

he impose a burden upon interstate commerce, therefore he is not subject to Federal regulation.

In a hardwood lumber case (Mississippi Valley Hardwood Company, Inc., v. McClanahan, United States Attorney et al.) the Federal District Court enjoined the United States District Attorney from enforcing the price fixing provisions of the code on the ground that no authority for price fixing exists in the law. The Court held that while the Act authorizes the formulation of codes of fair competition, the definitions of "fair competition" do not include price fixing. In a lumber case in a different judicial district a similar ruling was given.

In another lumber case (United States v. McGraw-Curran et al.) the Federal District Judge in denying an injunction restraining violation of code price provisions stated that mere underselling of competitors is not unfair competition. No proof was given that the sales price was below the cost of production and nothing in the National Industrial Recovery Act indicates, the Court held, that a specific price should be set as the cost of production throughout large areas of the country.

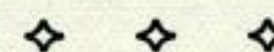
Production control is involved in a number of cases considered by the Federal courts. In addition to the oil cases to which reference has already been made, the Lumber, Silk Textile, Rayon Silk Dyeing, Printing, Hosiery, Underwear and Allied Products, Ice and Cotton Textile codes account for other court cases affecting production control.

In the litigation that has arisen concerning the trade practice provisions of codes many cases have related to regulations in the Motor Vehicle Retail Code. These regulations primarily concern trade-in allowances for used cars and accurate mileage records. Provisions of the Petroleum Code prohibiting the giving of premiums with sales of gasoline were the cause of several cases. The Funeral Supply, Retail, Brewing, Commercial and Breeder Hatchery, Silk Textile and Millinery codes account for other trade practice cases in the courts.

There are several instances where decisions have been rendered adverse to the enforcement of trade practice provisions. In two cases relating to petroleum code restrictions on premiums the Court held that it was a regulation of intrastate commerce.

The American Liberty League expects to submit additional comments of a specific character after the administration offers its recommendations for legislation. The declaration by S. Clay Williams, Chairman of the National Industrial Recovery Board, in an address January 17, that any extension of the Act should be for "a further trial period of from one to two years" rather than as permanent law is a favorable indication of the trend within the present governing body.

The National Recovery Administration



A Review of its Past and Recommendations for its Future



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