only with regard to the extent of the Commission’s powers and the proper method of their exercise, but also with regard to many other matters.

Questions of law are passed on by the law board of review, which is composed of three experienced lawyers. The reports of this board upon such questions are then passed on by the counsel of the Commission before being finally submitted to the Commission.

UNFAIR COMPETITION AND VIOLATIONS OF CLAYTON ACT.

Section 5 of the Federal Trade Commission act provides that whenever the Commission shall have reason to believe that any 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 such complaint. The Clayton Act contains a like provision in reference to the enforcement of the provisions of sections 2, 3, 7, and 8, except that it does not contain the proviso, "if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public." This provision was omitted from the Clayton Act presumably because such violations would per se be of interest to the public, as distinguished from an unfair method of competition, which might involve only a private injury.

Applications for issuance of complaints.--The Commission has power, of its own motion, to issue formal complaints charging violations of the Trade Commission act or of the Clayton Act. Usually, however, the facts concerning such violations are brought to its attention by persons who have suffered injury from the act complained of. Any communication indicating such violations of the law is termed "an application for the issuance of a complaint."

Number of applications filed.--Since the Commission has been organized and up to the end of the fiscal year there have been filed with it 246 separate applications for the issuance of complaints. Some of these applications charged violations of more than one provision of the law; 138 were applications for the issuance of complaints for violations of Section 5 of the Trade Commission act; 78 were for violations of section 2 of the Clayton Act; 28 were for violations of section 3 of the Clayton Act; 4 were for violations of section 7 of the Clayton Act; and l for violations of section 8 of the Clayton Act. Of the total number, 107 applications have been disposed of and 139 were pending June 30, 1916.

Character of violations charged.--In the applications for issuance of complaints for violations of section 5 of the Trade Commission act some of the unfair methods of competition alleged are: Predatory price cutting, inducing breach of contract, maintaining bogus independents, betrayal of trade secrets and confidential information, bidding up the price of goods purchased, combinations and threats to cut off competitor's supplies, disparagement and confusion of goods, unfair manipulation of guarantees against declines in price of goods sold, false and misleading advertising, fighting ships and fighting brands, misbranding of goods, instituting boycotts and threats to boycott, instituting vexatious actions and advertising such actions,

threats to institute such actions against competitors, influencing newspapers not to accept advertising h of competitors, employing Systems of espionage, and enticing away a competitor's employees.

A considerable number of the complaints made to the Commission involved matters which, by reason of their purely intrastate character or because the acts, though unfair practices, where not *competitive* practices, did not come within the jurisdiction of the Commission. Such cases were summarily disposed of--sometimes by published conference rulings, where the matter was of sufficient general interest.

No attempt to define unfair competition.--The Commission has made no attempt to define in general terms what methods of competition are "unfair" so that "a proceeding by it in respect thereof would be to the interest of the public." Unfair competition, like "fraud," "due care," "unjust discrimination," and many other familiar concepts in the law, is incapable of exact definition, but its underlying principle is clear--a principle sufficiently elastic to cover all future unconscionable competitive practices in whatever form they may appear, provided they sufficiently affect the public interest. Thus far the Conimission has been of the opinion that at least those cases in which the method of competition restrains trade, substantially lessons competition, or tends to create a monopoly are subject to a proceeding under section 5 of the Federal Trade Commission act. The Commission has gone further than this, however, and in some instances where these elements did not appear, as in certain cases of misbranding and falsely advertising the character of goods where the public was particularly liable to be misled, the Commission has taken jurisdiction. The question of public interest in mere passing off of goods or imitation of trade names as yet has not been disposed of by the Commission

"Trust Laws and Unfair Competition."--In the study of umifair competition cases the Commission has been greatly assisted by the report on "Trust Laws and Unfair Competition," made by Hon. Joseph E. Davies, as Commissioner of Corporations, on March 15, 1915. This report attempts to set forth what practices have generally been regarded as unfair methods of competition by business men, economic writers and public men both in the United States and in foreign countries, amid also what practices have been characterized as such by the Department of Justice or by the courts in the administration of the antitrust laws. Furthermore, it sets forth various competitive practices which both at common law and under the laws of foreign countries the courts have termed unfair competition or which they have held could not be justified. On this important question the Commission has endeavored to make use of every available source of enlightenment.

Reason to believe.--In view of the fact that the Commission is authorized to issue its complaint, not upon probable cause, but only upon grounds which give it "reason to believe" that there has been a violation of the law, the Commission is required to act, and has acted, with the utmost circumspection in the issuance of complaints and the institution of proceedings. In all cases it makes a thorough preliminary investigation of the matters charged in order that no formal proceeding may be undertaken without an adequate foundation.

Some of the charges of violation of law brought to the attention of the Commission have been found, upon investigation, to be groundless; in other cases, although the practices were probably unfair, it did not appear to the Commission that it would be to the interest of the public to interfere, because even if the charges were true they did not appear to the Commission to injuriously affect the public interest. The Commission has acted with the utmost hesitation and consideration in dismissing cases on the ground of public interest. The applicant is requested to submit all the facts in his possession bearing on the matter involved in his application for the issuance of a complaint and to direct the Commission, so far as he is able, to evidence or sources of evidence in reference thereto.

Preliminary investigation.--Each application as soon as it is received is assigned by the secretary to the personal supervision of one of the commissioners, assignments being made to each commissioner in rotation. After examination by the commissioner to whom it is assigned, the application is turned over to the attorney specially assigned to that commissioner for preliminary investigation.

No formal rule is laid down to regulate the manner in which such investigation shall be conducted , but that method is pursued which seems best adapted to bring out all the facts in the particular case under consideration, so that a clear understanding may be had of the matters involved. The joint board of review advises with the special attorney who has the case in charge and with the commissioner to whom it is assigned, who directs the general character and scope of the preliminary investigation. The chief examiner sees that the general instructions given by the joint board are properly carried out, and passes upon the reports of those who make the field investigations. Many complaints involve exceedingly complex business situations, which require the advice and assistance not only of the legal staff but of the economists and expert accountants as well. The questions at issue are fundamentally questions of practical business affairs, and their consequences may be very far-reaching. For this reason it is the Commission's purpose to consider carefully in every case the economic or business point of view. In this connection the attorneys, economists, examiners, and expert accountants who had become expert in investigatory work under the Bureau of Corporations, and who were taken over by the Commission, have been of great assistance.

Names of parties complaining not disclosed.--The suppression of unfair methods of competition and the prevention of the forbidden price discriminations, tying contracts, intercorporate stock holdings, and interlocking directorates, being primarily for the purpose of protecting the public interest in so far as proceedings before the Commission are concerned, and not contests between individuals in relation to their private rights, the person complaining of such unlawful acts is not a party to or in any way connected with such proceedings except as he may be called upon to furnish evidence. Moreover, in view of the fact that the Commission may institute a preceding on its own motion without charges being made to it, or upon application of parties not directly affected by the practices complained of, it is not the policy of the Commission to disclose the

source of the information upon which it proceeds to make a preliminary investigation.

Report of joint board of review.--When an investigation is completed the special attorney in charge makes a report to the appropriate commissioner, and the entire matter is then turned over to the joint board of review to be examined and considered. The board makes a formal report to the commissioner having personal supervision over the matter, stating concisely the facts developed from the investigation, together with its opinion upon the questions of law and fact involved, and making one of the following recommen-dations: (1) That a complaint be issued; (2) that the application be dismissed because the charges have not been established; (3) that the acts charged are not within the Commission's jurisdiction or do not constitute a violation of any law which the Commission is empowered to enforce; or (4), in cases of alleged unfair methods of competition, that a proceeding would not be in the interest of the public. The report of the Joint Board of Review is placed before the Commission by the commissioner in charge, who makes a report either concurring in the recommendation of tile board or, in the event of a disagreement, submitting separate recommendations. Having before it the report of the Joint Board of Review and of the commissioner in charge, the Commission acts, either by authorizing the issuance of a complaint or by dismissing by resolution or ruling of the Commission.

Disposal of cases without formal proceedings.--Before the issuance of a formal complaint the Commission notifies the party complained of that the charges have been made, giving a statement thereof, and also information such party that it is not the policy of the Commission to institute formal proceedings thereon without first making a full investigation of the facts, stating to such party that it will have an opportunity to be heard in reference thereto and to explain or deny the alleged violations of law.

This policy has been very successful not only in avoiding ill-founded prosecutions but also because in a number of notable instances, although there appeared to be a violation of law, still the party complained against agreed to cease and desist therefrom and in such cases the Commission thus far has not instituted a proceeding, but has dismissed the case by a conference ruling. This has not been adopted as a set policy by the Commission, because it may be that cases will arise where the unfair practices or the violations of the Clayton Act are so flagrant and the public injury so serious that a proceeding should be instituted and a public hearing had and an order made denouncing the practice and requiring its abandonment so that there may be a record of the policy of the Commission in reference thereto, notwithstanding the fact that the party complained against, before the institution of the proceeding, expressed a willingness to desist.

Thus far where the parties complained of have ceased and desisted from the violations charged, it has been considered that the public interests have been as well subserved as they would have been if a formal proceeding were instituted and the Commission and the respondent required to indulge in expensive and prolonged litigation.

Instances of cases disposed of without proceedings.--As an indication of the character of cases thus disposed of, the following instances are cited:

A manufacturer on the Pacific coast complained that a competitor whose factories were located in the East was selling certain of its goods on the Pacific coast at a lower price than it was selling the same goods in other parts of the country, the cost of transportation being considered, and that this discrimination was made for the purpose of and would, if continued, have the effect of injuring or destroying the business of the applicant. Before the completion of the investigation the corporation complained of notified the Com-mission that it had adopted a new price list for the Pacific coast, and it appeared that while the investigation was in progress there was a substantial reduction in railroad rates to the Pacific coast on shipments of the goods manufactured. The new price list, together with the reduction of freight rates, brought the prices of both competing concerns substantially to the same level. Moreover, the applicant for the complaint advised the Commission that the grounds thereof had been removed. Therefore, the discrimination complained of having been eliminated, the Commission dismissed the proceedings.

In another case a manufacturer engaged in interstate commerce issued a publication which, under the guise of trade news, gave misinformation of a character unfair and detrimental to the applicant's business. Upon the institution of an investigation by the Commission the alleged unfair method of competition was discontinued, and the party complained of assured the Commission that its policy had changed with a change of management and that no such practice would in the future be engaged in against any competitor.

In another case a typewriter rebuilding company engaged in interstate commerce circulated among dealers in various States a letter falsely stating that a competitor's factory in the Middle West had been removed to the east and that for this reason many of its customers in Central and Western States would make new arrangements for rebuilding typewriters. The party complained of subsequently advised the Commission that the statement when made was believed to be true. Upon the matter being inquired into by the Commission the concern complained of sent a letter of retraction to all dealers receiving the first communication, and assured the Commission of its readiness to take any further action deemed necessary to correct the wrong which had been done.

In another case a manufacturer engaged in interstate commerce sent out a printed circular containing a letter alleged to have been sent him by a dissatisfied customer of a competitor, disparaging the quality of the competitor’s products. It was charged that this letter was a bogus letter. As soon as the Commission began its investigation it received assurance from the concern complained of that it had discontinued the publication of the circular and that in the future it would not refer in its advertising matter in any way to the product of its competitors.

Complaints issued.--At the end of the fiscal year the Commission had issued amid served four complaints charging unfair methods of competition in interstate commerce in violation of section 5 of the

Federal Trade Commission act. Three of these complaints charged misbranding as to the character of goods with the intent and purpose of confusing, deceiving, and misleading the public, and to the injury of competitors who sell goods. The fourth complaint charges the respondent with (*a*) attempting to hinder, delay, and embarrass a competitor in equipping its plant and factory with suitable machinery; (*b*) espionage to procure drawings of machinery; (*c*) bribing an employee of a railway company to give information as to competitor's goods; (*d*) inducing the cancellation of sales and withdrawal of patronage of customers of its competitors; (*e*) instituting an unjustifiable and vexatious action against a competitor; (*f*) advertising such vexatious action; (*g*) threats to institute actions against persons who dealt with the competitor; (*h*) threatening to withdraw its advertising from newspapers that advertised the goods of the competitor; (*i*) falsely advertising that it had exclusive right to manufacture and sell its products; (*j*) endeavoring to induce other competitors to institute suit against the new competitor; (*k*) endeavoring to embarrass, hinder, and delay its competitor in procuring boxes in which to pack its products; (*l*) and generally endeavoring to prevent and destroy competition.

The Commission has also issued a complaint charging a violation of section 3 of the Clayton Act, forbidding "tying contracts," where their effect may be to substantially lessen competition or tend to create a monopoly in any line of commerce. This case presents substantially the same state of facts and issues as were presented in the case of Henry *v.* A. B. Dick Co. (224 U. S., 1).

At the end of the fiscal year all of these proceedings are at issue and the evidence is being taken, or they are awaiting the joining of issue by respondents so that the evidence may be taken.

Several other applications now under consideration by the Commission will in all probability, so far as the Commission is now able to determine, result in the issuing of complaints.

Form of complaint.--The formal portions of a complaint in a proceeding charging unfair methods of competition are in substantially the following form :

UNITED STATES OF AMERICA

Before the Federal Trade Commission, ss:

At a regular session of the Federal Trade Commission, held at its office in the city of Washington, D. C., of , 1916.

Present :

Joseph E. Davies,
Edward N. Hurley,
William J. Harris, Commissioners.
Will H. Parry,
George Rublee,

FEDERAL TRADE COMMISSION
v.
_____
Respondents

complaint in the matter of the alleged violation of section 5 of the act of Congress , approved September 26, 1914.

The Federal Trade Commission, having reason to believe that _____ _____, hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of section 5

of the act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purpose," and it appearing that a proceeding by it in respect thereof would he to the interest of the public, issues this complaint, stating its charges as follows :

(Here follow the specific allegations of unfair competition.)

THEREFORE, NOTICE IS HEREBY GIVEN YOU, the said respondent, that the charges of this complaint will be heard by the Federal Trade Commission at its office in the Commerce Building in the city of Washington, D. C., on the ___ day of 1916, at 10.30 o'clock in the forenoon of said day, or as soon thereafter as the same may be reached, at which time and place you shall have the right to appear amid show cause why an order should not be entered by the Federal Trade Commission requiring you to cease and desist from the violation of law charged in this complaint.

