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REMARKS OF HONORABLE ROBERT E. FREER,
CHAIRMAN OF THE FEDERAL TRADE COMMISSION,
OPENING THE TRADE PRACTICE CONFERENCE
FOR THE RIPE OLIVE CANNING INDUSTRY,
SAN FRANCISCO, CALIFORNIA, 10 A.M., JULY 14, 1939.

Ladies and Gentlemen:

I am pleased to be able to be here with you today and to serve as the presiding officer of this trade practice conference for the Ripe Olive Canning Industry.

The Federal Trade Commission aims to assist industry to maintain business activities on a sound basis of fair competition, extending protection for legitimate business expansion and at the same time safeguarding the interests of the consumer whose good-will is essential to the progress of all industry.

It is probable that this is the first trade practice conference which most of you have attended. Consequently it is considered appropriate to outline briefly the procedure and objectives of such a conference.

A trade practice conference for an industry looks toward the promulgation by the Commission of rules of fair competition designed to protect the ethical in that industry and the consuming public. Adoption and promulgation of such rules requires the cooperation of industry members and other interested parties with the Commission, which, under the statute and in the public interest, prevents the use of all unfair methods of competition and all unfair or deceptive acts and practices in interstate commerce.

The Commission, a number of years ago, initiated these conferences as a means whereby the forces working for good in an industry might be effectively organized and directed, to the end that unfair practices employed in that industry might be eliminated without resort to the formal legal proceedings which the law empowers and directs the Commission to use in preventing such practices.

This procedure of the Commission is based upon the theory that a voluntary elimination of unfair competition and unfair practices in an industry leads not only to fair competition in that industry but is also to the interest of the public. If, by such procedure, all unfair competitive practices in an industry are eliminated voluntarily and without the delay and expense incident to the investigation and trial of many cases against numerous individual members of that industry, it appears to the Commission that such procedure exemplifies the old adage about an ounce of prevention being worth more than a pound of cure.

It should be understood that the purpose of this meeting today is to give an opportunity to members of your industry to consider what illegal practices exist in the industry and to propose rules designed to eliminate such practices, for submission to the Commission for its consideration and approval.

It should, of course, be remembered that the anti-trust laws prohibit any concerted action looking toward fixing prices or restraint of trade or the

creation of a monopoly. It is the duty of the Commission to proceed against any members of industry who so misuse trade practice conference rules as to further practices contrary to these laws against unlawful restraints of trade.

Fair trade practice rules are classified in two groups known as Group I and Group II. Rules in Group I enumerate and forbid as unfair those practices in the particular industry which are violative of the laws administered by the Federal Trade Commission, as those laws have been construed by the Commission and the courts. Group I rules prohibit the use of such practices only as constitute violations of law.

Group II rules, on the other hand, either condemn practices which, while not unlawful, are considered harmful or unethical in the industry, or they encourage practices considered ethical and desirable although not required by law.

Such Group II rules are received and published by the Commission as the expression of the industry rather than as requirements of law. While practices contrary to such rules are not generally violations of the law, and their use does not usually result in action by the Commission, under certain conditions a violation of a Group II rule might be carried on in such way as to constitute an unfair or deceptive practice. In any such cases there exists a violation of law and enforcement proceedings will be instituted as if a Group I rule had been violated.

The Commission retains a cooperative interest in the observance of trade practice rules after their final approval. Complaints of violation of Group I rules or of the use of unfair practices which violate the law, whether or not such practices are covered by either Group I or Group II rules, will receive prompt attention.

Proceedings by the Commission are not based directly upon violations of the rules, but of the law itself in relation to which fair trade practice rules in Group I supply a concreteness not available in the more general language of the statute.

Upon complaint of a violation, careful investigation is made, and if the facts warrant further action, proceedings are then instituted to stop unfair practices by members of the industry, whether or not such members take part in the conference or accept such rules for the industry as may be approved by the Commission.

The rules which you may adopt at this conference have no effect until given final approval by the Commission, and before any such final approval, another opportunity will be given interested parties, after fifteen days public notice, to make suggestions or objections in regard to the proposed rules.

It is hoped that the rules you may adopt at this conference will meet with approval and will go a long way toward enabling your industry to maintain its business on a high plane of ethical and fair competition, and that from this meeting both your industry and the consuming public may derive great benefit.