

ADDRESS OF THE HONORABLE CHARLES H. MARCH,
MEMBER OF THE FEDERAL TRADE COMMISSION,
DELIVERED IN OPENING THE TRADE PRACTICE CONFERENCE
FOR THE
TUNA PACKING INDUSTRY
AT HOTEL HILTON, LONG BEACH, CALIFORNIA,
July 24, 1939.

Members of the Tuna Packing Industry:

It is with great pleasure that I welcome you to this conference on behalf of the Federal Trade Commission. Even though it was difficult for me to get away from Washington at this time, I felt that the importance to the Nation of an industry such as yours on the West Coast fully warranted special attention. I therefore have gladly made the trip to see what I might do to help you to a just solution of your competitive problems. I am confident that the action which you take here will be of importance and of benefit to the entire industry which you represent. I am confident also that it will be of great benefit to yourselves in your individual businesses and, more important than all else, that the action will be in the public interest.

We are met here today to initiate a program for the establishment of trade practice rules for your industry. The means of making this helpful and effective lie mainly within ourselves and in the constructive effort and spirit we are willing to give for the common good. The Commission will help to the limit of its authority and power to make it a successful job. The Federal Trade Commission, as you probably know, is an administrative agency exercising quasi-judicial functions. Its purpose, as outlined by President Wilson in approving the Federal Trade Commission Act in 1914, was to set up:

"A means of inquiry and of accommodation in the field of commerce which ought to both coordinate the enterprises of our traders and manufacturers and to remove the barriers of misunderstanding and of a too technical interpretation of the law."

The Commission's functions and duties are varied. Principally, however, and in a broad sense, they are directed toward the prevention of unfair methods of competition and other unfair practices in the conduct of business in interstate commerce. The objective of the Commission is the protection of honest competitors and the consuming public from these harmful or unfair methods in commerce. Congress wisely did not attempt to define the meaning of the phrase "unfair methods of competition in commerce." Unfair competition may take any one of many forms. On this point the Supreme Court said:

"In the nature of things, it was impossible to describe and define in advance just what constituted unfair competition and in the final analysis it became a question of law, after the facts were ascertained."

As a result of the operation of the Federal Trade Commission Act since its passage in 1914, much light has been thrown on business practices, which is of great assistance in determining what practices constitute unfair methods of competition in law. In the establishment of trade practice provisions, the unfair methods of competition prevalent in the industry can be cataloged in the form of rules. This makes it possible for the businessman to have a readily available means of knowing the types of practices he should avoid in order to maintain business ethics on a high plane of fairness and equity. A primary purpose of this conference is to consider such provisions with the view to having them passed upon by the Commission and established as official trade practice rules for the industry.

Unfair trade practices generally fall into two broad classes -- first, those which involve an element of fraud or dishonesty, and, secondly, those not inherently dishonest but which are restrictive of fair competition. No honest businessman ever feared fair competition. The Commission's purpose is to aid legitimate business in the establishment of business ethics and principles to that end. This means, of course, that trade practice rules must be within the law. They must be in the public interest. They must be such as will not work any undue or inequitable hardship or injury to anyone. Under such policy all members of a given industry are placed on the same competitive basis and are given the protection of the Commission's authority as a disinterested and impartial umpire to see that the game of competition in commerce is played fairly and within the requirements of law. When unfair practices in an industry are eliminated, every honest member of that industry is benefited. And this procedure which we are following here today makes possible the forcing of unscrupulous interests to keep within the law.

Through this trade practice conference procedure the unfair and dishonest practices of an entire industry are often corrected by a single conference such as we are beginning today. This makes it unnecessary for the Commission to take action against individual offenders. Large savings in time and money to the members of the industry and to the government are thus effected. Not only do these conference proceedings usually lead to prompt abandonment of unfair practices by the entire industry concerned, but the industry itself grows into the habit of self-discipline. This brings about a prevailing, cooperative spirit to maintain the right, which is a powerful and effective weapon.