And you will further take notice that within thirty (30) days after service of this complaint you are required to file with the Commission aim answer in conformity with Rule III of time rules of practice before the Commission.

In witness whereof the Federal Trade Commission has caused this complaint to be issued, signed by its secretary, and its official seal to be affixed hereto at the city of Washington, D. C., this day of , A. D. 1916.

By the Commission.

[SEAL] LEONIDAS L. BRACKEN, *Secretary*

Answer by respondent.--The formal complaint, in accordance with the Commission's rules of practice, notifies the respondent that within 30 days he is required to file with the Commission an answer to the charges against him, which answer must specifically admit or deny or explain each of the facts alleged in the complaint, or disclaim knowledge regarding them.

Hearing upon complaint issued.--While the notice to be served with a complaint is framed, as required by the statute, in the form of a rule to appear and show cause why an order should not be issued by the Commission requiring the respondent to cease and desist from the violations of law charged, nevertheless the Commission has assumed that the burden is upon it to prove the allegations of the complaint, and that the respondent should be permitted to hear its evidence and to cross-examine its witnesses and then to prove every available defense set up in the answer.

The taking of the testimony in proceedings begins immediately after the joining of issue before a commissioner or an examiner of the Commission, at such times and places as are convenient. The offering of the evidence in substantiation of the charges of the complaint and the examination of witnesses is conducted by counsel for the Commission, and the respondent may appear in person or be represented by counsel.

While it is the purpose of the Commission to confine the evidence within the scope of the inquiry, nevertheless the technical rules of evidence are liberally considered and judicial rules of pleading and procedure are not strictly adhered to. The main desire is to get mill the facts pertinent in as direct a manner as possible in order to make a just amid fair and speedy disposition of the matter. It is believed that generally the final disposition of a case before the Commission can be reached under this method of procedure more expeditiously than it is ordinally reached in a suit in equity in the courts.

A*ttitude of Commissioners toward proceedings*.--In view of the fact that the Commission issues its own complaint and is thereafter

required to pass on the evidence in the proceeding and to make findings therein, the commissioners have endeavored with scrupulous circumspection to allow the conduct of the proceedings, and the presentation of the evidence, to be controlled as much as possible by the attorneys and examiners to whom the case has been assigned, in order that no Commissioner may be finally committed on questions involved until all the evidence has been presented.

VIOLATIONS OF SHERMAN ACT.

Commission directed to *report form of decree in Corn Products case*.--The duties of the Commission with respect to the enforcement of the Sherman Act have already been described. In the opinion rendered by the Hon. Learned Hand, judge of the District Court of the United States for the Southern District of New York, delivered June 24 1916, in the case of United States v. Corn Products Refining Co., which is a suit in equity brought by the Attorney General as provided in the antitrust acts, the court found the defendant, the Corn Products Refining Co., an unlawful combination in violation of the Sherman Antitrust Act and referred the suit to the Federal Trade Commission, as a master in chancery, to ascertain and report an appropriate form of decree. This was done by the court under the authority of section 7 of the Trade Commission act. At the end of the fiscal year the proceedings in the suit had not yet been certified to the Commission.

Commission directed to investigate Standard Oil companies.--By resolution of September 28, 1914 (Senate resolution No. 457, Sixty-third Congress, second session) , the Commission was directed by the Senate to investigate the relations now existing among the companies into which the Standard Oil Co. was dissolved by the decree of the Supreme Court; the business practices of these companies toward other producers, transporters, and refiners of oil; the efforts of these companies, if any, to control the price of crude oil and its refined products, and the result of such efforts; and the earnings, dividends, and capital of the Standard and other companies in the oil industry.

Relations with Department of Justice.--The most cordial relations have existed and are maintained between time Commission and the Department of Justice. Each refers to the other complaints primarily within the other's jurisdiction. Complaints involving solely restraints of trade in violation of the Sherman Antitrust Act which have been made to the Commission, or which develop into such cases upon investigation, are referred by the Commission to the Department of Justice; and complaints made to the Department of Justice, or facts developed there which involve primarily unfair methods of competition in commerce have been referred by that department to the Commission. In some instances these cases were referred to the Commission after an extensive investigation and marshaling of the facts had been made by the Bureau of Investigation of that department.

Trade Commission act and Clayton Act cases--Conference rulings.--Following the practice of the Interstate Commerce Commission, the Commission has interpreted, upon request, the laws which

it is empowered to enforce. Its responses to requests for advice upon matters of law have been made in a formal way only by means of conference rulings. Copies of all the conference rulings made during the fiscal year upon advice requests and upon the dismissal of cases are hereto appended. (See Exhibit 4.) It has not been considered advisable or to the public interest to use, in conference rulings the names of the parties involved, either in advice requests or in cases that have been dismissed because the parties have desisted from the unlawful practices charged, or in cases dismissed for want of jurisdiction or because the acts charged were not unlawful. Copies of the Commission's rulings have been in great demand from industrial concerns throughout the country.

Anticipating the taking effect on October 1, 1916, of the provisions of the Clayton Act (section 8) forbidding certain interlocking directorates, many requests have come to the Commission for advice as to the application of those provisions to specific cases and for the general interpretation or construction of those provisions.

So also the Commission has been asked for advice in reference to, or its approval of, proposed acquisitions of stock in competing corporations in so far as such acquisitions might violate section 7 of the Clayton Act. The Commission has refrained from giving such advice where it would be necessary to pass upon questions of fact (which could not be determined ex parte) as to whether the contemplated acquisition would substantially lessen competition, restrain trade, or tend to create a monopoly.

The Commission contemplates issuing in the near future, however, a series of general rulings in reference to the construction and interpretation of sections 7 and 8 for the use of the public generally and to be submitted to applicants for advice whenever the rulings may cover the state of facts described. The Commission has observed a general commendable endeavor on the part of industrial corporations to comply with these provisions.

Attitude of business toward the Commission.--The Commission has received many communications from business men commending the purposes of the Trade Commission act, and particularly the provisions condemning unfair methods of competition. From this correspondence and from other information coming to it in the course of its duties the Commission is convinced that the law has drawn the attention of business men throughout the country to the creation and observance of proper standards of commercial morality.

In the enforcement of the law the Commission seeks to understand and make allowance for the difficulty of the problem, to see both sides of every case, to protect men in the furtherance of legitimate self-interest by all reasonable and normal methods, and at the same time to keep the channels of competition free and open to all, so that a man with small capital may engage in business in competition with powerful rivals, assured that he may operate his business free from harassment and intimidation and be given a fair opportunity to work oust his business problems with such industry, efficiency, and intelligence as he may possess. To this end, the Commission seeks and has received the hearty cooperation of business men throughout the country.

ECONOMIC DEPARTMENT

All of the matters which the commission is empowered by the Trade Commission act to investigate or determine involve questions of fact and require work which is partly, and often wholly, of an economic character, namely:

(1) To investigate the organization, business conduct, etc., of corporation. (Sec.6, par. a)

(2) To require annual and special reports from corporations. (Sec. 6, par. b.)

(3) To investigate and make recommendations concerning the observance of decrees in antitrust cases. (Sec. 6, par. c.)

(4) To investigate alleged violations of antitrust laws. (Sec. 6, par. d.)

(5) To recommend adjustments of corporations alleged to be violating antitrust acts. (Sec. 6, par. e.) (6) To investigate trade conditions in and with foreign countries, particularly with respect to combinations. (Sec. 6, par. h.)

(7) To recommend appropriate form of decree in antitrust cases. (Sec. 7.)

(8) To determine and prevent unfair methods of competition. (Sec. 5.)

The same is true of those provisions of the Clayton Act the enforcement of which is intrusted to the Commission. These provisions relate to--

(9) Price discriminations. (Sec. 2.)

(10) Tying contracts. (Sec. 3.)

(11) Intercorporate stockholding. (Sec. 7.)

(12) Interlocking directorates. (Sec. S.)

Broadly speaking, the economic work under these powers may be grouped as follows:

(l) Compilation of information of a general character through corporation reports.

(2) Specific investigations of particular corporations, industries, or business problems, including those relating to the enforcement of the antitrust laws.

(3) Investigation of cases arising under the quasi-judicial, or administrate powers of the Commission under section 5 of the Trade Commission act, and sections 2, 3, 7, and 8 of the Clayton Act. .

For convenience and brevity these three groups may be denoted as, (l) corporation reports; (2) specific investigations; and (3) unfair competition.

CORPORATION REPORTS.

The power of the Commission to gather information concerning corporations generally is very broad, and the organic act of the Commission contemplates that it may classify corporations and require both annual and special reports from them. Provisions is also made for the publication of reports, with proper safeguards respecting trade secrets. The particular provisions conferring these powers are found in section 6, paragraphs (a), (b), (f), and (g) of the Trade Commission act.

The legislative history of the Federal Trade Commission and the debates in Congress thereon show it was contemplated that the Commission might use these powers in an extensive ways to secure information of interest to the public and of value to the corporations which made reports. These broad powers were also necessary for the effective execution of the various other duties imposed upon the Commission.

In some quarters the opinion was expressed, nevertheless, that such broad powers would be burdensome to business corporations and if required would involve great expense both to them and to the Government. The Commission has never contemplated using these grants of power in any burdensome way, and, in fact, even such use of it as would be highly beneficial to business was rendered impossible by the very limited appropriation made for the Commission.

The Commission found, in fact, that while most business men were eager to cooperate with the Commission along constructive lines, much educational work would be required before any extensive plan could be put into operation.

As a fundamental basis for any successful development of such useful information as might be derived from corporation reports it was found that it would be necessary to bring about an improvement in the methods of accounting used by business corporations, particularly with respect to accurate and uniform methods of cost accounting. Only in this way would the Commission be able to secure comparable data in the reports from corporations authorized by law. The first step of the Commission, therefore was to inaugurate an educational movement for better accounting methods.

As a general indication of its plans in this direction a brief circular was issued by the Commission and widely distributed entitled “Helpful Activities to Strengthen American Business,” which received a very favorable reception from the business world.

Uniform accounting--The Commission’s investigations showed that a large percentage of the merchants and manufacturers of the country, particularly the smaller ones, had very inadequate knowledge either of their costs of production or of their selling expenses. Many of them kept their books in such a way that they were unable to supply the Commission with even the simplest facts concerning their business. Even some of the most important concerns in the country manufacturing or selling several different classes of goods could not tell the amount of the sales of each class they handle, and those who knew the costs of, or the amount of profit on each were comparatively few.

Proper development of cost-accounting methods is essential to the obtaining of corporation reports which will be of any real value, while the urgent need for better bookkeeping and cost-accounting practice is recognized by all business men. Statistics based on estimates are apt to be misleading and therefore dangerous, yet with the methods in use in so many industries it the present time either this must be done or else an appreciable percentage of the reports from corporations must be left out of the computation.

Proper accounting even for the smaller manufacturer is of vital importance. It is necessary for his success that he know on what

particular article he is making a fair profit and on what he is making only a narrow margin of profit or losing money.

It is the desire of the Federal Trade Commission to help cure these conditions and bring about a more healthy state of affairs, and it hopes to accomplish this by reviewing systems of cost accounting submitted to it and by making suggestions looking to their improvement.

The Commission, while believing in and recommending uniform methods of accounting, has consistently pointed out that a uniform method of cost accounting does not mean uniform costs, and it does not approve any system which attempts to standardize costs by adopting arbitrary charges. It has pointed out that uniform costs can not show true results of an enterprise and also tend to inefficiency. It has furthermore emphasized the necessity of a merchant or manufacturer being in a position to make a true statement of his financial condition to his banker when seeking credit, thereby enabling the banker to put more faith in the statements submitted to him, and to grant the full amount of credit to which the borrower is entitled.

Two experienced accountants and a small staff were engaged during the fiscal year on this work.

The American Association of Public Accountants has appointed an advisory committee, consisting of seven accountants of national reputation who have aided the Commission with their advice in improving accounting methods.

There were prepared during the fiscal year two publications, one entitled "Fundamentals of a Cost System for Manufacturers" and the other "A System of Accounts for Retail Merchants," which were not received from the printing office until after the close of the fiscal year. These pamphlets have been widely distributed with a view to educating the manufacturers and merchants in proper accounting methods. Subsequent events have proved that the Commission did not overestimate the need for these pamphlets, as they have been literally overwhelmed with requests for them.

During the brief period that this uniform accounting work has been in operation much has been accomplished, and the business men of the country have shown appreciation of the services rendered. Owing to the limited funds available for this work it was impossible to make it as extensive as desired.

Reports by industries.--As already pointed out, the development of a system of corporation reports which will be of value to both business men and to the public depends principally on the application of correct methods of and on the completeness of the books kept. While the Commission, under its organic act, might prescribe forms of reports which would necessitate complete and uniform methods of accounting and require corporations to make returns in the manner so prescribed, yet it would be obviously impracticable and extremely disadvantageous to attempt to carry out any plan of that character in a comprehensive way at the present time.

The value and the necessity of such work should he made clear, not merely in general, but also with respect to the particular indus-

tries and the classes of business concerns affected before any steps are taken. In this matter the business world should be consulted at every important stage of the work, and it is highly desirable that the work undertaken should have its hearty cooperation. While the Commission believes that great advantages to the public generally, to the Government, and to the industries directly involved will eventually be obtained by comprehensive statistics of current operations regarding commercial and financial conditions, whether considered by industries by other methods of grouping (without showing the results of individual concerns), nevertheless, any steps toward this goal should be taken gradually and only after careful consideration.

The Commission wished at the very beginning to emphasize especially the advantages which would accrue to the business world by a better knowledge of industrial conditions and business results, and, in general, these can best be shown by the statistics of particular industries.

Furthermore, it wished to demonstrate and to bring to the attention of business men certain facts regarding the inadequate methods of accounting which so largely prevail at the present time and which are to a considerable degree responsible for the unsatisfactory conditions in many branches of trade. These unsatisfactory methods of accounting apply particularly to the failure of many business concerns to correctly determine their costs and profits, with the result that the former appear lower and the latter higher than is really the fact. Among the most common reasons for such inaccurate determinations of costs and profits is the failure to make adequate depreciation charges.

