# Seventh Annual Report

of the

# U.S. Securities and Exchange Commission

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## Fiscal Year Ended June 30, 1941

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**SECURITIES AND EXCHANGE COMMISSION**
**WASHINGTON, D. C.**

## LETTER OF TRANSMITTAL

SECURITIES AND EXCHANGE COMMISSION,
*Washington, January 5, 1942.*

SIR: I have the honor to transmit to you the Seventh Annual Report of the Securities and Exchange Commission, in compliance with the provisions of Section 23 (b) of the Securities Exchange Act of 1934, approved June 6, 1934, Section 23 of the Public Utility Holding Company Act of 1935, approved August 26, 1935, Section 46 (a) of the Investment Company Act of 1940, approved August 22, 1940, and Section 216 of the Investment Advisers Act of 1940, approved August 22, 1940.

Respectfully,

EDWARD C. EICHER,
*Chairman.*

The PRESIDENT OF THE SENATE,
The SPEAKER OF THE HOUSE OF REPRESENTATIVES,
*Washington, D. C.*

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# Part I

# ADMINISTRATION OF THE INVESTMENT COMPANY ACT OF 1940

The Investment Company Act of 1940 requires the registration of and regulates investment companies, that is, companies engaged primarily in the business of investing, reinvesting, and trading in securities. Among other things, the Act requires complete disclosure of the finances and the investment policies of these companies, thus insuring to investors full and complete information with respect to their activities; prevents such companies from changing the nature of their business or their investment policies without the approval of the stockholders; prohibits persons guilty of security frauds from serving as officers and directors of such companies; prevents underwriters, investment bankers, and brokers from constituting more than a minority of the directors of such companies; requires management contracts in the first instance to be submitted to security holders for their approval; prohibits transactions between such companies and their officers and directors and other insiders except on the approval of the Commission; prohibits the issuance of senior securities of such companies except in specified instances; and prohibits pyramiding of such companies and cross ownership of their securities. The Commission is authorized to prepare advisory reports upon plans of reorganizations of registered investment companies upon request of such companies or 25 percent of their stockholders and to institute proceedings to enjoin such plans if they are grossly unfair. The Act also requires face-amount certificate companies to maintain reserves adequate to meet maturity payments upon their certificates.

## ENACTMENT

The Investment Company Act of 1940 (Public No. 768, 76th Congress) was approved on August 22, 1940, and became generally effective on November 1, 1940. This legislation was enacted after extensive hearings before subcommittees of the Banking and Currency Committee of the Senate and the Interstate and Foreign Commerce Committee of the House of Representatives. The original bill from which the statute as enacted was evolved was based upon the Commission's report and recommendations resulting from its detailed study of investment companies and investment trusts made pursuant to the direction of Congress contained in Section 30 of the Public Utility Holding Company Act of 1935.[1]

[1] For accounts of this study, see previous annual reports of the Commission.

Representatives of the investment companies opposed certain provisions of the original bill and suggested alternative regulatory provisions. With the approval of the Congressional committees concerned, the Commission and the industry endeavored to work out a compromise measure acceptable to both, and ultimately succeeded in doing so. It was this compromise measure, with certain modifications, which was enacted into law as the Investment Company Act of 1940.

The fact that this legislation was endorsed both by the Commission and the great majority of the persons whom it proposed to regulate excited considerable comment at the time of its passage [2] and deserves some mention at this point. The Commission, while of the opinion that "if you do not have a comprehensive and effective program of regulation, it is probably better to have none," [3] felt that the compromise bill sufficiently carried out the Commission's major objectives and accordingly recommended its enactment.[4] Representatives of the industry, on their part, conceded that "abuses have existed in the industry and * * * legislation is necessary to prevent their continuance," [5] and joined in advocating passage of the compromise bill.

This cooperative relationship between the Commission and the industry has in general been preserved in the administration of the Act. The Commission believes that, while adhering scrupulously to the statute, it has given appropriate weight to the spirit in which it was conceived. Persons closely associated with the industry have frankly recognized that the Act is not "a complete cure of all possible evils in the investment company field," but is rather based upon a desire "to proceed cautiously and experimentally, attempting to prevent the main abuses which have been known to exist." [6]

It is probably safe to say that the Investment Company Act of 1940 represents the minimum workable regulation of investment companies. On the other hand, it does not follow that this minimum regulation is necessarily inadequate. Thus far the Commission has had only 8 months' experience in the administration of the Act. Further experience will presumably indicate a need for minor amendments and may or may not indicate a need for major amendments. If and when amendment seems advisable, the Commission has full power under Section 46 (a) of the Act to make appropriate recommendations to the Congress and will not hesitate to do so.