The competitive race is to be fairly run, without favoritism or unfair obstacles. The law requires that there be no collusive price fixing or monopolistic combination. The healthy growth and expansion of business, as well as the public welfare, demand that industry be protected from their blighting effects. The Federal Trade Commission Act is the legislative expression of that public policy by Congress which supports the competitive system. It means a civilized competition governed by fair rules and not a brutal, unscrupulous warfare in which the powerful may wantonly destroy the

weak. It means that monopoly and monopolistic practices must relax their grip and allow business to develop and expand in an atmosphere of freedom and fair competition.

Monopolistic ownership or control of the means of production implies ownership of the things produced. In wielding such power, monopoly undertakes to determine the amount to be produced, restricts the freedom to engage in productive pursuits, and consequently the amount of labor that may be employed. By fixing prices, it limits or restricts the quantity of goods which may be consumed.

Periodically, we have seen a glut of goods on the market with no purchasing power to move them into consumption. Monopoly's favorite remedy for that condition has been further to restrict production, but this only paralyzes to a greater degree the purchasing power of the consumer whose income depends upon the maintenance of production. Consumers are important to your industry and you can appreciate the necessity of maintaining purchasing power at a high level and having it widely spread among the families of the masses. Your economic interests, as well as those of the general public are bound up in the outcome of the struggle with monopoly.

A problem related to that of monopoly is how to distribute purchasing power in equal ratio to the increase of machine production. Any general monopolization of the means of production and distribution carried with it limitation of purchasing power. The inability of millions to produce, to purchase, and to consume is but the reflection of such monopolization. The stamping out of monopoly is essential to the economic welfare of all our people and to the preservation of the capitalistic system. In a Federal Trade Commission report of 1934, we said:

"If the capitalistic system does not function as a competitive economy, there will be increasing question whether it can or should endure. The real friends of capitalism are those who insist on preserving its competitive character."

This conference procedure has been developed by the Commission to aid business in establishing and making more effective voluntary cooperation in preventing unfair or deceptive acts, practices or methods of competition in commerce, to raise the standards of business ethics for the protection of industry and the purchasing public and thus to keep out of the clutches of monopoly.

As I mentioned a moment ago, the trade practice rules proposed here will be submitted to the Commission for its consideration in the course of the proceeding. After preliminary consideration in the Commission, the rules in appropriate form will be made available and all interested or affected parties will upon due public notice be afforded full opportunity to present any views, suggestions, or criticism which they may have concerning the rules proposed for the industry. Under this plan no one need fear that this conference today will be his last chance to be heard. There will be still further opportunity afforded by the Commission upon the public notice mentioned.

The Commission, as a matter of prime importance, must see that the rules as approved by it are within the law and in the public interest. No rule which sanctions or promotes any illegal act or practice can or will be approved by the Commission. This is in harmony with a reasonable and wise governmental policy of protection to honest business and to the consuming public.

The rules must meet the test of fairness and justice. The rights of members of the industry cannot and will not be jeopardized. Under our procedure adequate means are provided for the protection of the legitimate interests of all.

A great many industries have availed themselves of this conference plan for self-regulation and self-discipline. Our experience has shown that obtaining compliance with the rules established is not a difficult problem. Business men usually respect their agreements. But compulsory statutory processes are available for enforcement, within Federal jurisdiction, of the Group I rules against an offender even though he has refused formally to accept such rules or has refrained from taking any part in the conference proceedings. This is so because the practices prohibited by Group I rules are violative of law.

In concluding, I express the confidence that this will be a harmonious and helpful conference. No charges are brought here against individuals or individual concerns. The subjects discussed are intended to relate to unfair practices or methods, not personalities. This is a place where competitors come together in a spirit of mutual cooperation for the benefit of the industry as a whole. Personal grievances should be laid aside that each may the better assist in this cooperative effort to eliminate unfair trade practices and to condemn all trade evils or trade abuses that may be stifling your industry's improvement and progress. With this spirit prevailing among you, I know from experience that the resulting rules will bring new hope and inspiration for fairer and more enlightened competition in your industry.