The Commission was especially encouraged to make a prompt beginning in this direction by the many requests it received from business men for information concerning the industries in which they were themselves engaged.

With these purposes in view the Commission decided to send a brief schedule of questions to manufacturing and mercantile corporations covering only certain fundamental data for which the books of every corporation should furnish an answer.

The total number of schedules sent out was 289 460 which were sent to three classes of corporations as follows: (1) Manufacturing and mining, 115,939 (2) mercantile, 74,512; (3) miscellaneous, 99,009.

Though the request for this information was put on a voluntary basis, nevertheless the Commission in a large number of instances sent out “follow-up” letters to secure more complete returns. Up to the end of the fiscal year 1916, 70,796 replies were received in response to the first request, and 16,283 replies in response to the second, making a total of 87,079. A considerable proportion of the replies, however, showed the concerns addressed to be inactive or out of business.

In order to make the results as useful as possible the Commission classified the returns received according to industries, and in thus work it was greatly assisted by the secretaries of various trade associations.

As the work was not completed during the fiscal year, the Commission at this time desires merely to describe the general plan and the great possibilities it presents for useful service to the public generally to the Government, and to the business men immediately concerned.

SPECIFIC INVESTIGATIONS.

The term "specific investigations," as already stated, is used to denote the investigations of particular corporations, industries, or business problems, including those relating to the enforcement of the antitrust laws. These investigations are generally similar to those formerly undertaken by the Bureau of Corporations, which was merged in the Federal Trade Commission on its organization. In fact, some of the investigations now being conducted by the Federal Trade Commission were initiated by the Bureau of Corporations

The specific investigations upon which important work was done during the fiscal year under consideration were as follows :

(l) Cooperation in American export trade.
(2) Trade and tariffs in South America.
(3) Pipe-line transportation of petroleum.
(4) Fertilizer industry.
(5) Gasoline prices.
(6) Beet-sugar industry.
(7) Lumber industry.
(9) Trade associations.
(10) Mexican sisal hemp.

The pipe-line and gasoline investigations were parts of a general investigation of the petroleum industry which was directed by several resolutions of the Senate.

Preliminary work on certain new investigations was also begun near the end of the fiscal year, namely :

(11) Anthracite coal industry.
(12) Bituminous coal industry.
(13) News-print paper industry.

Of these investigations, which are described in more detail below, the first three and the tenth, namely, (l) Cooperation in American export trade, (2) trade and tariffs in South America, (3) pipe-line transportation of petroleum, and (10) Mexican sisal hemp, were completed (luring the fiscal year under consideration; and the three others, fertilizer industry, gasoline prices, and beet-sugar industry, were nearly complete. Two others, namely, resale-price maintenance and trade associations, were suspended on account of pressure of other work. The limited appropriations for the staff and quarters of the Commission have made it impossible to carry out and complete all investigations simultaneously and have tended to delay the work on those which were completed or continued.

Since the close of the fiscal year under consideration a Senate resolution was passed calling for another investigation of the paper industry (Senate resolution No. 269, Sixty-fourth Congress, first session) , the one previously ordered having been confined to the news-

print paper, while an investigation of the bituminous coal industry tentatively begun by the Commission during the fiscal year was since then specifically ordered to be conducted by resolution of the House (House resolution No. 352, Sixty-fourth Congress, first session). Precedence is naturally given to those investigations which are directed by Congress or imposed upon the Commission by its organic act.

Cooperation in American export trade.--During the year the Commission concluded its investigation of cooperation in American export trade. This investigation was undertaken pursuant to the authority given in section 6, paragraph (h), of the act creating the Commission. The investigation was started in the closing weeks of the preceding fiscal year.

The plan of this investigation included public hearings and professional men, research in published material, questionnaires sent out to business and professional men, special reports from the United States consuls and commercial attaches, and investigations both in the United States and abroad by representatives of the Commission. The investigation was conducted according to this plan, and public hearings were held by the Commission in New York, Boston, Chicago, Detroit, Cincinnati, Indianapolis, St. Paul, Spokane, Seattle, Takoma, Portland, San Francisco, Los Angeles, San Diego, and other cities. At these hearings the Commission obtained much first-hand information from business men who were personally acquainted with the conditions of international trade and the export trade of the United States.

Following the public hearings questionnaires were sent out to several thousand corporations, firms, associations, and individuals throughout the United States who were understood to have any interest in the question of cooperation in American Export trade or any information bearing on international competitive conditions. In sending out these questionnaires the Commission endeavored to get information and opinions in a comprehensive manner from export commission merchants, manufactures, export agents, importers, domestic merchants, publicists, economics, bankers, engineers, contractors, and manufacturers in every important industry in the country. It desired to get the facts from as many different points of view as possible on all sides of the question from every section of the country. The replies to these questionnaires furnished the Commission with extensive data, opinion, and suggestion on the subject of the inquiry. These replies were supplemented by field investigations on the part of representatives of the Commission in the United States. In this way the accuracy of many statements was verified and additional pertinent facts and supporting data were obtained.

The Commission desired to make use of all the information available in published sources, and for this purpose had all such material systematically examined. This necessitated research in more important trade journals and commercial and financial publications not only in the United States and Canada, but of Great Britain, Australia, New Zealand, South Africa, India, China, Japan, South America, France, Belgium, Germany, Italy, and Austria-Hungary. Moreover, the official reports and parliamentary papers of those

countries, so far as available, together with bulletins and reports of their trade associations, monographs and reports of students and economic investigators, as well as other material, were examined. In this way also a great deal of valuable information was obtained.

Through the cooperation of the Secretary of State and the Secretary of Commerce arrangements were made whereby special reports were to be made to the Commission by American consuls and commercial attache's abroad. Owing to the disturbed condition resulting from the war these reports contained much information which it would have been impossible for the Commission to have obtained through its own agents or in any other way. They constitute an especially valuable contribution to the information collected.

In order to obtain certain facts first hand in respect to conditions in South America the Commission sent one of its expert investigators there, and the activities of various European combinations in South American markets were studied. In addition, valuable information was obtained as to the opportunities for cooperative effort by organizations of Americans to develop trade in South America.

A summary of the Commission's findings and recommendations was sent to Congress on May 10, 1916. The complete report was not published until after the end of the year. This report is in two volumes, the first containing the Commission's discussion of the facts presented regarding competitive conditions in international trade and setting forth its recommendations in detail; the second volume, of about 600 pages, consists of exhibits. Exhibit l gives the special reports of United States consuls; Exhibit 2 consists of excerpts from the statements made at the public hearings held by the Commission; Exhibit 3 gives the forms of the questionnaires used by the Commission in the investigation; Exhibit 4 gives a large number of typical replies to the different inquiries in the questionnaires; Exhibit 5 consists of examples of price and export agreements of different foreign combinations; and Exhibit 6 contains miscellaneous data concerning foreign corporations and combinations.

On the whole, the report is the most comprehensive presentation of facts relating to the question of combination and cooperation as it affects international trade that is anywhere available.

The Commission concluded as the result of this investigation that cooperation in American export trade would be of great advantage to this country, but that business men generally were deterred from engaging in cooperative organizations for that purpose on account of the fear that they might violate the antitrust laws. The recommendations of the Commission on this matter are discussed below.

Trade and tariffs in South America.--At the direction of the President, the Commission undertook an investigation of trade and tariffs in South America. This work was begun in December, 1915. The investigation was conducted under the provisions of section 6 paragraph (h) of the Trade Commission act. The information was desired by the Secretary of the Treasury, chairman of the American branch of the International High Commission, for use in the deliberations of the full Commission, which met at Buenos Aires in April, 1916. This high commission was appointed as an outcome of the First Pan American Financial Conference, which met at Washington on May 24-29, 1915.

The representatives of the Federal Trade Commission studied the subjects discussed in its report in Brazil, Uruguay, Argentina, Chile, Bolivia, and Peru, and the report of the Commission was placed in the hands of the Secretary of the Treasury before the American branch of the Intenational High Commission departed for Buenos Aires in March, 1916.

The report was also submitted to Congress and published on June 30, 1916.

In the preparation of this report the Federal Trade Commission also sought to make it of general utility to American business men engaged in or contemplating trade with South American countries.

The tariff characteristics of each country are discussed in the report. The administrative requirements respecting ships' manifests, bills of lading, and consular invoices are described, as well as customhouse procedure and the functions of customs brokers in the different countries visited. The important regulations relating to fines and seizures, protests and appeals, and samples of commercial travelers are either cited or discussed in condensed form. Peculiarities of tariff classifications and rules governing them and dutiable returns are given whenever of special importance. Methods of valuation for customs purposes are described, and specific examples of their results given when they were available. Smuggling and irregularities are discussed in a broad way, and the competitive effects of the sales of abandoned or unclaimed goods at less than their value plus duties and other charges.

A number of typical shipments of different American goods were selected as examples, and a full illustration of the exact customs duties, other fiscal charges, and important expenses incurred upon their importation in each country, are shown in explicit detail in the report for each of the six countries, after verification of these items at the principal customhouses of the counties visited. The relation of these duties and charges to the invoiced value is shown in each instance.

The principal industries of these countries are described, and statistical information as to their importance submitted with the report.

The Commission s investigation established the prevalence of a decided protective-tariff tendency in some of the South American countries, and brought out this fact prominently for the information of American exporters for the first time in an American Government report. The erroneous impression had been created in this country that all the Latin American tariffs are devised purely for revenue, and it was considered important to point out that at least certain American goods must compete with native manufactures and products in Latin America under protective-tariff provisions.

In its recommendation to Congress the Federal Trade Commission endeavored to point out what American producing and financial interests can do to extend trade with South America. Concrete illustrations of the customs treatment of American goods in the countries covered by the report contrasted with our own favorable customs treatment of South American products were laid before Congress, and our policy respecting these products compared with that of the leading European countries. For the further information of Con-

gress a number of the outstanding features of South American tariffs and customs systems which most tend to restrict freer commercial intercourse with our South American neighbors were pointed out. In connection with these facts it was shown how the Governments of those countries could contribute effectively toward improving commercial relations with the United States by modifying unworkable or burdensome tariff provisions and customs regulations.

Pipe-line transportation of petroleum.--An investigation of the important features of the production, transportation, refining, and distribution of petroleum and its products was begun in 1913 by the Bureau of Corporations in response to a Senate resolution (Senate resolution No. 109, passed June 18, 1913). This resolution directed a thorough investigation into the price of oil in Oklahoma transported by interstate pipe lines, and a comparison of such prices with the general market level in the United States, quality and transportation considered. In order to answer this resolution completely a thorough study into the several different branches of the petroleum industry, including the pipe lines, was necessary.

Another Senate resolution was passed September 28, 1911 (Senate resolution No. 457), which, in contemplation of the organization of the Federal Trade Commission, directed the Commission to investigate certain features of the petroleum industry. This resolution further extended the scope of the inquiry already in progress.

On February 28, 1915, the Commission issued its report on Pipe Line Transportation of Petroleum. This is the first of a series of reports to be issued in answer to Senate resolutions 109 and 457, mentioned above. The subject of pipe-line transportation is one of the most important in the industry. The economic value of the information which had been collected, and the need for immediate use of some of it in dealing with present-day conditions, made it advisable to issue this report before the final completion of the investigation in order to make the information immediately available in a convenient and authoritative form.

The report covers the interstate pipe-line transportation of oil produced in the Mid-Continent field, and that produced in the Gulf Coast field, and transported by the chief pipe lines in that field. The Mid-Continent field is the chief source of crude oil for all refineries located between the Rocky Mountains and the Mississippi River, and one of the most important sources of crude oil for all the refineries east of that river.

The report deals primarily with the financial and operating accounts of the pipe lines. It outlines the general situation in regard to the sources of crude oil, describes the construction and operation of pipe lines, and gives detailed analyses of the operating costs, receipts, tariff rates, and investment of the five principal interstate pipe-line systems which transport oil from the Mid-Continent and Gulf fields.

The principal conclusions of the Commission were as follows :

The cost of pipe-line construction is so great that small concerns can not build lines from the Mid Continent field to the large consuming and distributing markets.

There is generally a large difference between the cost of pipe-line transporation and pipe-line tariff rates, while the independent shipper can not, practically speaking, use railroads instead, because their

rates are still higher. Lower pipe-line rates and also smaller minimum shipments are necessary in many cases, therefore, to enable small concerns to compete with large refineries affiliated with pipe-line companies.

Reasonable and equitable conditions of shipment by pipe line would tend to a greater equality in the prices of Mid-Continent and Appalachian crude oil and in the prices of refined products in different markets.

Fertilizer industry.--An investigation into the prices of certain fertilizing materials was begun by the Bureau of Corporations in accordance with a resolution of the Senate, but the completion of the investigation devolved upon the Commission. The work was finished and the report on this subject prepared during the fiscal year 1916, but its issue was delayed in order to give certain fertilizer manufacturing companies an opportunity to consider what they should do with regard to matters which were the subject of criticism by the Commission.

The ability of the Federal Trade Commission to bring about improved business methods in an industry through the cooperation of those in it was demonstrated in this conference with the fertilizer manufacturers. As a result of its investigation of this industry, the Commission found that several of the larger companies were operating subsidiary concerns ostensibly as competitors. This practice had certain advantages to the controlling companies, the most important of which was that it enabled them to get more dealers in a locality, and thereby to increase their sales and distribute their credit risks. But the practice also involved features which the Commission felt were not fair to competitors nor to the public. Following the plan of informal conference rather than formal procedure, which has proven so successful in numerous complaints that have been dealt with, the Commission referred the matter to one of its members, who held informal conferences with various fertilizer manufacturers, at which the whole matter was considered with the greatest frankness The fertilizer manufacturers explained the business reasons back of the practice and admitted that it was responsible, in part at least, for some of the unsatisfactory conditions existing in the industry. They all voluntarily agreed, however, that they would identify their subsidiary and affiliated companies by using suitable expressions on their letterheads, advertising matter, contracts, and bags, so that hereafter the identity of such concerns will be evident to all who have dealings with them.