[2] See 86 Cong. Rec. 14916, 14922, 14924, 15413–14; Senate Banking and Currency Committee, Hearings on S. 3580, pp. 1110, 1130; House Interstate and Foreign Commerce Committee, Hearings on H. R. 10065, p. 77.

[3] Senate Banking and Currency Committee, Hearings on S. 3580, p. 133.

[4] Senate Banking and Currency Committee, Hearings on S. 3580, pp.1105-1107; House Interstate and Foreign Commerce Committee, Hearings on H. R. 10065, p. 63.

[5] House Interstate and Foreign Commerce Committee, Hearings on H. R. 10065, pp. 72 et seq.

[6] See 26 Wash. U. Law Quarterly 303, 347 (April 1941).

## GENERAL NATURE OF ADMINISTRATIVE PROBLEMS

In part, perhaps, because the statute was the result of a compromise, but in greater measure because of the diversity of companies it covers and the intricacy of the problems they present, the Investment Company Act of 1940 is a complex and elaborate piece of legislation, calling for the use of a great variety of administrative procedures and techniques. The Act contains flat statutory prohibitions the violation of which may give rise to either injunctive or criminal proceedings in the courts; provisions which authorize the Commission to institute injunctive proceedings but the violation of which is not a criminal offense; requirements for filing financial and other data with the Commission, which is then open to public inspection; requirements for the transmission of financial and other data to security holders; provisions authorizing the Commission to render advisory reports to security holders; provisions authorizing the Commission to adopt rules and regulations in some circumstances for the purpose of giving content to statutory prohibitions which would otherwise be inoperative and in other circumstances for the purpose of relaxing statutory prohibitions which would otherwise obtain; provisions for administrative orders in proceedings initiated in some cases by the Commission and in other cases by the companies or persons affected; and provisions for the further study of certain aspects of investment company operations. Fortunately, most of these procedures have been employed in the same or a comparable form in one or more of the statutes already administered by the Commission, so that no serious difficulties have been encountered in fitting the administration of the new Act into the framework of the Commission's previous practice.

For the purpose of administering the Investment Company Act of 1940 (together with the Investment Advisers Act of 1940), the Commission created a new division of the staff, the Investment Company Division. The organization and functions of the new division are generally similar to those of the older divisions of the Commission.

The principal problems faced by the Commission during the first eight months of its administration of the Act can conveniently be grouped into seven categories, namely, (1) determining which companies are investment companies subject to the Act and which are not investment companies or are entitled to exemption; (2) the classification of companies subject to the Act; (3) prescribing the information to be filed with the Commission and that to be transmitted to security holders; (4) the administration and enforcement of those provisions of the Act which regulate the relationships and transactions of persons who are affiliated with investment companies; (5) matters relating to the distribution, redemption, and repurchase

of securities issued by management companies; (6) reorganizations of investment companies; and (7) the treatment accorded certain special types of companies, such as unit investment trusts, periodic payment plans, and face-amount certificate companies.

## THE "INVESTMENT COMPANY" CONCEPT

Although the terms "investment company" and "investment trust" have been part of the language of the financial community for some time, a definition precise enough to distinguish them sharply from holding companies on the one hand and operating companies on the other did not exist prior to the enactment of the Investment Company Act of 1940. The distinctive feature of the Act in this connection is its use of a quantitative or statistical definition, expressed in terms of the portion of a company's assets which are investment securities. Thus the statute provides, *inter alia*, that a company is an "investment company" if it is engaged in the business of investing, reinvesting, owning, holding, or trading in securities, and owns investment securities (defined to exclude securities of majority-owned subsidiaries and of other investment companies) exceeding 40 percent of its total assets (exclusive of Government securities and cash items).

With this quantitative test as a starting point, the statute then proceeds to carve out exceptions. Certain types of companies are excluded from the investment company category by express statutory exceptions. These types include such organizations as banks, insurance companies, savings and loan associations, small loan companies, public utility holding companies, and charitable corporations. In addition, the Act provides machinery whereby the Commission may declare by order upon application that a company, notwithstanding the quantitative definition, is nevertheless not an investment company. Thus, companies that believe that the application of the quantitative test would unreasonably cause them to be classified as investment companies are given the opportunity of obtaining administrative dispensation by showing that they are *primarily* engaged in a business or businesses *other* than that of investing, reinvesting, owning, holding, or trading in securities, either directly or through majority-owned subsidiaries or through controlled companies conducting similar types of businesses.

