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"OBSERVATIONS ON BUSINESS AND TRADE PRACTICES"

ADDRESS BY

HON. ROBERT E. FREER, MEMBER OF FEDERAL TRADE COMMISSION
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It has been exactly one year and twenty days since I had the pleasure of speaking to you at a similar luncheon upon the subject, "The Work of the Federal Trade Commission". Just twelve days ago, upon my return from a business trip, I read the monthly card of luncheon announcements and found to my surprise that I was to speak to you again today, upon the topic "Observations on Business and Trade Practices".

Rather than talk again on any of the legal phases of the Commission's jurisdiction and its method of functioning as an administrative and quasi-judicial agency, I would like to briefly and informally review a few of our recent activities to show you exactly the kind of business and trade practices with which we have to deal.

You are no doubt familiar with the fact that numerically the most frequent unfair method of competition involved in the Commission's cases is false and misleading advertising. During the last fiscal year, July 1, 1936, to June 30, 1937, four hundred sixty thousand broadcasts of nearly one million pages and one hundred thirty-seven thousand advertisements in twenty-four hundred issues of eight hundred different magazines and newspapers were carefully examined by members of the Commission's staff. As the result of this, and of complaints received directly through correspondence from competitors and consumers, well over a thousand investigations of advertisers were made by the Commission during that year.

In the recent summer months, June, July, August and September, the Commission negotiated three hundred thirty-two stipulations or agreements under which various unfair practices, mostly objectionable advertising tactics, were abandoned. During the same period, the Commission issued ninety-eight formal complaints and entered one hundred two cease and desist orders against unfair methods of competition, also to a large extent involving advertising practices.

The advertising involved in these informal and formal cases ran the gamut of appeals to human gullibility, and included misleading statements used in selling correspondence courses in hypnotism, auctioneering, art, taxidermy and making money, as well as sure cures

for alcoholism, high blood pressure, low blood pressure, mental depression, athlete's foot, and a list of ailments that reads like a medical dictionary. The commodities misrepresented run from kiss-proof lipstick, eye-brow stimulators, snore eliminators and gland rejuvenators through automobiles, pigeons, chickens, electrical machinery, radios, lumber, false teeth, furs, clothing, textiles, paints, air rifles, burial vaults, tombstones and a multitude of others.

In the past we have proceeded against parties who have made almost every conceivable representation about almost every conceivable commodity sold in interstate commerce, including "Oriental Love Drops", a perfume guaranteed to make a man absolutely irresistible to his lady love.

But while this sort of thing constitutes numerically quite the largest part of the Commission's cases, we are, and have been for some years past, devoting much more of our time, money and energy toward preventing those unfair methods which restrain competition and either include or aid and abet price fixing.

It will no doubt surprise you to learn that since January 1, 1937, the Commission has proceeded formally against combinations in restraint of trade, or for price fixing, by concerns engaged in producing or marketing rice; scientific and technical apparatus and supplies; canned oysters; tubular rivets; electrical turbine-generators and condensers; concrete pipe; watergate valves, hydrants and fittings; men's and women's hats and caps; wooden butter tubs; cast iron soil pipe; cement; window glass; covered buttons and buckles; rayon yarn; paper fasteners; and golf balls. As will be apparent from this list, our activities in the field of illegal price fixing cover a wide variety of commodities in such common use that I venture to say that all of you have been in the market for at least one of them recently.

I was very much interested in Robert Jackson's address on the anti-trust laws delivered to a similar luncheon several weeks ago, and in his analysis of the difficulties which the present industrial situation presents to the regulatory agencies of the Government. While the enforcement of this body of laws is beset with many problems, I do not believe that all of us fully appreciate that any abandonment of our present anti-trust policies would have the most far-reaching economic, social and political consequences.

No monopolist, working for his own private ends, can long be trusted to exercise unlimited powers without governmental supervision. Attempts to regulate natural monopolies as public utilities are designed in theory as a substitute for the natural regulation which flows from competition. In the early history of this country, public utility corporations escaped with little or no supervision, and their present detailed regulation resulted only after it had become apparent that, without competition to hold down rates and to force improved service, the public had been exploited.

Before anyone definitely commits himself to accepting the theory that private monopolies are either inevitable or economically desirable in important industries, he would do well to stop and consider whether he cares to see the principles of public utility regulation extended to the production, distribution and sale of ordinary commodities; for similar abuse of monopoly power by such industrial monopolies would lead to their similarly detailed governmental regulation.

The monopolist himself may well pause before exchanging the rigors of competition for such regulation; and the consumer may find that he is pursuing a "will o' the wisp" in accepting even detailed regulation as an adequate substitute for competition.

The alternative theory to that of regulation is for the government to prescribe and enforce general standards of conduct by which any private concern will be prevented from taking undue or unfair advantage of either its competitors or the general public, and to rely on the natural forces of the market to set prices somewhere near cost of production plus a fair profit.

The Federal Trade Commission Act, as well as the other anti-trust statutes, is based on this underlying philosophy that competition, if free and fair, will provide in and of itself all the general regulation necessary, and the Department of Justice and the Commission, therefore, are not given large regulatory powers, but charged merely with seeing that there is competition and that it is fair.

Most of the Commission's activities have had the support of industry as well as of the public in general. In fact, without this support it would be most difficult for us to carry on, as a large number of our cases arise through complaints received from consumers or from injured competitors. And I believe that governmental efforts to prevent price fixing and restraint of trade will receive eventually as wide support from industry as they now have from the public.

In this connection, I want to read to you, in closing, the following advertisement by a Michigan paper company:

"Thank God, we say, for competition Afraid of competition? Not on your life! It makes us make better paper; it compels us to give better service; it is good for our customers and it is good for us. Dime stores aren't happy until a competitor moves in next door. Drug stores flock to adjacent corners as if their lives depended upon it -- and they often do!"