Washington, Wednesday, September 13, 1939

The President

SUSPENSION OF OPERATION OF TITLE II OF THE SUGAR ACT OF 1937

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS section 509 of the Sugar Act of 1937 provides, in part:

"Whenever the President finds and proclaims that a national economic or other emergency exists with respect to sugar or liquid sugar, he shall by proclamation suspend the operation of Title II or III above, which he determines, on the basis of such findings, should be suspended, and, thereafter, the operation of any such Title shall continue in suspense until the President finds and proclaims that the facts which occasioned such suspension no longer exist.

WHEREAS the outbreak of war among major European countries has resulted in excessive and harmful speculation in sugar and rapidly rising prices to consumers, which conditions are accentuated by the marketing limitations imposed under Title II of the Act; and

WHEREAS such increased prices of sugar will not accrue to the benefit of the majority of producers by reason of the sale of much of their current crop before the outbreak of the war:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority vested in me by the foregoing provision of the Sugar Act of 1937, do hereby find and proclaim that a national economic emergency exists with respect to sugar, and do by this proclamation suspend the operation of Title II of that Act.

DONE at the City of Washington this eleventh day of September in the year of our Lord nineteen hundred and thirty-nine, and of the Independence of the United States of America the one hundred and sixty-fourth.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE, September 10, 1939.

[No. 8249]

EXECUTIVE ORDER

PROCLAMATION: SUSPENSION OF OPERATION OF TITLE II OF THE SUGAR ACT OF 1937

By the President:
Cordell Hull
Secretary of State.

[No. 2301]

[FR Doc. 38-3343; Filed, September 12, 1937; 12:12 p.m.]

EXECUTIVE ORDER

PROCLAMATION: SUSPENSION OF OPERATION OF TITLE II OF THE SUGAR ACT OF 1937

WHEREAS, under the treaties of the United States and the law of nations it is the duty of the United States, in any war in which the United States is a neutral, not to permit the commission of unilateral acts within the jurisdiction of the United States;

AND WHEREAS, a proclamation was issued by me on the 10th day of September declaring the neutrality of the United States of America in the war now existing between Germany, on the one hand, and Canada, on the other hand: NOW, THEREFORE, in order to make more effective the enforcement of the provisions of said treaties, law of nations, and proclamation, I hereby proscribe that the provisions of my Executive Order No. 8233 of September 5, 1937, prescribing regulations governing the enforcement of the neutrality of the United States, apply equally in respect to Canada.

FRANKLIN D. ROOSEVELT
THE WHITE HOUSE, September 10, 1939.

[FR Doc. 38-3331; Filed, September 11, 1937; 2:15 p.m.]

CONTENTS

THE PRESIDENT

Proclamation:
Suspension of operation of Title II of the Sugar Act of 1937.

Executive Orders:
Canal Zone, revocation of order placing certain land under jurisdiction of Secretary of Navy for use as naval radio station.
Neutrality of United States, prescribing regulations governing enforcement of.
Regulation concerning credits to belligerents.

RULES, REGULATIONS, ORDERS

Title 16—Commercial Practices:

Title 19—Customs Duties:
Bureau of Customs: Countervailing duties on importations from Germany.

Title 22—Foreign Relations:
Department of State: Contributions for use in Canada.
Passports for use in European countries, validation and issuance of.
Regulations under Section 9 of Joint Resolution approved May 1, 1937.
Supplement to pamphlet “International Traffic in Arms.”

Title 26—Internal Revenue:
Bureau of Internal Revenue: Excess tax on employers, credits against and refunds of.

(Continued on next page)
REGULATION CONCERNING CREDITS TO BELLIGERENTS

I hereby prescribe that the provisions of my regulation of September 6, 1939, concerning credits to France, Germany, Poland; and the United Kingdom, India, Australia and New Zealand shall henceforth apply equally in respect to credits to Canada and the Union of South Africa.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
September 11, 1939.

[F. R. Doc. 39-3323; Filed, September 12, 1939; 11:39 a.m.]

RULES, REGULATIONS, ORDERS

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3443]

IN THE MATTER OF E. A. HOFFMAN CANDY COMPANY

§ 3.39 (b) Using or selling lottery devices—In merchandising. Selling, etc., in connection with offer, etc., in commerce, of candy or other merchandise, candy or any other merchandise so packed and assembled that sales of said candy or other merchandise to the general public are to be, or may be, made by means of a lottery, gaming device, or gift enterprise, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, E. A. Hoffman Candy Company, Docket 3443, September 2, 1939]

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Charles P. Vein, an examiner of the Commission therefore duly designated by it, in support of the allegations of the complaint (respondent having offered no testimony or other evidence in opposition to the allegations of the said complaint), brief of counsel for the Commission filed herein (respondent having filed no brief and oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, E. A. Hoffman Candy Company, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of candy or any other merchandise in commerce as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Selling or distributing candy or any other merchandise so packed and assembled that sales of said candy or other merchandise to the general public are to be made or may be made by means of a lottery, gaming device, or gift enterprise.