The consensus of opinion of those engaged in the fertilizer industry is that while this identification of controlled companies may work some temporary inconvenience to those making this change, in the long run it will be beneficial to the business. The fictitious nature of some of the competition previously existing will be eliminated. Hereafter competition will be directed more to the manufacture and sale of goods of superior quality, for it will no longer be possible to sell dissatisfied customers the same goods under different names. Some of the subsidiaries and affiliated companies will be given up, because with their identity disclosed it will not be found profitable to continue their operation. In a number of cases the interest of the large corporations in the local concerns will be disposed of, so that they will again become bona fide independents.

The independent manufacturers of fertilizers feel especially gratified that the Commission has brought about these changes in the industry, and the large manufacturers who have made them voluntarily at the suggestion of the Commission appreciate the value of its efforts in the matter.

Gasoline prices.--During the fiscal year 1916, while the general petroleum investigation was in progress, an extraordinarily rapid advance occurred in the price of gasoline, and many complaints were made to the Commission concerning discriminations in the price of gasoline in different localities. As this advance in gasoline prices was a matter of wide public concern, the Commission determined to postpone certain other phases of the investigation of the petroleum industry in order to study the situation.

A rapid but comprehensive investigation was made of the gasoline situation in order to determine the causes of the rapid advance in prices and to ascertain whether it was due to normal market conditions or to artificial conditions. A preliminary report, giving some of the basic statistical facts was submitted to Congress on April 10**,** 1916. After the investigation was nearly completed the Commission, in June of the fiscal year, had public hearings at which testimony was taken from parties connected with or interested in this question. The final report on this subject, however, was not completed nor issued during the fiscal year.

Beet-sugar industry.--An investigation has been initiated in the sugar industry by the Bureau of Corporations, at the direction of the Secretary of Commerce. It was not completed, however, when the Commission was organized. While the work was finished during the fiscal year 1916 , the pressure of other work made it impossible for the Commission to give it final consideration.

Lumber industry.--An investigation of the lumber industry was initiated a number of years ago by the Bureau of Corporations, in accordance with a resolution of the Senate, and though it issued several reports on this subject, some of the work remained uncompleted at the time of the organization of the Commission. Since then certain new problems have developed in the lumber industry, and the Commission has been engaged in the investigation of these matters in cooperation with the Forest Service, of the Department of Agriculture, and with the Bureau of Foreign and Domestic Commerce, of the Department of Commerce. These problems relate to the fundamental conditions of timber ownership, the manufacture of lumber, and the methods of distributing lumber products.

Numerous conferences and hearings were had with other Government agencies and also with representatives of the lumber industry, and a definite plan of investigation was determined upon and the work commenced during the fiscal year 1916.

Resale price maintenance.--The investigation of resale price maintenance, as a broad question of trade policy from an economic standpoint was initiated by the Bureau of Corporations, but its progress was interrupted by various circumstances. While some further investigation and study of this question was made by the Commission during the fiscal year 1916, the pressure of other work and the inadequate appropriations and small staff of the Commission rendered it impossible to make much progress thereunder.

Trade associations.-- One of the most important questions of trade policy at the present time relates to the practice of trade associations. Their activities are of a varied character, and many of them are of great benefit not only to the branch of trade concerned therein, but also to the public. Nevertheless, their activities have sometimes involved them in practices which have been condemned by the courts as violations of the antitrust laws. The practices of trade associations have important relations also to the problem of unfair competition. For these reasons a study of their methods is of great importance to this Commission and requires a comprehensive investigation.

The Commission collected a large amount of general information on this subject during the fiscal year 1916, but no thorough investigation was attempted.

Mexican sisal hemp.--In Acetin, Mexico, a commission (Comision Reguladora del Mercado de Henequen) was organized under authority of law in Mexico to purchase sisal hemp from the producers and sell it for export trade in such a manner as to control prices. This commission established connections with certain financial interests in the United States and practically controlled the importation and price of sisal in this country. During the fiscal year difficulties arose in obtaining this commodity, and a marked advance in the price occurred. A Senate committee made an investigation of the situation and of this sisal combination, in the course of which the Comision Reguladora, in order to meet in part the requirements of American manufacturers, offered to sell a certain quantity at definite prices if the Senate committee would indicate the quota which the various manufacturers were fairly entitled to receive.

The determination of this question was referred by the Senate committee to this Commission, and report was made by the Commission, indicating what would be a fair allotment of this commodity to American manufacturers under the conditions laid down by the Comision Reguladora.

Anthracite coal industry.--According to a Senate resolution (Senate resolution No.217, Sixty-fourth Congress, first session) passed just before the close of the fiscal year the Commission was directed to make an investigation of the anthracite coal industry with reference to the recent increase of prices and especially the relation of the price increase to the increase of labor cost.

The Commission was not able immediately to organize the investigation directed by this resolution, because the entire available force of the Commission was engaged on other work. It regards the investigation of the anthracite situation, however, as very important and believes that a thorough and impartial study of the reasonableness of the price of anthracite coal will be of great public interest and value at thus time.

Bituminous coal industry.--As early as March, 1915, the attention of the Commission was called to conditions existing in the bituminous coal industry in Indiana and Illinois, through requests made by coal operators with respect to existing conditions and various plans of cooperation which they desired to undertake to remedy a situation which was claimed to the injuries not only to the bituminous coal producers, both operators and miners, but also to the consumers and the general public.

A preliminary investigation made at that time indicated that the conditions complained of might also exist in other sections of the country, and that it would be necessary to consider the bituminous coal industry as a whole before the questions submitted by the operators in Illinois and Indiana could receive an adequate answer.

Hearings, in May and June, 1915, were held in Chicago, and in June in Pittsburgh, at which many of the coal operators were present. Many of the difficulties of the situation were discussed. Subsequent to the end of the fiscal year, similar hearings were held at Charleston, W.Va., Kansas City, Mo., and Denver.

On August 18, after the close of the fiscal year 1916, a resolution was passed by the House (House resolution No.352, Sixty-fourth Congress, first session) which directed the Commission to make inquiry into the conditions in the production and distribution of bituminous coal, and to report the facts to Congress with recommendations.

"News-print paper industry.--In consequence of a marked advance in the prices of news-print paper during the fiscal year 1916 a Senate resolution (Senate resolution No.177, Sixty-fourth Congress, first session) passed just before the close of the year, directed the Commission to make an investigation of the situation.

The work was only begun during the fiscal year under consideration, but it was expedited in order that a report might be submitted to the Senate on this subject shortly after it convenes in December.

UNFAIR COMPETITION.

The quasi judicial or administrative powers of the Commission to prevent unfair methods of competition and to enforce certain sections of the Clayton Act, referred to above in connection with the work of the economic department, have been described in detail in connection with the work of the legal department and require no detailed discussion here.

As already noted, in connection with the organization of the Commission, the economic department is represented on the joint board of review which makes final recommendations to the Commission concerning cases arising under this provision of the law. The staff of the economic department is engaged in the investigation and study of these cases from the point of view of the facts, and economic aspects of such practices as come before the Commission for consideration.

While the legal aspects of these matters are of fundamental importance, particularly in the accurate determination of jurisdiction and the development of a body of rules consistent and in harmony with the general principles of law, the Commission regards the social and economic aspects of which rules and their practical business consequences as a matter of prime importance. For this reason they require very careful consideration of these questions from the economic or business point of view. The Commission aims, in making its rulings and orders to promote business efficiency and, within the limits of practicability, to cooperate with the business world in developing the best standards of commercial ethics. This attitude has received the general approbation of the business public and has greatly facilitated the settlement of such matters without friction or expensive litigation.

Much of the detailed work in determining facts in a given case requires careful economic study and often involves the examination of the books of account of the parties interested or affected. This work is the special field of the economists and accountants. Some of the economic problems involve very large questions of business organization and methods of distribution or sale, as, for example, questions of price cutting, maintenance of resale prices, and practices affecting the channels of distribution. Such questions really demand specific investigation of conditions in the country as a whole, so that the work of the economic department with respect to specific investigations has important relations to the solution of particular cases regarding the trade practices which come before the Commission under its quasi judicial or administrative powers.

ADMINISTRATIVE DEPARTMENT.

The principal administrative divisions under the immediate direction of the secretary of the Commission included during the fiscal year the chief clerk's office and the docket, mail and files, stenographic, and library divisions.

Chief clerk.--The chief clerk and the clerical force under his immediate supervision have charge of the disbursements, appointments, printing, supplies, and the usual office records concerning the personnel of the staff. During the fiscal year under consideration the disbursing clerk of the Department of Commerce also acted as special disbursing officer of the Commission (without compensation).

Docket division.--The docket division keeps the applications made for the issuance of complaints under section 5 of the Trade Commission act and under sections 2, 3, 7 , and 8 of the Clayton Act, together with the fines connected with each case and the results of the Commission's action, whether for dismissal, complaint, order to cease and desist, etc.

Mail and file division.--The mail and files division has charge of the mail matter received and copies of the mail matter sent out by the Commission, except such part is kept in the docket division. It also keeps in its files all original documentary material otherwise collected or acquired by the Commission through its field investigations, hearings, etc., together with memoranda, office reports, completed statistical and accounting computations, and tabulations and publications issued by the Commission.

Stenographic division.--The stenographic work of the Commission fluctuates markedly between deferent departments, and in order to promote the greatest efficiency most of the stenographic force is consolidated into a single division and placed under the administrative department.

About the beginning of the fiscal year it became apparent that the stenographic division, both in personnel and equipment, was wholly inadequate to meet the demands of the work, and a number of temporary appointments were made. During the year all but two of these men were replaced by permanent appointees, it having become evident that there would be a continuous need for their services. The total number of employees in the division, however, was not increased after the first month of the fiscal year.

During the greater part of the year the work of the division was considerably in arrears, due to a great increase in the volume of work. Owing to lack of space, it was not practicable to employ additional men to take care of this work, and it was necessary to draft clerks from other divisions to assist in typewriting. At the close of the year the current work was being kept approximately up to date, although there was much other work of not so pressing a nature which was necessarily delayed through lack of the force to handle it.

Due to lack of funds, it was impossible to provide adequately for depreciation in typewriter equipment. Many machines are now in use which need thorough overhauling, and others which are so old that overhauling would not be economical. They are kept only in such state of repair as will enable them to be used on rough work for office use.

Library division.--The library of the Commission during the fiscal year under consideration was entirely inadequate on account of the lack of specific authority in the appropriation for the purchase of books, etc. The requirements of the Commission in this respect are of a highly specialized character, and the libraries of other departments of the Government do not afford adequate facilities. Efficiency, moreover, demands that the library material most constantly in use should be immediately at hand.

The services of an experienced librarian were secured to organize a library for the Bureau of Corporations, which would serve as a foundation for the new Commission when created.

The library now contains 2,100 catalogued volumes, exclusive of the law collection, which consists of 1,300 volumes. In addition to law books, the library has collections on economics, corporation finance, industries, foreign trade , scientific management, transportation, accounting, etc. Special attention has been given to collecting trade directories, city directories, and corporation and security manuals. The collection of documents in antitrust cases numbers 1,152. Owing to the fact that no money was available for the purchase of books for the Commission during the fiscal year 1916, it was possible to secure only such volumes for the library as could be procured without cost.

The material in the library is catalogued in detail, as it is necessary to produce at a moment's notice all information on hand concerning a certain subject or corporation.

In addition to the above-mentioned material the library maintains a corporation and trade-association file. The corporation file consists of reports and other information arranged alphabetically by corporations. The association file consists of constitutions and bylaws, proceedings, lists of members and other information arranged alphabetically by associations under an industrial classification.

The law library at present consists of approximately 1,300 volumes. Many of these are State session laws which should be replaced by recently compiled codes, and some other volumes are useless for the present purposes of the Commission. Even the useful books in its possession are insufficient in number; namely, one set of United States Supreme Court Reports; one incomplete set of Federal Court Reports; one incomplete set Lawyer’s Annotated Reports; one incomplete set of State codes; one set American and English Encyclopedia, second edition; American and English Corporation

Cases (old series); Rose's Notes; Rose's Digest; Federal Statutes, Annotated; United States Statutes at Large; Opinions of Attorneys General; and a very limited number of suitable textbooks. With such a meager equipment it is not difficult to see that much time must needs be wasted and much delay and inconvenience caused to the Commission by having at times many members of its legal staff working in the thoroughly equipped libraries of other departments.

In order that the legal work of the Commission may be expeditiously and economically performed under efficient administrative methods, it is necessary to equip its library with at least four sets of the United States Supreme Court Reports and Digests, two sets of Federal Reporter and Digests, two sets of Shepard's Citations, the last 90 volumes of Federal Reporter, Encyclopedia of United States Supreme Court Reports, Federal Cases, Citer Digest, Federal Statutes Annotated (Supplement), Century, Decennial, and Key Number Series Digests, "Cyc" and Corpus Juris, National Reporter System, Lawyers' Reports, Compiled Statutes of the United States, News Digest, and a sufficient supply of textbooks and other books of reference relating to the business of the Commission, including subscriptions to a few of the more important periodicals, etc. The cost of such an equipment would approximate $8,000.

PUBLICATIONS OF THE COMMISSION.

The publications issued by the Commission during the fiscal year ending June 30, 1916, were as follows:

Pipe Line Transportation, of Petroleum, February *28,* 1916, pp. XXV, 464.
Investigation of the Price of Gasoline, Preliminary Report. April 10, 1916, pp.15.
Cooperation in American Export Trade, May 2, 1916, 2 voIs., pp. XVI, 387, XXIII, 597.
Trade and Tariffs in South America, June 30, 1916, pp. 246.
Conference Rulings, Bulletin No.1, January 31, 1916, pp.13.
Helpful Activities to Strengthen American Business, January 16, 1916, pp.4.
Annual Report of the Federal Trade Commission for the fiscal year ended June 30, 1915, pp.14.

The report of the Commission on Mexican sisal hemp was not printed by the Commission but by the Senate, as Document No.440, Sixty-fourth Congress, first session (8 pages) .

PERSONNEL.