The experience of the Commission, during the 8 months the Act has been in effect, indicates clearly the general feasibility of working with the definitions of "investment company" contained in the Act and the administrative procedures provided in relation to them. During that time only 27 applications for declarative orders were filed. Of the applications which have so far been studied, 7 have been withdrawn by the applicants at some stage during the course of the administrative proceeding. Most of the with-

drawals resulted from the informal exchange of views with representatives of the particular companies involved. Of the 4 cases which were formally decided by the Commission prior to the end of the past fiscal year, all were clear cases for administrative relief, and in each the order prayed for was granted. It is true that knotty questions have been raised by some of the applications, but those questions relate to so few companies that they do not interfere with the effective regulation of the field as a whole.

## EXEMPTION OF COMPANIES FROM THE INVESTMENT COMPANY ACT OF 1940

In addition to the provisions for excluding certain types of organizations from the concept of "investment company," the Act contains certain exemptive provisions applicable to companies which, while admittedly investment companies, should for one reason or another be relieved from some or all sections of the Act. Several of these exemptive provisions are provided by the statute itself, but three subsections of the Act leave exemption in whole or in part to administrative determination.

In Section 6 (b) the Commission is directed to exempt by order any employees' securities company from the provisions of the Act, to the extent that such exemption is consistent with certain specified standards. To date, 7 companies have filed applications for exemption under this section.[7] The most important are those applications filed by 4 investment companies holding funds for the benefit of more than 40,000 employees of General Electric Company. The total assets of these 4 companies amount to more than $200,000,000.

The disposition of such applications presents many difficult problems and requires constant use of the Commission's informal conference procedure, for Section 6 (b), in effect, directs the Commission to study in detail the history and operations of each such company and to determine the effect which each section of the Act will have on one or more aspects of the applicant's business. After this is done, the Commission must, in effect, accommodate the Act to the particular circumstances of the employees' securities company involved, in the light of the considerations enumerated in Section 6 (b). This process, in relation to the applications of the four companies affiliated with General Electric Company, has almost run its course. Formal hearings have been set, and opinions and orders should be issued in the near future. The other applications under Section 6 (b) are in some stage of the same process.

[7] These do not include employees' stock bonus, pension, or profit-sharing trusts which meet the conditions of Section 165 of the Internal Revenue Code, since such trusts are excluded from the definition of "investment company" by Section 3 (c) (13).

Section 6 (d) of the Act directs the exemption by rule or order, to the extent consistent with the public interest and the protection of investors, of certain small closed-end investment companies whose securities are offered intrastate. At the end of the fiscal year the three applications filed under this section were pending.

The remaining exemptive provision, and in many ways the most important, is Section 6 (c) which reads as follows:

> "The Commission, by rules and regulations upon its own motion, or by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of this title or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title."

Sixty-two applications have been filed seeking orders under this section, of which 20 had been disposed of at the close of the fiscal year ended June 30, 1941. Many of the applications requested orders which amounted to little more than the formal expression of minor administrative determinations. For instance, requests were made for additional time in which to file with the Commission or to transmit to security holders documents and other forms of information; requests, in effect, for stays pending the outcome of proceedings instituted under other provisions of the Act; and requests for temporary exemption from specified provisions because of a variety of circumstances. For the purposes of such applications, the exemptive power vested in the Commission has helped to eliminate many small but irritating inconveniences, particularly those which inevitably occur during the period of adjustment to new regulatory law, without sacrificing substance or principle.

Some of the applications filed under Section 6 (c), however, have requested sweeping substantive exemptions. Such applications involve considerations in many respects similar to those discussed in relation to applications filed by employees' securities companies under Section 6 (b). During the period between the effective date of the Act and the close of the fiscal year, only one application for complete exemption from the Act was granted under Section 6 (c). This order related to an unusual situation—an investment company created to hold the assets of the New York agency of a European bank with no known American investor interest in either the investment company, the agency, or the bank. The exemption, however, was granted for only 1 year.

It will be noted that the exemptive function of the Commission may be exercised not only by order on application but also by rule on the Commission's own motion. No rules have been adopted under this

section giving complete exemption to any class of companies. The few rules which have been adopted are principally of two types: procedural rules and rules *de minimis:*

A typical example of a procedural rule is Rule N-6C–3, which provides, in effect, that any employees' securities company which filed an application under Section 6 (b) of the Act prior to November 15, 1940, is exempt from the provisions of the Act applicable to investment companies until the Commission has finally determined the application. Such a rule is, in effect, a stay *pendente lite* and is comparable to the procedural orders of exemption to which reference has already been made.