(2) Supplying to or placing in the hands of dealers, assemblers, of candy together with push or pull cards, punch boards or other lottery devices which said push or pull cards, punch boards or other lottery devices are to be used or may be used in selling or distributing said candy or other merchandise to the general public.
(3) Supplying to or placing in the hands of dealers push or pull cards, punch boards or other lottery devices either with assortments of candy or other merchandise or separately which said push or pull cards, punch boards or other lottery devices are to be used or may be used in selling or distributing said candy or other merchandise to the general public.

(4) Selling or otherwise disposing of said candy or any other merchandise by use of push or pull cards or other lottery devices.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order. By the Commission.

[Seal]

OZI B. JOHNSON, Secretary.

[F. R. Doc. 39-3339; Filed, September 12, 1939; 11:41 a.m.]

TITLE 22—FOREIGN RELATIONS
DEPARTMENT OF STATE
RULES AND REGULATIONS GOVERNING THE
SOLICITATION AND COLLECTION OF CONTRIBUTIONS FOR USE IN CANADA

SEPTEMBER 11, 1939.

The Secretary of State announces that the rules and regulations under the provisions of Section 3 (a) of the Joint Resolution of Congress approved May 1, 1937, in regard to the solicitation and collection of funds for use in France; Germany; Poland; and the United Kingdom, India, Australia, and New Zealand, which he promulgated on September 5, 1939, henceforth apply equally in respect to the solicitation and collection of funds for use in Canada.

[Seal]

CORDELL HULL.

[F. R. Doc. 33-3338; Filed, September 12, 1939; 11:59 a.m.]

REGULATIONS UNDER SECTION 9 OF THE
JOINT RESOLUTION OF CONGRESS
APPROVED MAY 1, 1937

SEPTEMBER 11, 1939.

The Secretary of State announces that the regulations under section 9 of the Joint resolution of Congress approved May 1, 1937, which he promulgated on September 5, 1939, henceforth apply equally in respect to travel by citizens of the United States on vessels of Canada.

[Seal]

CORDELL HULL.

[F. R. Doc. 33-3335; Filed, September 12, 1939; 11:59 a.m.]

SUPPLEMENT TO THE PAMPHLET, "INTERNATIONAL TRAFFIC IN ARMS—LAWS AND
REGULATIONS ADMINistered BY THE
SECRETARY OF STATE GOVERning THE
INTERNATIONAL TRAFFIC IN ARMS,
AMILITARY, AND IMPLEMENTS OF WAR
AND OTHER MUTATIONS OF WAR."

PART X—SPECIAL PROVISIONS IN REGARD TO
EXPORTATION TO CANADA

SEPTEMBER 11, 1939.

The Secretary of State announces that the special provisions in regard to exportation to France; Germany; Poland; and the United Kingdom, India, Australia and New Zealand, promulgated on September 5, 1939, and set forth in Part IX of this pamphlet, henceforth apply equally in respect to Canada.

[Seal]

CORDELL HULL.

[F. R. Doc. 33-3337; Filed, September 12, 1939; 11:59 a.m.]
REGULATIONS CONCERNING THE VALIDATION AND ISSUANCE OF PASSPORTS FOR USE IN EUROPEAN COUNTRIES

By virtue of and pursuant to the authority vested in me by Section I of the Act of July 3, 1926, 44 Stat. 667 (U.S.C., Title 22, Section 2141), and by Executive Order No. 7858 of March 31, 1938, prescribing rules governing the granting and issuing of passports in the United States, I, the undersigned, Secretary of State of the United States, hereby prescribe the following regulations:

No passport hereof issued shall be valid for use in traveling from the United States to any country in Europe unless it is submitted to the Department of State for validation.