The personnel of the members of the Commission did not change during the fiscal year under consideration. The great increase in the work of the Commission necessitated large additions to the staff. In accordance with its organic act, the staff of the Bureau of Corporations became the staff of the Commission on its organization, and only a few additional appointments were made in the few intervening weeks prior to the fiscal year 1916. The total staff at the beginning of the fiscal year was 138 and at the close 219. During the last part of the fiscal year the temporary employment of a considerable number of special agents, etc., made the maximum number of staff employees somewhat greater than at the chose of the fiscal year 1916.

The following statement gives an analysis of the personnel of the Commission and its staff at the close of June 30, 1916.

77 statutory employees		$132, 420
147 lump-sum roll employees		263, 770
224	Total	396,190

Classified as follows :

5 commissioners, at	$10,000	
1 secretary at	5,000	
5 clerks to commissioners at 1	1,800	
1 chief clerk at 1	2,500	
4 clerks of class 4, at	1,800	
3 clerks at class 3, at	1,600	
6 clerks at class 2, at	1,400	
11 clerks at class 1, at	1,200	
12 clerks, at	1,000	
49 clerks, at 2	900	
1 meesenger, at	840	
2 assisstant messengers at	720	
8 messanger boys, at	480	
	-------	$162,320
3 special attorneys, at	5,000	
2 special attorneys, at	3,000	
1 special attorney, at	2,640	
2 special attorneys, at	2,460	
2 special attorneys, at	2,400	
1 special attorney, at	2,340	
1 special attorney, at	2,000	
1 special attorney, at	1,980	
2 special attorneys, at	1,800	
1 special attorney, at	1,440	
	------	44,720
1 attorney and examiner, at	4,750	
1 special agent, at	4,000	
3 special agents, at	3,000	
1 special agent, at	2,700	
1 special agent, at	2,520	
2 special agents, at	2,460	
1 special agents, at	2,400	
1 special agent, at	1,740	
2 special agents, at	1,680	
4 special agents, at	1,620	
3 special agents, at	1,500	
3 special agents, at	1,440	
1 special agent, at	1,400	
4 special agents, at	1,380	
4 special agents, at	1,320	
3 special agents, at	1,260	
1 special agent, at	1,200	
	-------	$96,780
1 special expert, at	3,000	
1 special expert, at	2,700	
1 special expert, at	1,800	
1 special expert, at	1,200	
	--------	8,700
1 special examiner, at	5,000	
2 special examiners, at	4,200	
1 special examiner, at	3,500	
1 special examiner, at	2,640	
2 special examiner, at	2,520	
1 special examiner, at	2,400	
1 special examiner, at	2,220	
	------	28,800
1 examiner, at	5,000	
1 examiner, at	2,700	
1 examiner, at	2,400	
1 examiner, at	2,000	
1 examiner, at	1,920	

5 examiners, at	1,800
2 examiners, at	1,500
21 examiners, at	1,200
1 examiner, at	900

1 At the close of June 30, 1916, the salaries of the clerks to commissioners were $1,800 each, the new rate of $1,500 becoming effective on July l. 1916; in the case of the chief clerk the salary was $2,500 on June 30, 1916, becoming $2,000 on July l. 1916.

2 Of these 49 clerks at $900 each, 31 were carrled on the lump-sum roll.

At the close of June 30, 1916, the services of the following terminated :

12 examiners (temporary)		
5, at $1,800		
2, at $1,500	total salaries	$18,000
5, at $1 ,200		
1 special expert		2,000
1 special attorney		14,400
		34,400

The total personnel of the Commission and its staff at the end of the fiscal year 1916 was 224, as compared with 143 at the end of the fiscal year 1915, showing a increase of 81.

QUARTERS OF THE COMMISSION.

The quarters occupied by the Commission during the fiscal year were those allowed by the Secretary of Commerce, in the Commerce Building, and were, with comparatively slight additions of space, the same as those occupied by the Bureau of Corporations. As already shown, the Bureau of Corporations had a much smaller staff than the Federal Trade Commission and needed less room for the superior officers and for the accommodation of hearings, etc. The provision of law regarding the quarters of the Federal Trade Commission for the fiscal year under consideration, found in the sundry civil appropriation act approved March 3, 1915, reads as follows :

> The space now occupied by the Bureau of Corporations in the building rented for the use of the Department of Commerce is transferred to and for the accommodation of the Federal Trade Commission, and the Secretary of Commerce is directed to transfer to said Commission any additional rooms or space in said building that may be required for its use.

The inadequate quarters which the Commission obtained under this provision of law was a serious physical impediment to the proper performance of its duties and undoubtedly diminished the efficiency of the staff in consequence of crowded rooms and insufficient air and light. As there was no other room available, hearings were held in the office of the chairman. A slight measure of relief was afforded for a part of the time by the courtesy of the Treasury Department, which furnished space for those members of the staff who were working on its records.

While an appropriation was made for rent for the current fiscal year, the amount was much below that estimated as necessary. The Commission has been unable to find satisfactory accommodations lip to the present time within its appropriation and has, therefore, been obliged to remain in its old quarters.

APPROPRIATIONS AND EXPENDITURES.

The appropriations of the Commission for the fiscal year ended June 30, 1916, under the study civil appropriations act approved March 3, 1915, were $355,000. Besides this amount the Commission had the slim of $75,964.08 allowed by the ruling of the Comptroller of the Treasury, under the second paragraph of section 3 of the act creating the Commission. Thus fund consisted of the unexpended

balance of the appropriation for the Bureau of Corporations for the fiscal years ended June 30, 1913, and 1914, and was made available until expended.

The expenditures of the Commission for the fiscal year ended June 30, 1916, were $379,927.41. These appropriations and expenditures are tabulated below,

	Appropriated.	Expended.
Salaries, commissioners and secretary	$55,000.00	$52,00.00
Salaries, per diem in lieu of subsistence, contingent and miscellaneous expense	300,000.00	299,999.73
Federal Trade Commission (without year)	75,964.08	27,927.68
Total	430,964.08	379,927.41

In this connection it may be noted that the appropriations made for the Federal Trade Commission, apart from the amount provided for the commissioners and secretary, was only about $50,000 greater than for the Bureau of Corporations. Furthermore, it should be noted that the Bureau of Corporations received in addition for the fiscal year 1915 an allotment from the appropriation for contingent expenses of the Department of Commerce to cover expenses for furniture, equipment, stationery, and other necessary miscellaneous expenses. For this purpose the Commission expended during the fiscal year ended June 30, 1916, $10,843.93.

Considering the much more comprehensive and varied functions and duties of the Federal Trade Commission, compared with those of the Bureau of Corporations, it is evident that the Commission was seriously handicapped in the performance of its duties by the inadequacy of tile appropriation.

COOPERATION WITH OTHER DEPARTMENTS AND GOVERNMENT ESTABLISHMENTS.

Efficient conduct of public business requires not only an extensive division of labor, but also intelligent cooperation between the various Government organizations intrusted therewith. The Federal Trade Commission has been animated by the desire to make such cooperation as effective as possible and has had frequent occasion to give it practical application. In this matter it has found that other departments and Government establishments are inspired by the same motives, and it has greatly profited by their cooperation and has striven to be of all possible service to them.

While such cooperation is a matter of almost daily occurrence in minor matters, which do not call for specific mention here, the Federal Trade Commission regards it as desirable to point out a few of the more conspicuous instances and to acknowledge its indebtedness to other departments of the Government in particular cases.

The Department of State, in the investigation of the subject of cooperation in American export trade, which has been described above, was of very great assistance.

The valuable information in the possession of the consular officers was made available to the Commission through a schedule of ques-

tions prepared by the Commission and transmitted by the Department of State to American consuls in all parts of the world. Likewise, in the investigation of trade and tariffs in South America the diplomatic and consular officials of the State Department rendered valuable aid to the representatives of the Commission in their work in the countries visited.

The Treasury Department, through the appraiser's office in New York, furnished very important information regarding combinations and trade conditions in foreign countries, in connection with the investigation of cooperation in American export trade. Furthermore, it placed its valuable lists of business corporations and certain other important data at the disposal of the Commission for use in the preparation of its schedules for corporation reports, and in that connection furnished quarters for the accommodation of a part of the force of the Commission which was engaged on this subject. On the other hand, the report of the Commission on trade and tariffs in South America, which was undertaken at the suggestion of the Secretary of the Treasury and by the direction of the President gave to the former, as member of the Joint High Commission, at the Pan American Conference, in Buenos Aires, in April, 1916, useful data for the purpose of that conference, for which very cordial acknowledgments were received.

Between the Department of Justice and the Commission cooperation is contemplated by the very terms of the organic act of the Commission with respect to certain matters which relate to the enforcement of the antitrust acts. This desirable arrangement has been carried out in a spirit intended to give the fullest effect to ameliorative methods of procedure and in the proper manner to meet the general desire of business men to conform to the laws of the land.

In several directions opportunities for cooperation with the Department of Agriculture have occurred which have been availed of, it is believed, to mutual advantage. This is especially the case in regard to the Forest Service, in connection with the reports on different phases of the lumber industry, which are in the course of preparation both by that bureau and by the Commission. Various hearings have been held by the Commission with respect to the lumber industry at which representatives of the Forest Service have been present. Special mention should also be made of various conferences between the Office of Markets and Rural Organization and the Commission concerning agricultural associations, trade practices, and various other conditions which were of common interest.

With the Department of Commerce conferences were held regarding suitable measures to prevent dumping of foreign products in American markets, and with regard to the lumber industry. The Bureau of Standards made various expert tests of materials and commodities for the benefit of the Commission. The Secretary of Commerce also rendered valuable assistance to the Commission in its investigation of cooperation in American export trade.

The Commission worked under a cooperative arrangement also with the Interstate Commerce Commission in the preparation of its Report on Pipe-Line Transportation of Petroleum. Various resolu-

tions of the Senate had directed the work to be done both by this Commission and by the Interstate Commerce Commission, which would necessarily have resulted in a duplication of a part of the work. By this cooperative arrangement such duplication was avoided. The methods of work adopted and the results arrived at by the Commission were promptly communicated to the Interstate Commerce Commission, in order that it might have the benefit thereof in pursuing that part of the work which it was planning to do.

The Commission has cooperated to advantage with other departments, departmental bureaus, and Government establishments besides those specifically mentioned above, but enough has been indicated to illustrate the extent to which this has been done and the advantages resulting therefrom.

RECOMMENDATIONS.

The work of the Federal Trade Commission during the fiscal year 1916, which has been outlined above, is capable of great expansion in the future. This is especially true if it is developed on broad constructive lines of public service, which has hitherto been the constant aim of the plans of the Commission. These plans are in accordance with the extensive powers conferred upon it and are designed to utilize the great opportunities presented to serve the business world and the general public.

COOPERATION IN EXPORT TRADE.

Among the first questions to which the Commission directed its attention was one which it was specifically authorized to investigate under its organic act (sec. 6, par. h) , namely, "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." The Commission was directed, moreover, "to report to Congress thereon with such recommendations as it deems advisable."

The scope and character of this investigation has been described above. The Commission, as a result of its investigation, found that, while there were various conditions which affected the successful development of export trade, there was one factor which was peculiarly within its jurisdiction, namely, cooperative organization of American exporters for the purpose of efficiently conducting their trade in foreign markets. The Commission found that American exporters were at a disadvantage compared with their rivals in the chief foreign exporting countries, where combinations for the export trade are effectively developed.

Furthermore, it was found that doubt and fear as to legal restrictions prevented American can exporters from developing equally effective organizations for overseas business and that the foreign trade of our manufacturers and producers, particularly the smaller concerns, suffered in consequence. The Commission recommended, therefore, that declaratory and permissive legislation be enacted by Congress to make it clear that such organizations are lawful. The chief conclu-

sions of the Commission, as stated in the summary of this report, were as follows:

PREVENT DANGER OF MISUSE OF COOPERATIVE EXPORT ORGANIZATIONS.

Two chief dangers from cooperative export organizations of American manufacturers and producers are apparent. They may be used to exploit the home market and they may be used unfairly against individual American exporters in foreign trade. The dangers in cooperative action must be faced frankly and provided against fully.

The Commission is confident that this can be done without sacrificing the essential advantages of joint action and without altering the policy of the anti-trust laws or interfering with their enforcement. Thus specific extension of the law prohibiting unfair methods of competition to export trade and requirement of full reports to the Federal Trade Commission from cooperative export Organizations will protect the individual exporter, while the enforcement of the antitrust laws will prevent the use of such organizations to effect restraint of trade or monopoly in the domestic market.

The Commission does not believe that Congress intended by the antitrust laws to prevent Americans from cooperating in export trade for the purpose of competing effectively with foreigners, where such cooperation does not restrain trade within the United States and where no attempt is made to hinder American competitors from securing their due share of the trade. It is not reasonable to suppose that Congress meant to obstruct the development of our foreign commerce by forbidding the use, in export trade, of methods of organization which did not operate to the prejudice of the American public, are lawful in the countries where the trade is to be carried on, and are necessary if Americans are to meet competitors there on equal terms.

DECLARATORY LEGISLATION RECOMMENDED.

By this investigation the Commission, however, has established the fact that doubt as to the application of the antitrust laws to export trade now prevents concerted action by American business men in export trade, even among producers of noncompeting goods. In view of this fact and of the conviction that cooperation should be encouraged in export trade among competitors as well as noncompetitors, the Commission respectfully recommends the enactment of declaratory and permissive legislation to remove this doubt.

The Commission feels that it would fail of its duty if it did not urge the pressing need of such action immediately. If American business men are to make the most of the great opportunities now before them, are to build securely in foreign trade, and are to avoid disaster in the shock of the stern and determined competition that will doubtless follow the war, they must at once perfect the organization demanded by tile conditions of international trade.

This recommendation of the Commission was given consideration by the Committee on the Judiciary of the House of Representatives, which reported a bill (II. R 17350), commonly known as the Webb bill (see Exhibit 5), embodying the principles recommended by the Commission. This bill was passed by the House near the close of the present session, but there was not sufficient time left for its consideration by the Senate.

Particular attention, however, is called to the fact that though the bill as originally reported to the House appears, in the opinion of the Commission, to effectively meet the purpose for which it was drafted, yet, on the other hand, two amendments were made to the bill during the debate which seem to give a basis for legal construction which might entirely nullify this purpose.