Before the Department of State will validate any passport hereof issued for use in any country in Europe, it will be necessary for the person to whom the passport was issued to submit documentary evidence concerning the imperative necessity of his proposed travel. A person who desires to travel in Europe for commercial purposes must support his application for the validation of his passport or for the issue of a passport with a letter from the head of the firm in the interests of which he intends to go to Europe. Such letter must state not only the names of the European countries which the applicant expects to visit and the objects of his visits thereto, but in addition, whether or not the applicant is a salaried employee of the firm concerned; and if so, how long he has been known to the firm and for what period of time he has been in its employ. If the applicant is going to Europe on a commission and not a salary basis, that fact also should be specifically stated. If the applicant for a passport is himself the head of the concern for which he is going to Europe, he must submit a letter from another officer of the concern or a letter from the head of some other reputable concern who has had business transactions with the applicant and has knowledge of the business in which the applicant is engaged and the object and necessity of his proposed trip to Europe.

An applicant who is going to Europe for any purpose other than commercial business must satisfy the Department of State that it is imperative that he go, and he must submit satisfactory documentary evidence substantiating his statement concerning the imperative necessity of his proposed trip.

In view of the exigencies of the present situation and the consequent necessity of exercising the greatest care in the validation of passports or the issue of new passports, the Department of State will be obliged to hold applicants and firms responsible for any false or misleading statements made by them in connection with applications for passports, and any such false or misleading statements would be in violation of Section 220 of Title 22 of the U.S. Code, which reads as follows:

Whoever shall wilfully and knowingly make any false statement in an application for passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws, or whoever shall wilfully and knowingly use or attempt to use, or furnish to another for use, any passport the issue of which was secured in any way by reason of any false statement, shall be fined not more than $2,000 or imprisoned not more than five years or both.

Women and children will not be included in passports issued to their husbands or fathers unless the urgent and imperative necessity of accompanying them is conclusively established.

Passports will not, as a rule, be validated or issued for travel in opposing belligerent countries.

Should a person now having a valid passport proceed to any European country without first having submitted his passport to the Department of State for validation, the protection of the United States may be withheld from him while he is abroad.

Should a person to whom a passport has been issued use it in violation of the conditions or restrictions contained therein, the protection of the United States may likewise be withheld from him while he is abroad and he will be liable for prosecution under the provisions of Section 226 of Title 22 of the U.S. Code, which reads in part as follows:

* * * whoever shall wilfully and knowingly use or attempt to use any passport in violation of the conditions or restrictions contained therein, or of the rules prescribed pursuant to the laws regulating the issuance of passports, which said rules shall be printed on the passport; * * * shall be fined not more than $2,000 or imprisoned not more than one year, or both.

Hereafter when a passport is validated for or issued for use in Europe, its validity shall be restricted to the period necessary to accomplish the purpose of the intended visit to Europe but in no case beyond a period of six months.

Passports in possession of persons now residing abroad shall in due course be submitted to American consul officials for appropriate endorsement under special instructions to be sent to such officers at a later date.

Cordell Hull.

September 4, 1939.

[F.R. Doc. 39-3341; Filed, September 12, 1939; 11:59 a.m.]

TITLE 26—INTERNAL REVENUE
BUREAU OF INTERNAL REVENUE

[3 F.R. 393 DI]

REGULATIONS, 90, AS AMENDED, RELATING TO THE EXCISE TAX ON EMPLOYERS UNDER TITLE IX OF THE SOCIAL SECURITY ACT, FURTHER AMENDED


To Collectors of Internal Revenue and Others Concerned:

In order to conform Regulations 90, approved February 17, 1936 (Part 400, Title 26, Code of Federal Regulations) as amended, to the provisions of Section 909 (a), (b), (c), (d), (e), and (h) of the Social Security Act, Amendments of 1933 (Public Law 737, 76th Congress, 1st Session), such regulations are further amended as follows:

(1) Immediately preceding article 211, as amended by Treasury Decision 4682, approved June 18, 1938 (Section 400.211, Title 26, Code of Federal Regulations, 1938 Sup.), the following is inserted:

Section 902 of the Social Security Act Amendments of 1939

(a) Against the tax imposed by section 901 of the Social Security Act for the calendar years 1936, 1937, or 1938, any taxpayer shall be allowed credit for the amount of contributions, with respect to employment during such year, paid by him into an unemployment fund under a State law:

(1) Before the sixtieth day after the date of the enactment of this Act;

(2) On or after such sixtieth day, with respect to wages paid after the forty-fifth day after such date of enactment;

(b) Upon the payment of contributions into the unemployment fund of a State which are required under the unemployment compensation law with respect to remuneration on the basis of which, prior to such payment into the proper fund, the taxpayer erroneously paid an amount as contributions under another unemployment compensation law, the payment into the proper fund shall, for purposes of credit against the tax imposed by section 901 of the Social Security Act for the calendar years 1936, 1937, and 1938, respectively, be deemed to have been made at the time of the erroneous payment. If, by reason of such other law, the taxpayer was entitled to cease paying contributions with respect to services subject to such other law, the payment into the proper fund shall, for purposes of credit against the tax, be deemed to have been made on the date the return for the taxable year was filed under section 906 of the Social Security Act.

(c) The provisions of the Social Security Act in force prior to February 11, 1939 (except the provisions limiting the credit to...
amounts paid before the date of filing returns) shall apply to allowance of credit under subsections (a), (b), and (c), and the terms used shall have the same meaning as when used in title XII of the Social Security Act prior to such date. The total amount against the tax imposed by section 501 of such Act for the calendar years 1936, 1937, and 1938, respectively, shall not exceed 98 percent of such tax.

(b) Notwithstanding the proviso of section 507 (d) of the Social Security Act relating to the term “contributions” to payments required by a State law, credit shall be permitted with respect to payments into section 400.503 of such Act for the calendar year 1936 or 1937, for so much of any payments made as contributions for the calendar year into an employment fund of a State which are held by the highest court of such State not to be required payments under the unemployment compensation law of such State if they are not returned to the taxpayer. So much of such payments as are not so returned shall be considered to be “contributions” for the purpose of section 903 of such Act. The periods of limitations prescribed by section 3312 (a) of the Internal Revenue Code shall not begin to run, in the case of the tax for such year, in the case of the tax for such year to whom any payment is returned, until the last such payment is returned to the taxpayer.

(2) Article 211, as amended by Treasury Decision 4812, approved June 18, 1938 (section 400.211, Title 26, Code of Federal Regulations, 1938 Sup. I), is further amended to read as follows:

Art. 211. Credit of contributions against tax for calendar years 1936, 1937, and 1938—(a) General. Subject to the limitations hereinafter prescribed in paragraph (b), the taxpayer may credit against the tax for the calendar year 1936, 1937, or 1938 the total amount of his contributions under all State laws which have been found by the Social Security Board to contain the provisions specified in section 503 (a) of the Social Security Act; provided that no credit may be taken for contributions under a State law if such State has not been duly certified for the calendar year to the Secretary by the Social Security Board.

(b) Limitations on allowance of contributions as credit against tax. The allowance of contributions as credit against the tax for the calendar year 1936, 1937, or 1938 is subject to the following limitations:

(1) The total credit allowed to any taxpayer for contributions for State unemployment funds with respect to employment during any one year shall not exceed 90 percent of the tax imposed by section 501 of such Act.

(2) The contributions must have been actually paid into the State unemployment fund. Such payment must have been made before October 9, 1938, except that:

(i) The contributions with respect to wages paid after September 19, 1939 (for employment during the calendar year 1939), 1939, may be paid into the State fund on or after October 9, 1939, subject, however, to the provisions of article 503 of these regulations (section 400.503, Title 26, Code of Federal Regulations), relating to the statutory period of limitations applicable to credits.

(ii) The contributions of a taxpayer whose assets, at any time during the period August 11, 1939, to October 8, 1939, inclusive, are in the custody or control of a receiver, trustee, or fiduciary appointed by, or under the control of, a court of competent jurisdiction, may be paid into the State fund at any time; subject, however, to the provisions of article 503 of these regulations (section 400.503, Title 26, Code of Federal Regulations), relating to the statutory period of limitations applicable to credits.

(iii) The contributions paid into the unemployed fund of a State which are required under the unemployment compensation law of that State, with respect to remuneration on the basis of which the taxpayer had, prior to such payment, erroneously paid an amount as contributions under another unemployment compensation law of such State, shall be deemed to have been made at the time of the erroneous payment. If, by reason of such other law, the taxpayer was entitled to cease paying contributions with respect to services subject to such other law, the payment into the proper fund shall be deemed to have been made on the date the return for the taxable year, for which such contributions were erroneously paid, was actually filed under section 903 of the Social Security Act.

(3) The contributions must have been paid with respect to employment as defined in section 907 (c) of the Social Security Act, that is, with respect to services performed on the basis of which the contributions were paid with respect to services performed during the calendar year covered by the return.

(c) Contributions. The term “contributions” for purposes of credits against the tax means payments into an employer pursuant to a State law into the unemployment fund of such State, to the extent that such payments are made by the employer without any part thereof being deducted or deductible from the wages of individuals in his employ. Notwithstanding the provision limiting the term to payments required by a State law, the term also includes so much of any payments made as contributions for the calendar year 1936 or 1937 into the unemployment fund of a State which payments are held by the highest court of such State not to be required payments under the unemployment compensation law of such State, as are not returned to the taxpayer.