The first amendment referred to was made in the first section of the bill. In order to permit cooperation only with respect to export trade, the term “export trade” was originally carefully defined to exclude the production or manufacture of goods within the United States, but the

amendment made it also exclude "trading in or marketing" such goods within the United States. (See Exhibit 5.) Obviously a successful cooperative export organization would, in most cases, be obliged to purchase goods in the United States and therefore to trade in them.

The second amendment referred to is found in the second section. This originally granted the right of cooperative association for export trade, provided such association did not involve "restraint of trade within the United States." But the amendment added a further proviso, namely, "and does not restrain the export trade of the United States." (See Exhibit 5.) The Commission is of the opinion that these provisions of the bill would not change the present law. But the very purpose of the bill was to clarify the law, while this amendment presents the same question of construction as the existing law. The law, therefore, would be neither changed nor clarified if the bill were enacted in the form in which it was passed by the House. Therefore the business man who is deterred from engaging in cooperative action in export trade by fear or doubt concerning antitrust laws would be left in exactly the same position as before.

APPROPRIATIONS.

The Commission in performing the varied duties intrusted to it under its organic act has been seriously limited by the comparatively small appropriation made by Congress. This appropriation, as elsewhere shown, was not much greater than that received by the Bureau of Corporations, although the duties of the latter were much less extensive and less difficult. It might be contended with some force, indeed, that at the beginning it was better to develop the new lines of work gradually and hence that a large appropriation would not be imperatively required. Nevertheless, even from the start, the Commission was very much hampered in conducting the work (which included a large amount of work of the Bureau of Corporations) by its comparatively small appropriations. Now that the work has been well organized, it would appear that no reasonable argument can be advanced for not making an appropriation adequate to the extensive and constantly increasing volume of work imposed on the Commission. Many investigations are necessarily delayed by the lack of a sufficient staff and by the inadequate appropriations for other items of expenditure. The Commission in its annual estimate for the appropriations for the fiscal year 1917, has asked for a comparatively moderate increase, but it wishes to emphasize in this connection the urgent importance of making a sufficient provision for its work.

QUARTERS.

The inadequate quarters of the Commission is also a serious handicap to its present work. As has been shown above, adequate quarters are necessary not merely on grounds of efficiency, but also as a matter of decent regard for its employees. The estimate of the amount required for rental of quarters for the last fiscal year was placed at $20,000, but it was reduced to $15,000 in the appropriation act. The Commission has vainly searched for suitable accommo-

dations that were within the appropriation made. In the opinion of the Commission the most desirable method of providing for the quarters of the Commission is to allow it to make a contract of lease or a series of years with an adequate rental appropriation in order that it may make arrangements for the erection of a suitable building. The building should be erected on a site sufficiently large so that subsequent additions might be made thereto as needed, thus enabling the staff to be always housed under one roof in the interest of economy and efficiency.

SALARY LIMITATION.

Finally attention is respectfully called to a salary limitation imposed by the last appropriation act for the Commission whereby the maximum salary payable to any employee of the Commission was fixed at $5,000. The Commission regards this limitation as seriously and unnecessarily impairing the efficient operation of the Commission. The Commission should be in a position to employ the best experts available in the various branches of its work. Other similar commissions in the Federal service are not restricted in this way. A practical instance of the injurious effect of such limitation is found in the fact that the services of the distinguished lawyer who acted in the capacity of advisory counsel for the Commission during a part of the fiscal year 1916 could not have been obtained, nor even reasonably asked for, under the limitations imposed by the current appropriation act.

All of which is respectfully submitted.

EDWARD N. HURLEY, *Chairman.*
WILLIAM J. HARRIS, *Vice-Chairman.*
JOSEPH E. DAVIES.
WILL H. PARRY.

EXHIBIT l.

FEDERAL TRADE COMMISSION ACT.

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

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

The commission shall have an official seal, which shall be judicially noticed.

SEC. 2. That each commissioner shall receive a salary of $10,000 a year, payable in the same manner as the salaries of the judges of the courts of the United States. The commission shall appoint a secretary, who shall receive a salary of $5,000 a year, payable in like manner, and it shall have authority to employ and fix the compensation of such attorneys, special experts, examiners, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

With the exception of the secretary, a clerk to each commissioner, the attorneys, and such special experts and examiners as the commission may from time to time find necessary for the conduct of its work, all employees of the commission shall be a part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the commission and by the Civil Service Commission.

All of the expenses of the commission, including, all necessary expenses for transportation incurred by the commissioners or by their employees under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the commission.

Until otherwise provided by law, the commission may rent suitable offices for its use.

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

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

All clerks and employees of the said bureau shall be transferred to and become clerks and employees of the commission at their present grades and salaries. All records, papers, and property of the said bureau shall become records, papers, and property of the commission, and all unexpended funds and appropriations for the use and maintenance of the said bureau, including any allotment already made to it by the Secretary of Commerce from the contingent appropriation for the Department of Commerce for the fiscal year nineteen hundred and fifteen, or from the departmental printing fund for the fiscal year nineteen hundred and fifteen, shall become funds and appropriations available to be expended by the commission in the exercise of the powers, authority, and duties conferred on it by this act.

The principal office of the commission shall be in the city of Washington, but it may meet and exercise all its powers at any other place. The commission may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

SEC. 4. That the words defined in this section shall have the following meaning when found in this act, to wit:

"Commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territories and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

"Corporation" means any company or association incorporated or unincorporated, which is organized to carry on business for profit and has shares of capital or capital stock, and any company or association, incorporated or unincorporated, without shares of capital or capital stock, except partnerships, which is organized to carry on business for its own profit or that of its members.

"Documentary evidence" means all documents, papers, and correspondence in existence at and after the passage of this act.

"Acts to regulate commerce" means the act entitled "An act to regulate commerce," approved February fourteenth, eighteen hundred and eighty-seven, and all acts amendatory thereof and supplementary thereto.

"Antitrust acts" means the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety; also the sections seventy-three to seventy-seven, inclusive, of an act entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August twenty-seventh, eighteen hundred and ninety-four; and also the act entitled "An act to amend sections seventy-three and seventy-six of the act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February twelfth, nineteen hundred and thirteen.

SEC. 5. That unfair methods of competition in commerce are hereby declared unlawful.

The commission is Hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, and common carriers subject to the acts to regulate commerce, from using unfair methods of competition in commerce.

Whenever the commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition in commerce, and if it shall appear to the commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnerships or corporation a complaint 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 provided, the commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

If such person, partnership, or corporation fails or neglects to obey such order of the commission while this same is in effect, the commission may apply to the circuit court of appeals of the United States, within any circuit where the method of competition in question was used or where such person, partnership, or corporation resides or carries on business, for the enforcement of its order, and shall certify and file application transcript of the entire record in the proceeding, including all testimony taken and the report and order of the commission. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person, partnership, or corporation and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission. The findings of the commission as to the facts, if supported by testimony, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material, and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, the court may order such additional evidence to be taken before the commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission may modify its findings as to the fact, or make new findings, by reason of the additional evidence so threat, and it shall file such modified or new findings, which, if supported by testimony, shall be conclusive, and its recommendation, If any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section two hundred and forty of the Judicial Code.

Any party required by such order of the commission to cease and desist from using such method of competition may obtain a review of such order in said circuit court of appeals by filing in the court a written petition praying that the order of the commission be set 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 from time to time the organization, business, conduct, practices, and management of

any corporation engaged in commerce, excepting, banks and common carriers and it subject to the act to regulate commerce, relation to other corporations and to Individuals, associations, and in partnerships.

(b) To require, by general or Special orders, corporations engaged in commerce, excepting, banks, and common carriers subject to the act to regulate commerce, or any class of them, or any of them, respectively, to file with the commission in such form as the commission may prescribe annual or special, or both annual and special, reports or answers in writing to specific questions, furnishing to the commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commission may prescribe, and shall be filed with the commission within such reasonable period as the commission may prescribe, unless additional time be granted in any case by tile 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 tile 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 tile commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against; and the commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the commission may sign subpoenas, and

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

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

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court 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 2.

PROVISIONS OF THE CLAYTON ACT WHICH CONCERN THE FEDERAL TRADE COMMISSION.

"Commerce," as used herein, means trade or commerce among the Several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: *Provided*, That nothing in this act contained shall apply to the Philippine Islands.

The word "person" or "persons" wherever used in this act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

SEC. 2. That it shall 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 tile 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 tile 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 pleadings, 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 tile 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 tile 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 tile service of the same.

Approved, October 15, 1914.

EXHIBIT 3.

RULES OF PRACTICE BEFORE THE FEDERAL TRADE COMMISSION.

I. SESSIONS.

The principal office of the commission at Washington, D. C., is open each business day from 9 a.m. to 4.30 p.m. The commission may meet and exercise all its powers at any other place, and may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

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

Sessions of the commission for the purpose of making orders and for the transaction of other business, unless otherwise ordered, will be held at the office of the commission at Washington, D. C., on each business day at 10.30 a.m. Three members of the commission shall constitute a quorum for the transaction of business.

All orders of the commission shall be signed by the Secretary.

II. COMPLAINTS.

Any person partnership, corporation, or association may apply to the commission to institute a proceeding in respect to any violation of law over which the commission has jurisdiction.

Such application shall be in Writing, signed by or in behalf of the applicant, and shall contain a short and simple statement of the facts constituting the alleged violation of law and the name and address of the applicant and of the party complained of.

The commission shall investigate the matters complained of in such application, and if upon investigation the commission shall have reason to believe that there is a violation of law over which the commission has jurisdiction, tile 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.

IV. SERVICE.

Complaints, orders, and other processes of the commission may be served by anyone duly authorized by the commission, either (a) by delivering a copy

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

V. INTERVENTION.

Any person, partnership, corporation, or association desiring to intervene in a contested proceeding shall make application in writing, setting out the grounds on which 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.

VIII. DEPOSITIONS IN CONTESTED PROCEEDINGS.

The commission may order testimony to be taken by deposition in a contested proceeding.

Depositions may be taken before any person designated by the Commission and having power to administer oaths.

Any party desiring to take the deposition of a witness shall make application in writing, setting out the reasons why such deposition should be taken, and stating the time when, the place where, and the name and post-office address of the person before whom it is desired the deposition be taken, the name and post-office address of the witness, and the subject matter or matters concerning which the witness is expected to testify. If good cause be shown, the commission will make and serve upon the parties of their attorneys an order wherein the commission shall name the witness whose deposition is to be taken, and specify the time when, the place where, and the person before whom the witness is to testify, but such time and place, and the person before whom the deposition is to be taken, so specified in the commission's order, may or may not be the same as those named in said application to the Commission.

The testimony of the witness shall be reduced to writing by the officer before whom the deposition is taken, or under his direction, after which the deposition shall be subscribed by the witness and certified in usual form by the officer. After the deposition has been so certified it shall, together with a copy thereof made by such officer or under his direction, be forwarded by such officer under seal in an envelope addressed to the commission at its office in Washington, D. C. Upon receipt of the deposition and copy the commission shall file in the record in said proceeding such deposition and forward the copy to the defendant or the defendant's attorney.

Such depositions shall be typewritten on one side only of the paper, which shall be not more than 8 ½ inches wide and not more than 11 inches long and weighing not less than 16 pounds to the ream, folio base, 17 by 22 inches, with left-hand margin not less than 1 ½ inches wide.

No deposition shall be taken except after at least 6 days' notice to the parties, and where the deposition is taken in a foreign country such notice shall be at least 15 days.

No deposition shall be taken either before the proceeding is at issue, or, unless under special circumstances and for good cause shown, within 10 days prior to the date of the hearing thereof assigned by the commission, and where the deposition is taken in a foreign country it shall not be taken after 30 days prior to such date of hearing.

IX. 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.

X. 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 briefs shall be filed and service thereof shall be made upon the adverse parties.

All briefs must be filed with tile secretary and be accompanied by proof of service upon the adverse parties. Fifteen 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 tile 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 fly leaves 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 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.

XI. ADDRESS OF THE COMMISSION.

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

EXHIBIT 4.

CONFERENCE RULINGS OF THE FEDERAL TRADE COMMISSION.

EXPLANATORY NOTE.

The following are rulings of the Commission in conference which are published as being of public interest. Future rulings will be announced from time to time through the public press and subsequently compiled and Issued by the Commission in successive bulletins. The rulings are published for the information of business men engaged in interstate commerce and others interested in the work of the Commission. They are not decisions in formal proceedings, but merely expressions of the opinion of the Commission on applications for the issuance of complaints and informal inquiries with regard to particular facts which involve the interpretation and construction of the Federal Trade Commission Act and of those sections of the Clayton Act with the enforcement of which the Commission is charged.

While these rulings may be regarded as precedents in so far as they are applicable in proceedings before the Commission, a more extensive presentation of facts in later cases may result in their modification, and they should not, therefore, be regarded as conclusive in the determination by the Commission of any future action.

Copies may he obtained by those interested on application to the Secretary of the Commission.

l. **Public interest--Competitive method discontinued** --On application for the issuance of a complaint, it appeared that a corporation engaged in the refining and sale of cane sugar, whose principal market is in the State in which its refinery is located, alleged that a larger corporation, having refineries located in other States and disposing of its product in interstate commerce in many states, refined and sold exclusively in the State of the applicant and in competition with it sacked sugar which is branded "pure cane fine granulated sugar." The applicant alleged that this sugar is not a standard fine granulated sugar is the branding leads consumers as well as many in true trade to believe, but what is known as "off" sugar in the manufacture of which an expensive part of the refining process which is necessary to extract the final residue of from 2 to 3 per cent of molasses is omitted; flint this "off" sugar is sold to jobbers at about 10 cents per hundred pounds less than the market price for standard granulated sugar; and that by reason of the alleged false brand or label on the sacks retailers and consumers are deceived into the belief that they are buying granulated sugar equal to standard. As a result, the applicant stated, it was compelled to meet the competition of this "off" sugar in the sale of Its standard fine granulated sugar, in the manufacture of which it uses the complete refining process, a part of which its competitor omits in manufacturing the "off" sugar.