(d) (1) Subsequent to the filing of the return, a refund is made by a State to the taxpayer of any part of his contributions which had been credited against the tax, the taxpayer is required to advise the Commissioner under oath of the date and amount of such refund and the reason therefor, and to pay the tax, if any, due as a result of such refund, together with interest from the date when the tax was due.

(3) Immediately preceding article 503½, as added by Treasury Decision 4812, approved June 18, 1938 (section 400.503½, Title 26, Code of Federal Regulations, 1938 Sup. I), the following is inserted:

Section 400.503½(a) of the Social Security Act Amendments of 1939.

Refund of the tax (including penalty and interest) collected with respect thereto, if any, based on any credit allowable under subsections (a), (b), and (c), may be made in accordance with the provisions of law applicable to the cases of erroneous or illegal denial of interest or penalty, if any, shall be allowed or paid on the amount of any such refund.

(4) Article 503½, as added by Treasury Decision 4812, approved June 18, 1938 (section 400.503½, Title 26, Code of Federal Regulations, 1938 Sup. I), is amended to read as follows:

"Ann. 503½. Refund under section 902 (d) of the Social Security Act Amendments of 1939. (a) If the tax against which an amount is allowable as credit under section 902 (a), (b), and (c) of the Social Security Act Amendments of 1939 (see article 211, as amended section 400.211, Title 26, Code of Federal Regulations, 1939 Sup. I) has been paid without the benefit of such credit, the taxpayer shall be entitled to a refund of the tax equal to the amount of such allowable credit. The taxpayer shall also be entitled to a refund of the amount of interest and penalty, if any, collected from him with respect to the amount of such tax refunded. No interest, however, shall be allowed or paid by the Government on the amount of any such refund.

(b) Every claim for refund under section 902 (d) of the Social Security Act Amendments of 1939 shall be made on Form 843 in accordance with the provisions of this article and article 503 (section 400.503, Title 26, Code of Federal Regulations). A claim which does not comply with these requirements will not be considered for any purposes as a claim for refund."

This Treasury Decision is effective only with respect to the tax imposed by title XIX of the Social Security Act for the calendar years 1936, 1937, and 1938.

For provisions with respect to subsequent calendar years, see the Federal Unemployment Tax Act (chapter C of title IX of the Federal Regulations). A claim which does not comply with these requirements will not be considered for any purposes as a claim for refund.

This Treasury Decision is issued under the authority contained in section 902 (c) of the Social Security Act Amendments of 1939 (Public No. 379, 76th Cong., 1st sess.) and section 906 of the Social Security Act (49 Stat. 643; 42 U.S.C., Supp. IV, 1103) and interprets section 902 (a),...
NOTICE

DEPARTMENT OF AGRICULTURE.

Notice of Issuance of Special Certificates for the Employment of Learners in the Hosiery Industry

Notice is hereby given that Special Certificates for the employment of learners in the Hosiery Industry at hourly wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act (Hosiery Wage Order) are issued to the employers listed below effective September 18, 1939, until September 18, 1940, subject to the following terms:

OCCUPATIONS AND WAGE RATES

The employment of learners in the Hosiery Industry under these Certificates is limited to the following occupations, learning periods, and minimum wage rates:

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Wage Rate</th>
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<tbody>
<tr>
<td>Hosiery Winder</td>
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<tr>
<td>Hosiery Inspector</td>
<td>$0.26</td>
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</table>

NUMBER OF LEARNERS

Not in excess of 5% of the total number of factory workers employed in the plant may be employed under any of these certificates, unless otherwise indicated herein below.

NAME AND ADDRESS OF FIRM

Adams-Mills Corporation (Plant No. 1), English Street, High Point, North Carolina.

Adams-Mills Corporation (Plant No. 2), Crimes Street, High Point, North Carolina.

Adams-Mills Corporation (Plant No. 3), Washington Street, High Point, North Carolina.

Adams-Mills Corporation (Plant No. 4), Bodenheimer Street, Kernersville, North Carolina.

Adams-Mills Corporation (Plant No. 5), Tunxis Street, High Point, North Carolina.

Adams-Mills Corporation (Plant No. 6), Tryon, North Carolina.

Archers Hosiery Mills, Columbus, Georgia.

Ashley Hosiery Company, Asheville, North Carolina (4 learners).

Bear Brand Hosiery Company, Gary, Indiana.

Bear Brand Hosiery Company, Henderson, Kentucky (9 learners).

Bear Brand Hosiery Company, Kent, Indiana.

Bear Brand Hosiery Company, Quakertown, Pennsylvania.

Boston Mills, Inc., Watertown, Massachusetts (4 learners).

Browning Hosiery Mills, Bridgeport, Alabama.

Clausen Hosiery Company, Paducah, Kentucky.

Concord Knitting Company, Concord, North Carolina.

Dayton Hosiery Mills, Dayton, Tennessee.

Egg Harbor Knitting Mills, Inc., Egg Harbor City, New Jersey (5 learners).

Glen Raven Hosiery Mills, Alamance, North Carolina.

Gloucester Knitting Mills, Gloucester, Massachusetts.


Hopleaf Hosiery Company, Milwaukee, Wisconsin.


James Knitting Mills Company, Hickory, North Carolina (6 learners).


Massachusetts Knitting Mills, Inc., Jamaica Plain, Massachusetts (41 learners).

Miller-Smith Hosiery Mills, Chattanooga, Tennessee.

Miller-Smith Hosiery Mills, Etowah, Tennessee.

Miller-Smith Hosiery Mills, Kingsport, Tennessee (5 learners).

Morganton Pull Fashioned Hosiery Company, Morganton, North Carolina.


Pocomoke Textiles, Inc., Pocomoke City, Maryland (5 learners).

Princeton Hosiery Mills, Princeton, Kentucky.

Pure Silk Hosiery Mills, Inc., Panama City, Florida (4 learners).


Rome Hosiery Mills, Rome, Georgia.

Silkay Hosiery Mills, Allentown, Pennsylvania.


Whitetail Knitting Mills, Mount Holly, North Carolina.

These Special Certificates are issued ex parte under Section 14 of the said Act, section 522.5 (b) of Regulations Part 522, as amended. For fifteen days following the publication of this notice the Administrator will receive detailed written objections to any of these Special Certificates and requests for hearing from interested persons. Upon due consideration of such objections as provided for in said Section 522.5 (b), such Special Certificates, or any of them, may be can-

14 F.R. 2398 DL.

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*See page 3889.*
United States of America—Before Federal Trade Commission
[Doc. No. 3886]
IN THE MATTER OF GENERAL MOTORS CORPORATION AND AC SPARK PLUG COMPANY
COMPLAINT

The Federal Trade Commission, having reason to believe that the General Motors Corporation, a corporation, and AC Spark Plug Company, a corporation, and each of them, jointly and severally, are violating, and since June 19, 1938, have violated, the provisions of Sections 2(a), 2(d), and 3 of the Clayton Act as amended by the Robinson-Patman Act (U.S.C. Title 15, Sections 13 and 14) and have been and are using unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act (U.S.C. Title 15, Section 45), and it appearing to the Commission that a proceeding by it in respect thereof would be to the interest of the public, the Commission hereby issues its complaint, charging as follows:

Charging violation of Section 3 of the Clayton Act, the Commission alleges:

PARAGRAPH 1. Respondent General Motors Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located in the AC Buildings, Flint, Michigan. Said respondent is engaged in the distribution and sale of spark plugs, spark plug parts, oil filters, oil filter renewal cartridges, and other automobile parts and accessories, herein-after collectively referred to as "AC products." Said respondent is a wholly owned subsidiary of respondent General Motors Corporation.

PAR. 2. Respondent AC Spark Plug Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Michigan, with its principal office and place of business located in the AC Buildings, Flint, Michigan. Said respondent is engaged in the distribution and sale of spark plugs, spark plug parts, oil filters, oil filter renewal cartridges, and other automobile parts and accessories, herein-after collectively referred to as "AC products." Said respondent is a wholly owned subsidiary of respondent General Motors Corporation.

PAR. 3. Said respondents transport their said AC products, or cause the same to be transported, for distribution and sale, from the places where such products are manufactured or stored, into and through the various states of the United States to their customers and purchasers thereof located in other states of the United States and in the District of Columbia, and there is, and has been at all times herein mentioned, a continuous current of trade in commerce in said AC products manufactured, sold, and distributed by respondents between the states wherein respondents' factories and warehouses are located and various other states of the United States.

Respondents' said products are sold and distributed by them for use, consumption, and resale within the United States and the District of Columbia.