Upon consideration of the above allegations, the Commission, having instituted an investigation, and shortly thereafter the corporation complained of having issued a notice to the trade announcing that it had discontinued the sale of the "off" brand of sugar, and the applicant requesting to be permitted to withdraw its application, and the corporation complained of assuring the Commission that it had discontinued the sale of sugar branded in the manner complained of and had no intention of resuming the sale of this package: *Held*, That the method of competition complained of having been permanently discontinued, it does not appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public.

2. Public interest--Competitive method discontinued.--On application for the issuance of a complaint, it appeared that a manufacturer engaged in inter-

state commerce issued a publication in which, under the guise of trade news, misinformation of a character unfair and detrimental to the applicant's business was circulated. Upon investigation by the Commission the applicant advised that the use of the alleged unfair method had been discontinued and the party complained of assured the Commission that its policy had changed with a change of management and no such practice would in the future be engaged in either against the applicant or any other competitor. *Held*, That the method of competition complained of having been permanently discontinued, it does not appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public.

3. **Public interest--Competitive method discontinued.--**On application for the issuance of a complaint, it appeared that a typewriter rebuilding company engaged in interstate commerce had circulated among dealers in various States a letter falsely stating that a competitor's factory in the Middle West had been removed to the East, and that for this reason many of its customers in Central and Western States would make new arrangements for obtaining typewriters. The party complained of subsequently advised the Commission that the statement when made was believed to be true. It also sent a letter of retraction to all dealers receiving the first communication, and assured the Commission of its readiness to take any further action deemed necessary. The applicant, being advised of these facts, suggested that no further action be taken. *Held*, That the method of competition complained of having been permanently discontinued, it does not appear to the Commission that a proceeding by it in respect thereof would be to the interest of file public.

4. **Public interest--Competitive method discontinued.--**On application for the issuance of a complaint, it appeared that a manufacturer engaged in interstate commerce sent out a printed circular containing an alleged letter to it by a dissatisfied customer of tile applicant, disparaging tile quality of applicant's product, which letter the applicant charged was fictitious. Upon investigation, the Commission received assurances from the concern complained of that it had discontinued the publication of the circular in question, and that in future it would not in its advertising matter refer in any way to the products of its competitors. *Held*, That the method of competition complained of having been permanently discontinued, it does not appear to the Commission that a proceeding by it in respect thereof would be to the Interest of the public.

5. **Public interest-Competitive method discontinued.--**On application for flue issuance of a complaint, it appeared that an association of wagon peddlers, competing with a jobber, had, by threats of boycott, prevailed on a manufacturing engaged in interstate commerce to refuse to sell to such jobber. Shortly after an investigation was started the commission was advised by the jobber flint the manufacturer had resumed selling to it. Assurances were also given the Commission by the manufacturer that the jobber would not in future be denied the privilege of buying from it by reason of the threatened boycott. *Held*, That the matter having been satisfactorily adjusted as between the parties, it does not appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public.

6. **Exclusive territory--Refusal to sell.--**On application for the issuance of a complaint, it appeared that a manufacturer engaged in interstate commerce having designated an exclusive dealer in a certain local territory, refused to sell to another dealer within this territory. It further appeared that such exclusive dealer was under no obligation to refrain from dealing in the products of other manufacturers of the same commodity. Held, That neither the Federal Trade Commission Act nor the Clayton Act prohibits manufacturers selling their product exclusively through one dealer in a given territory. A refusal to sell others in such territory, under such circumstances, is not unlawful.

7. **Manufacturers engaged in interstate commerce, irrespective of the size of their business, and all wholesalers so engaged, subject to Clayton Act.--**On inquiry: *Held*, That all manufacturers engaged in interstate commerce, irrespective of the size of their business, and all jobbers or wholesalers thus engaged, are subject to the provision's of the Clayton Act.

8. **The right of one manufacturer engaged in interstate commerce to buy out a competitor, and jurisdiction of the commission in such matters.--**On inquiry as to the right of one manufacturer to buy out a competitor in the same line of business: *Held*, That the only jurisdiction of the Commission in respect of such transactions is to enforce the provisions of section 7 of the Clayton Act prohibiting the acquisition by any corporation engaged in interstate commerce of

where the tendency of such acquisition may be to substantially lessen competition between such two corporations, or to restrain interstate commerce, or to create a monopoly; and also possibly to enforce section 5 of the Federal Trade Commission Act, if such purchase either of property or of capital stock in connection with other circumstances might constitute an unfair method of com petition. *Held, also,* That the mere purchase of the property of such competitor other than capital stock is not prohibited by the Clayton Act or the Federal Trade Commission Act.

As to the validity of such purchase of property or capital stock under the Sherman Act, the Commission expresses no opinion**.**

9. **Exclusive agency.--**On Inquiry by a piano manufacturer whether the following clause in a "consignment agreement" is in contravention of the Clayton Act, to wit:

> *Item* 3. The factor shall offer, sell, or lease the pianos consigned to him by the consignor only to persons residing in the counties of_____ in the State of_____, and shall not sell nor lease, during the life of this contract, any other pianos than those consigned by the said (piano manufacturer) .

Held, It appearing that the "consignment agreement" does not provide for a sale or lease of the goods of the principal to the person designated as "factor," but only for the establishment of an agency for the sale of the goods of the principal, therefore the use of such clause does not appear to be in violation of section 3 of the Clayton Act.

10. **Direct selling.--**On application for the issuance of a complaint, it was alleged that certain mining operators were selling their product direct to consumers at wholesale prices, and coercing retail dealers into handling their product, either by threats to sell or by temporary arrangements for selling their product direct to consumers. Upon investigation by the Commission, it appeared that the operators were in fact selling their product direct to consumers, but that this method of competition was not used for purposes of coercion but was necessary in order to keep their product on the market. *Held,* That the sale by a mining operator of his product direct to the consumer is not of itself an unfair method of competition.

11. **Practice-Information respecting alleged violation of law submitted by parties not directly interested.--**On inquiry : *Held,* That the fact that a party complaining to the Commission has no direct interest and acts without specific authority from the parties alleged to be injured will not prevent the Commission from taking action if the matter presented is one properly within its jurisdiction. It is the evident purpose of the law that action by the Commission should be taken regardless of the source of its information when it is as reason to believe that there is a violation of a law which it is empowered to enforce and that a proceeding by it in respect thereof would he to the interest of the public.

12. **Public interest--Violation of State statutes.--**On application for the issuance of a complaint it appeared that the commissioners of a certain county had appointed an employee of a bridge company to the position of county civil engineer, and that this situation made it possible for the company to secure information respecting the letting of bridge work which was not available to competing companies. It appears that the State law prohibits such engineer from being interested, directly or indirectly, in any contract for the construction of bridges under his supervision. *Held,* That as the condition complained of may he corrected by resort to a State statute a proceeding will not be instituted in the absence of important considerations of public interest.

13. **Exclusive territory.--**On inquiry by a manufacturer whether section 3 of the Clayton Act is violated by a contract containing the following clause:

> In consideration of exclusive sale of your goods in_____ from date of this contract to March 1, 191__,_____ agree to neither sell your goods outside of the territory heretofore reserved to, directly or indirectly, under penalty of paying all damages resulting from a violation of this clause and cancellation of this contract at the option of the manufacturer; nor to countermand this order except on payment to_____ Manufacturing Co., as liquidated damages, 20 per cent of the net amount of goods hereby purchased.

Held, That section 3 of the Clayton Act does not prohibit manufacturers selling their product exclusively through one dealer in a given territory and requiring the dealer not to sell their product outside of the territory assigned.

14. **Refusal to sell.--**On application for the issuance of a complaint, it appeared that certain manufacturers, pursuant to their established sales policy of selling only to local retail dealers, refused to sell to the applicant, a retail dealer doing business principally by mail, a certain commodity for shipment direct from the mills to consumers in a state where the applicant maintained no place of business. On investigation by the Commission it appeared that there was no agreement or understanding among the manufacturers complained of to prevent the applicant or others doing a similar business, by refusal to sell or otherwise, from securing this commodity, nor did it appear that such manufacturers had been coerced or intimidated by retailers affected by the competition of the applicant. *Held,* That, under the circumstances, a refusal of a manufacturer to sell to the applicant for direct shipment from the mill to territory covered by local dealers is not a violation of any law which the commission is authorized to enforce. Whether a refusal to sell under other circumstances is contrary to the provisions of the Clayton Act or the Federal Trade Commission Act the Commission does not now decide.

15. **Exclusive agency--Exclusive territory--Refusal to sell.--**On application for the issuance of a complaint, it appeared that several manufacturers, having appointed exclusive agents or distributors in a given place, refused to sell to another dealer at the same point. *Held,* That neither the Clayton Act not the Federal Trade Commission Act prohibits manufacturers establishing exclusive agencies or assigning exclusive territory to dealers. Under such circumstances a refusal to sell to others than such agents or distributors is not unlawful under these acts.

16. **Practice-Charges not sustained on investigation.--**On application for the issuance of a complaint, it was charged by a packer of canned clams that a competitor, in order to drive the applicant out of business, bid up the price of fresh clams to such an extent as to make the business unprofitable. The applicant, when requested, failed to submit further information, and an investigation by the Commission did not substantiate the charges made. *Held,* That the Commission, having no reason to believe that the party complained of has been or is using the alleged unfair method of competition, will not proceed further.

17. **Corporate name--Private rights--Public interest.--**On application by a corporation for the issuance of a complaint, it was alleged that one of its stockholders, whose name had been adopted by the applicant as part of its corporate name, had formerly been a stockholder in a competing corporation and had then permitted the latter to use his name as part of its corporate name, but that after the withdrawal of said stockholder from the competing corporation it had, in violation of an alleged agreement between one of its officers and said stockholder, retained his name in its corporate name, to the injury of the applicant. *Held,* That as the application presents questions concerning purely private rights, in which the interest of the public is quite remote and indirect, it does not appear to the Commission that a proceeding in respect thereof would be to the interest of the public.

18. **Refusal to sell-Exclusive agency**.--On inquiry: *Held,* That the Clayton Act does not prohibit manufacturers establishing exclusive sales agencies in c~tam territory and selling their product in such territory only through such agencies. A refusal to sell to others in such territory, where such agency has been established, is therefore not unlawful. Whether a mere refusal to sell under any circumstances is contrary to the provisions of the Clayton Act; or the Federal Trade Commission Act the Commission does not now decide.

19. **Pipe lines jurisdiction**.--On application for the issuance of a complaint as to methods of a pipe line for the transportation of oil between the States : *Held,* That the Commission has no jurisdiction in the premises, and that the matter should be referred to the Interstate Commerce Commission.

20. **Exclusive territory--Refusal to sell.--**On application for the issuance of a complaint, it appeared that a manufacturer engaged in Interstate commerce assigned exclusive territory to jobbers of his product in various States and refused to sell to the applicant, a competing jobber. *Held,* That the Federal Trade Commission Act and the Clayton Act do not prohibit manufacturers selling their product exclusively through the dealer in a given territory. A refusal to sell to others in such territory under such circumstances Is therefore not unlawful. Whether a mere refusal to sell under any circumstances or for any reasons is contrary to the provisions of the Clayton Act or the Federal Trade Commission Act the Commission does not now decide.

21. **Exclusive agency--Exclusive territory--Refusal to sell.--**On application for the issuance of a complaint, it appeared that a manufacturer, engaged in interstate commerce, having selected an exclusive agent or distributing dealer in certain territory, refused to sell to another dealer within this territory. *Held,* That neither the Federal Trade Commission Act nor the Clayton Act prohibits manufacturers establishing exclusive agencies or assigning exclusive territory to dealers. Under these circumstances a refusal to sell to others than such agents or distributors is therefore not unlawful under these acts.

22. **Railroads--Jurisdiction.--**On application for the issuance of a complaint as to abandonment by an interstate railway company of part of a branch line and its purpose to abandon more of it: *Held,* That the Commission has no jurisdiction of the subject matter of this complaint.

23. **Interstate commerce--Jurisdiction.--**On inquiry whether a local merchant in offering an automobile free to the customer drawing a specified number is practicing an unfair method of competition: *Held,* That, as interstate commerce is not involved, the Commission has jurisdiction to determine whether or not the act complained of is unlawful.

24. **Interstate commerce--Jurisdiction.--**On application for the issuance of a complaint, a retail dealer alleged that a competitor, engaged in business in the same city, sold goods below the price at which the applicant could purchase them. *Held,* That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

25. **Interstate commerce--Jurisdiction.--**On application for the issuance of a complaint, it appeared that a retail dealer was selling a well-known make of underwear much below the customary price, to the injury of a jobber in the same city who sold these goods to the local retail trade. *Held,* That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

26. **Interstate commerce--Jurisdiction.--**On application for the issuance of a complaint, it appeared that two competitors of the applicant, located in the same city, sold lumber below cost. The sales of all parties at interest were confined wholly within one State. *Held,* That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

27. **Interstate commerce--Jurisdiction.--**On application for the issuance of a complaint, it was alleged by a retail dealer that other dealers in the community were using unfair methods in competition with him. *Held,* That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the methods complained of are unlawful.

28. **Bank--Jurisdiction.--**On inquiry respecting the refusal of banks to lend money on a particular kind of collateral: *Held,* That the facts do not present a case within the jurisdiction of the Commission, banks being expressly excepted from the provisions of section 5 of the Federal Trade Commission Act.

29. **Practice where suggestion of violation of decree of Federal court is made.--**On application for the issuance of a complaint, it appeared that the practice complained of might be in violation of a decree against the party charged with these practices, which decree was entered in a Federal court. *Held,* That the matter should be, in this instance, referred by the Commission to the Department of Justice. Each matter of this kind will be disposed of upon its own facts.

30. **Jurisdiction--Deprivation of rights by municipal ordinance.--**On inquiry: *Held,* That the Commission has no jurisdiction to pass upon the claim of an electrical engineer that, by town ordinance, his right there to carry on his work is unduly abridged.

31. **Interstate Commerce--Jurisdiction--Refusal to sell.--**On inquiry: *Held,* That where a jobber or manufacturer refuses to sell to retailer in the same State, and no interference with interstate commerce appears to be involved, the Commission has no jurisdiction to act in the premises.