PAR. 4. Respondents distribute and sell their AC products throughout the United States in the same territories and places as, and in substantial competition with, other persons and corporations engaged in the manufacture, distribution, and sale of similar products of like grade and quality. Respondents for the past several years have annually furnished, in the original equipment field, more spark plugs than any other domestic spark-plug manufacturer, supplying annually about one-half of the spark plugs used for original equipment on automobiles manufactured in the United States. Respondents, with other manufacturers, during the year 1937 supplied more than 95% of the spark plugs used as original equipment in the automobile industry in the United States and about 90% of the spark plugs sold in the United States for all uses.

PAR. 5. The business of distributing and selling spark plugs and oil filters is divided into two main categories: first, the sale of such products through automobile and other motor manufacturers for use as original equipment; and second, the distribution and sale thereof. The manufacture of spark plugs, oil filters and oil filter renewal cartridges is carried on by said respondent by and through its AC Spark Plug Division.

PAR. 6. Respondents' AC products are sold and distributed by more than 3,000 wholesalers of automobile parts and accessories located throughout the United States, and respondent AC Spark Plug Company has negotiated and entered into contracts with some 1,500 of such wholesalers, which contracts are now in force, governing the terms of, and for the sale of, said products. Respondents maintain direct contact with all of said contracting wholesalers and prescribe and enforce the prices, terms, and conditions of sales of their products by such wholesalers. Respondents' contracts with wholesalers classify said products as "D" or distributor products. Such agreements provide that such wholesaler will stock, handle, sell and distribute said AC products on an exclusive basis, and substantial sales by said respondents to said "D" or distributor accounts are made on the condition contained in said contracts that said "D" or distributor purchasers shall not use or deal in similar products manufactured or sold by any competitor or competitors of respondents, and the prices fixed in said contracts and charged to said "D" or distributor accounts have been fixed and charged upon said condition, agreement and understanding. Respondents have also entered into contracts with a substantial number of other wholesalers handling, selling, and distributing said AC products and have sold their said products to such other wholesalers and have fixed prices for such products charged and to be charged such wholesalers on the condition, agreement and understanding that such other wholesalers in purchasing respondents' said AC products shall not use or deal in similar products manufactured or sold by a competitor or competitors of respondents.

PAR. 7. The result, and effect, of said acts, policy, and practices of respondents has been to persuade, induce, and cause many of such wholesalers and dealers in spark plugs and oil filters throughout the United States to cancel sales contracts with respondents' competitors, to discontinue dealing in and selling the products of respondents, and to refuse to deal in or purchase the products of such competitors, and has been, and may be, to substantially lessen competition and tend to create a monopoly in the distribution and sale of spark plugs and oil filters in trade and commerce among the several States of the United States and the District of Columbia.
Charging violation of Section 2 (a) of the Clayton Act as amended, the Commission alleges:

Par. 8. Paragraphs One to Five, inclusive, of Charge I hereof are hereby repeated and made a part of this charge as fully and with the same effect as though here again set forth at length.

Par. 9. In the course and conduct of their business respondents sell directly to wholesalers and distributors classified by respondents into "A-4", "A-5", and "A-4" accounts, which said accounts in turn supply to other dealers classified by respondents as "JC", "L", "A-5", and "A-6" accounts, and to other dealers in said AC products not classified and not holding contracts for the purchase of said products. Said dealers classified as "JC", "L", "A-5", and "A-6" accounts are under direct contract with respondents. Since June 19, 1936, respondents have discriminated in price between different purchasers of their indirect accounts, and the said discrimination for the distribution of AC products, an amount equal to 10% of all purchases of said AC products by such indirect account from respondents. Each of said classes of respondents' customers classified by them as "D", "A" and "J" accounts is in competition in the resale of respondents' AC products, a "D" account usually competing with a "J" account whose credit is guaranteed. Such payment or consideration of 10% as hereinabove described is not awarded to, or given to, the said respondents in consideration of the credit service so rendered by such "D" or distributing account in connection with said respondents of their AC products, an amount equal to 10% of all purchases of said AC products by such "J" account from respondents.

Charging violation of Section 9 of the Federal Trade Commission Act, the Commission alleges:

Par. 14. As hereinbefore set out and described, respondents sell directly to wholesalers and distributors classified by respondents into "D", "A", and "A-4" accounts (hereinafter referred to as direct accounts), which said accounts in turn supply said AC products to other dealers classified by respondents as "JC", "L", "A-5", and "A-6" accounts (hereinafter referred to as indirect accounts), and to other dealers in said AC products not classified and not holding contracts for the purchase of said products. Respondents have engaged in the practice of negotiating and entering into contracts with said indirect accounts classified by the respondents, except as to "J", "L", "A-5", "A-6", "C" and "P", by the terms of which and by the issuance of price lists, instructions to their direct issuance of price lists, instructions to their direct accounts, coercion and close supervision of the resale policy of such direct accounts, respondents fixed, prescribe, control the prices, terms and conditions upon which their said direct accounts may supply their said AC products to the said indirect accounts above mentioned and to other dealers in such products not holding such AC contracts. For AC Blue Top Spark Plugs, respondents, fixed a price of $3.00 per plug to "J", "L", "A-5", "A-6", "C" and "P", the terms of which and by the issuance of price lists, instructions to their direct issuance of price lists, instructions to their direct accounts, coercion and close supervision of the resale policy of such direct accounts, respondents fixed, prescribe, control the prices, terms and conditions upon which their said direct accounts may supply their said AC products to the said indirect accounts above mentioned and to other dealers in such products not holding such AC contracts. For AC Blue Top Spark Plugs, respondents, fixed a price of $3.00 per plug to "J", "L", "A-5", "A-6", "C" and "P", the terms of which and by the issuance of price lists, instructions to their direct issuance of price lists, instructions to their direct accounts, coercion and close supervision of the resale policy of such direct accounts, respondents fixed, prescribe, control the prices, terms and conditions upon which their said direct accounts may supply their said AC products to the said indirect accounts above mentioned and to other dealers in such products not holding such AC contracts.
negotiating such contracts and requiring their distributors to adhere thereto and constantly supervising and checking their distributors’ sales and distributing activities and by their threats and instructions issued by respondents’ representatives, respondents effectively close to their competitors a substantial number of actual and potential outlets for the distribution and sale of spark plugs and oil filters.

Par. 16. By the acts and practices above described, respondents have agreed with and compelled their distributors to maintain the various prices fixed by the respondents for the resale of their AC spark plugs and other AC products to the restraint of trade in commerce between the various states and in the District of Columbia; have obstructed, hampered and interfered with the normal and natural flow of trade and commerce in such products, have hindered and lessened competition in the distribution and sale of such products; and have injured their competitors by unlawfully diverting business and trade from them and depriving them thereof; and have engaged in unfair acts and practices as to their competitors and as to their indirect customers; all to the prejudice and injury of the public.

Wherefore, the premises considered, the Federal Trade Commission on this 8th day of September, A. D. 1939, issues its complaint against said respondents.

NOTICE

Notice is hereby given you, General Motors Corporation and AC Spark Plug Company, respondents herein, that the 13th day of October, A. D. 1939, at 2 o’clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said Act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The Rules of Practice adopted by the Commission with respect to answers or failure to appear or answer (Rule VII) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true, and if in the judgment of the Commission such facts admitted constitute a violation of law as charged in the complaint, to make and serve findings as to the facts and an order to cease and desist from such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Commission, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereunto affixed, at Washington, D. C., this 8th day of September, A. D. 1939.

By the Commission.

[SEAL]

Otis B. Johnson,
Secretary.

[FR Doc. 39-3338; Filed, September 12, 1939; 11:41 a.m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 11th day of September, A. D. 1939.

[Files No. 32-154]

IN THE MATTER OF NEW ENGLAND POWER COMPANY; BELLOWS FALLS HYDRO-ELECTRIC CORPORATION AND NEW ENGLAND POWER ASSOCIATION; CONNECTICUT RIVER POWER COMPANY AND NEW ENGLAND POWER ASSOCIATION

CONSENT TO WITHDRAWAL OF APPLICATION

Bellows Falls Hydro-Electric Corporation and Connecticut River Power Company, having heretofore filed applications, pursuant to Section 12 (f) of the Public Utility Holding Company Act of 1935 and Rule U-12F-1 promulgated thereunder, for approval of the sale to New England Power Company of the properties and franchises of Bellows Falls Hydro-Electric Corporation and certain of the properties and franchises of Connecticut River Power Company, all said companies being subsidiary companies of New England Power Association, a registered holding company; Bellows Falls Hydro-Electric Corporation having likewise filed an application pursuant to Section 10 (a) (1) of said Act;

Said New England Power Company having also filed an application (a) to be joined as a party to such proceedings, (b) requesting that the Commission take jurisdiction over such acquisition pursuant to the provisions of Section 12 (f) of said Act, and (c) for an order approving such acquisition under said Section 12 (f);


It is ordered, That the Commission hereby consents to the withdrawal of said applications.

By the Commission.

[SEAL]

Francis P. Brasso,
Secretary.

[F.R. Doc. 39-3346; Filed, September 12, 1939; 11:53 a.m.]