32. **Interstate commerce--Labor unions--Jurisdiction.--**On application for the issuance of a complaint respecting tire enforcement of certain local labor-union rules: *Held,* That as the labor union is not engaged in commerce, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

33. **Refusal to manufacture and sell--Competition--Jurisdiction.--**On application for the issuance of a complaint, it appeared that a company engaged in the manufactured of bottle crowns refused to make certain crowns for the appli-

cant, assigning as the reason that the crowns ordered would constitute an infringement of the trade-mark of another customer, a competitor of the applicant. It did not appear that the refusal complained of was induced by the competitor. *Held,* That, as the facts do not disclose a method of competition, the Commission is without jurisdiction to act in the premises.

34. **Interstate commerce--Jurisdiction.**--On application for the issuance of a complaint, it appeared that the proprietors of certain small coal mines refused to sell to a retail dealer in the immediate vicinity except through a competing dealer and, through the purchase of other near-by mines, cut off his supply of coal. *Held,* That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

35. **Interstate commerce--Jurisdiction.**--On application for the issuance of a complaint, it appeared that a retail dealer competing with the applicant, both doing business only within the State, discriminated in price between different localities in the sale of a commodity. *Held,* That, as interstate commerce is not involved, the Commission has no jurisdiction to determine whether or not the practice complained of is unlawful.

36. **Procedure--Combinations in restraint of trade.**--On application for the issuance of a complaint, suggesting unlawful combinations by companies engaged in interstate commerce in restraint of such commerce, no unfair method of competition being alleged: *Held,* That the matter thus involved should be referred to the Department of Justice.

37. **Clayton Act-Section 3-Pending litigation.**--On application for the issuance of a complaint, alleging a violation of section 3 of the Clayton Act, where it appeared that the party complained of is the defendant in a suit brought by the Department of Justice, involving the same questions of law and fact: *Held,* That a proceeding by the Commission at this time would not be to the interest of the public.

38. **Interstate commerce--Jurisdiction--Competition.**--On application for the issuance of a complaint, it appeared that a retail dealer, doing business wholly within one State, advertised the product of the applicant, a manufacturer engaged in interstate commerce, at less than the price at which the latter sold it at wholesale. *Held,* That, as in this instance, the method of competition complained of is used by a concern engaged solely in intrastate commerce, and only against local competitors not engaged in interstate commerce, the Commission has no jurisdiction.

39. **Manufacture and sale of repair parts--Unpatented articles.**--On application for the issuance of a complaint, it appeared that certain foundrymen made and sold repair parts for stoves manufactured by the applicant. It was not claimed that the stoves were patented or that the foundrymen led the public to believe that the parts were made by the applicant. *Held,* That under such circumstances the making and selling of repair parts for unpatented articles, by others than the original manufacturer, is not a violation of section 5 of the Federal Trade Commission Act.

40. **Interstate commerce--Local boycott--Jurisdiction.**--On application for the issuance of a complaint, it appeared that certain advertisers in a local newspaper, and some of its subscribers, all apparently residing in the community where it was published, combined together and threatened to withdraw their patronage unless the management of the paper changed its policy. *Held,* That the facts alleged do not disclose the violation of any law which the Commission has jurisdiction to enforce.

41. **Price discrimination by absorption of freight charges--Alleged discrimination discontinued--Clayton Act.**--Upon application by a corporation engaged in the manufacture on the Pacific coast of sanitary enameled iron ware, for the issuance of a complaint for violation of section 2 of the Clayton Act, it was alleged by the applicant that a competition whose factories were located in the East, was selling certain of its goods on the Pacific coast at a lower price than it was selling the same goods in other parts of the country, cost of transportation being considered, and that this discrimination in price was made for the purpose of, and would, if continued, have the effect of injuring or destroying the business of the applicant. Upon investigation by the Commission it appeared that, previous to the time the applicant entered into active competition with , the corporation complained of sold its products in Pacific coast territory at its eastern prices, and absorbed a portion of the freight charges, the balance of the freight charges being paid by the purchaser. After the applicant had established its business and entered into active competition

with it the corporation complained of adopted the policy of selling certain staple articles, in which there was competition from the applicant, at a delivered price, absorbing all freight charges. The effect of such freight absorption by the corporation complained of was to make the price charged by it for those staple articles, in the territory where the applicant competed with it, substantially lower than the prices charged by it for the same articles in territories where the applicant did not compete with it. Before the completion of the investigation the corporation complained of notified the Commission that it had adopted a new price list for the Pacific coast. It further appeared that, after the application was made to the Commission and while the investigation was in progress, there had been a substantial reduction in railroad rates on shipments of enameled iron ware to the Pacific coast. The new price list, considered together with this reduction in freight rates, brought the Pacific coast prices of the corporation complained of substantially to the level of the prices charged by it for the same articles ill territory where the applicant did not compete with it, and, according to a statement filed with the Commission by the applicant, thereby removed its cause of complaint. *Held,* That while the Commission is authorized to issue a complaint where it shall have reason to believe that any person is violating or has violated any of the provisions of section 2 of the Clayton Act, it does not consider it necessary or advisable In the present case to issue such complaint, since the discrimination complained of has been discontinued.

42. **Refusal to sell--Adjustment between parties--Pendency of suit by Government.--**On application for the issuance of a complaint, it appeared that a corporation engaged in interstate commerce in the manufacture and sale of sirups refused to sell its products to a wholesale grocer in another State because this grocer advertised and sold these products at prices lower tuna those made by other jobbers, which conduct was unsatisfactory to the manufacturing company. After the Commission had instituted an investigation, but before its completion, the complaining party notified the Commission that the matter had been amicably adjusted to its entire satisfaction, and that it desired that the application should be dismissed. It also appeared that there is pending a suit filed by the Government against the manufacturing corporation, brought under the Sherman Antitrust Act. *Held,* That under all the circumstances, the matter having been thus satisfactorily adjusted as between the parties and the Government having brought suit under the Sherman Act, it does not appear to the Commission that a complaint should be issued.

43. **Price discrimination--Agency.--**On application of a jobber of iron pipe for the issuance of a complaint for violation of section 2 of the Clayton Act, it was alleged that a manufacturer of such pipe discriminates in prices of such product in favor of a certain large jobber. Upon investigation of such charges it appears that such jobber sells the product of the manufacturer at prices fixed by the manufacturer under a contract of agency on a commission basis. *Held,* That as the contract is not one of sale, but of agency, it does not come within the provisions of section 2 of the Clayton Act.

44. **Discrimination--Charges not sustained on investigation.--**On application for the issuance of a complaint, it was charged that a company engaged in the manufacture and sale in interstate commerce of paving brick discriminated in price between purchasers indifferent cities and between different purchasers in the same city. Upon investigation, the concern complained of denied the practices charged and the Commission was unable to obtain any evidence sustaining the charges. *Held,* That the Commission, having no reason to believe that the party complained of has been or is practicing the alleged discrimination, will not proceed further, and the application is therefore denied.

45. **Refusal to supply films to more than one exhibitor in same city.--**On application for the issuance of a complaint, it was alleged that a motion-picture distributing company refused to supply the applicant with films on the ground that another exhibitor in the same city has been given the exclusive right to exhibit the films of the distributing company. *Held,* That under ordinary circumstances, and in the absence of intent thus to accomplish an unlawful purpose, neither the Federal Trade Commission Act nor the Clayton Act prohibits a corporation dealing exclusively with one firm in a given territory. Upon the facts presented a refusal to supply others in such territory is therefore not unlawful.

46. **Infringement of registered trade-mark--Public Interest.--**On application for the issuance of a complaint it was alleged that certain registered trade-marks of the applicant were being infringed. It appears that Congress has

provided a special Federal remedy for the redress of alleged infringements of registered trade-marks (sec. 17, Trade-Mark Act, 33 U. S. Stats. at Large, 775; and par. 7, sec. 24, Judiciary Act, 36 U. S. Stats. at Large, 1092) , whereby unusual advantages are given a complainant by being permitted to bring suit in a Federal court irrespective of citizenship of parties or of amount of damages sought. *Held,* That where the conditions complained of involve nothing more than a question of infringing registered trade-marks, a proceeding will not be instituted in the absence of important considerations of public interest.

47. **Misbranding--Competitive method discontinued**.--On application for the issuance of a complaint, it appeared that the applicant was engaged in manufacturing an article in which deer hair is used, and selling the same in interstate commerce, and that a competitor manufactured and sold similar articles marked "100% Deer Hair," whereas in fact they contained approximately 50 per cent goat hair which was worth considerably less than deer hair. After an investigation by the Commission the company complained of discontinued the practice and assured the Commission that it would not be resumed. In view of the fact that the practice complained of has been permanently discontinued, it is *Held,* That further action by the Commission would not be to the interest of the public.

48. **Unfair competition--Refusal to sell.--**On application for the issuance of a complaint, it was alleged that a corporation engaged In the manufacture and sale of goods in interstate commerce refused to sell to the applicant certain commodities manufactured by it. It was further alleged that this refusal to sell was made at the direction of an officer of the corporation complained of, who was also the president of another corporation competing with the applicant. On investigation it appeared that the refusal to sell was made on personal grounds and was not made for the purpose, and did not have the effect, of restraining interstate commerce. *Held,* That a refusal to sell, made solely for personal reasons, without the purpose or effect of restraining interstate commerce, is not a violation of any law which the Commission is authorized to enforce.

EXHIBIT 5.

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 hot be deemed to include the production, manufacture trading in, or marketing within the United States or any Territory thereof of such goods, wares, or merchandise, or any act in the course of such production or manufacture.

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 of 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 alone 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 does not restrain the export trade of the United States.

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 flue purpose of engaging In export trade, and actually engaged solely in such export trade, unless the effect of such acquisition or ownership may be to restrain trade or substantially lessen competition within the United States.

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

SEC. 5. That every association now engaged solely in export trade, within sixty days after the passage of this Act, and every association entered into hereafter which engages solely in export trade, within thirty days after its creation, shall file with the Federal Trade Commission a verified written statement setting forth the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members and if a Corporation, a copy of its certificate or articles of incorporation and by-laws, and if unincorporated, a copy of its articles or contract of association, and on the first day of January of each year thereafter it shall make a like statement

of the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members and of all amendments to and changes in its articles or certificates of incorporation or in its articles or contracts of association and of all contracts, agreements, and understandings had with any foreign or domestic association in regard to the conduct of or practices in foreign trade. Any association which shall fail to do so 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.

Passed the House of Representatives September 2, 1916.

EXHIBIT 6.

APPROPRIATIONS FOR FEDERAL TRADE COMMISSION, FISCAL YEAR ENDED JUNE 30, 1916.

Federal Trade Commission, 1916:

For five commissioners, at $10,000 each; secretary, $5,000; in all, $55,000.

To continue all of such services and employments provided for the Bureau of Corporations during the fiscal year nineteen hundred and fifteen, except the offices of commissioner and deputy commissioner, as in the discretion of the Federal Trade Commission may be required for its purposes and at the rates of compensation specified or authorized therefor, and for such additional clerks and others as are authorized in and at the rates of compensation fixed by section one hundred and sixty-seven of the Revised Statutes of the United States; for necessary contingent and miscellaneous expenses, including per diem in lieu of subsistence when allowed pursuant to section thirteen of the sundry civil appropriation act approved August first, nineteen hundred and fourteen, $300,000.

The space now occupied by the Bureau of Corporations in the building rented for use of the Department of Commerce is transferred to and for the accommodation of the Federal Trade Commission, and the Secretary of Commerce is directed to transfer to said commission any additional rooms or space in said building that may be required for its use.

Estimates in detail for all expenditures under tile Federal Trade Commission for the fiscal year nineteen hundred and seventeen, and annually thereafter, shall be submitted to Congress in the annual Book of Estimates. - - Sundry civil act

March 3, 1915 _____$355, 000.00

Printing and binding_____$15, 000.00

EXHIBIT 7.

EXPENDITURES OF FEDERAL TRADE COMMISSION, FISCAL YEAR ENDED JUNE 30, 1916.

Annual leave----------	$18,860.23
Sick leave----------	4,197.67
Administrative:	
General----------office--	62,659.60
Do----------field--	18,828.67
Miscellaneous--office--	74.66
Purchase and supplies-------	4,900.41
Mail and files----------	8,239.69
Labor (messenger service)--	5,040.68
Docket----------	2,932.14
Contingent expenses---------	10,843.93
Corporation reports--office-	22,765.99
Do----------field--	443.02
Library----------office-	5,850.16
Trade association--------do--	3,659.71
Uniform accounting-----do--	4,982.75
Do----------field-	1,071.34
Advice requests:	
Economic--------office--	227.89
Do----------field--	138.54
Legal----------office--	2,647.75
Do----------field--	127.02
Beet Sugar----------office-	818.24
Conflict of foreign corporation laws----------	455.00
Corporate taxation------do---	583.57
Efficiency of trusts-----do---	308.21
Foreign trades----------do---	44,481.36
Do----------field--	5,625.66
Foreign trusts---------field---	30.53
Fertilizer----------do---	4,987.11
Do----------field---	264.25
Interlocking directorates--office-	733.41
Informal complaints:	
Economics----------office--	$2,375.45
Do----------field---	1,618.21
Legal----------office--	32,782.57
Do----------field---	7,058.64
Lumber----------office--	462.73
Miscellaneous:	
Economic----------do-----	199.70
Legal----------do----	17,307.11
Oklahoma oil----------do----	38,906.80
Do----------field---	11,619.44
Resale prices----------office-	3,170.41
Do----------field---	430.87
Trust legislation----------office-	13,686.60
Details----------do----	128.76
Disbursements and accounts----------office--	541.61
Publications----------do------	460.93
Latin American tariffs---do------	2,174.00
Do----------field---	5,125.73
Sisal----------office--	26.81
Formal complaints, legal----------office--	1,354.99
Do----------field---	1,316.91
Print paper----------office--	550.43
Do----------field---	315.90
Coal----------office--	807.60
Do----------field---	656.85
Formal complaints, economic----------office--	19.17
Total----------	379,927.41