An example of a rule *de minimis* is Rule N-15A–1. The Act contains a number of provisions regulating investment advisers of investment companies and the contracts pursuant to which they give their advice. Among these provisions is a requirement that investment advisory contracts be approved by the shareholders of the investment company concerned. Since the remuneration under such contracts commonly is as high as one-half of 1 percent of the value of the assets of the investment company per year, the essential soundness of this requirement of shareholder approval is obvious. An occasional company, however, may retain an investment adviser for special purposes under an arrangement providing for such small compensation that to require shareholder approval of the contract would be an unnecessarily cumbersome procedure which, instead of protecting the shareholders in any substantial sense, would merely distract their attention from more important aspects of the investment company's operations.

Rule N-15A–1 was therefore adopted. It provides, in effect, that an investment adviser of a registered investment company may act under a contract which has not been approved by the voting securities of the registered company in accordance with the provisions of Sections 15 (a) and (e) if such adviser is not otherwise affiliated either with the registered company or with a principal underwriter thereof; if his compensation either is not more than $100 a year or is not more than $2,500 a year and one-fortieth of 1 percent of the company's net assets as determined in accordance with the rule; and if the aggregate compensation of all investment advisers of such registered company either is not more than $200 a year or is not more than one-twentieth of 1 percent of the company's net assets.

## CLASSIFICATION OF INVESTMENT COMPANIES

Investment companies are divided by the statute into three classes, namely, management companies, unit investment trusts, and face-amount certificate companies.

The management company is the most familiar type of investment company. Organized as a corporation, association, or business trust, it normally has a board of directors or trustees who have more or less freedom in selecting the investments to be made by the company and in otherwise managing the company's affairs.

Management companies are further divided by the Act into closed-end and open-end companies. The peculiarity of the open-end company is that it issues redeemable securities, the holders of which are entitled to withdraw from the company at any time by presenting their shares and receiving their proportionate value of the then assets of the company. Ordinarily, an open-end company is continuously engaged in selling and redeeming its own securities, and this constant process of sale and redemption presents serious regulatory problems. Closed-end companies are management companies whose securities are not redeemable and which ordinarily are not engaged in the continuous distribution and redemption of their securities, and which consequently present problems of a different character.

The statute also subdivides management companies, whether closed-end or open-end, into diversified and non-diversified companies. The distinction here is between the company whose investments are diversified among the securities of numerous issuers and the company which concentrates its investments in the securities of a few issuers or in blocks of voting securities which enable it to exercise a controlling influence in the affairs of the issuer. The statute contains a statistical test for determining whether a management company is diversified or non-diversified.

Unit investment trusts are organizations where portfolio management has been entirely eliminated or reduced to a minimum. Characteristically, the holder of a share in a unit investment trust has merely an undivided interest in a package of specified securities, which are held by a trustee or custodian. Few, if any, unit trusts are actively selling their shares today, with the exception of the shares being sold on a periodic payment basis.

The peculiarities of the face-amount certificate company are twofold. First, it publicly distributes certificates which are not equity securities representing a fluctuating interest in a fund, but evidence of indebtedness providing for the payment of a fixed amount at maturity. Second, these certificates are predominantly sold on a periodic payment basis, providing for the payment by the holder of a definite amount at specified periods. In order to give certificate holders some assurance that they will receive the amount promised them at maturity, the Act contains elaborate provisions requiring the setting up of reserves and the deposit by the companies of qualified investments equal to the reserves. It is the administration of these reserve requirements, together with supervision of the continuous

selling in which these companies usually engage, which present the principal problems in the regulation of this class of investment companies.

A proper determination of the classification and subclassification of an investment company is essential to the administration of the Act. A number of sections of the Act apply to all companies, regardless of classification, but because of the difference in problems presented by different types of companies, other sections of the Act relate only to one or two classes of companies, or in some instances only to a particular subclass of management companies.

## INFORMATIONAL REQUIREMENTS

**Registration Statements.**

The first step in the general scheme of regulation provided by the Act is the requirement that investment companies shall register with the Commission. A company registers under the Act by filing with the Commission a notification of registration. For this purpose the Commission has prepared Form N-8A, a short form which requires little more than the identification of the company and its management, and the classification of investment company within which the registrant considers itself to be. As of June 30, 1941, 436 companies with total assets of approximately $2,500,000,000 were registered under the Act. Of these, 11 were registered as face-amount certificate companies, 181 as closed-end management companies, 141 as open-end management companies, and 81 as unit investment trusts. Twenty-two companies are of doubtful classification.

The next step in the course of registration is the filing with the Commission, in accordance with rules, regulations, and forms promulgated for the purpose, a detailed registration statement containing complete information regarding the company. Most of the required information is similar to that required in registration statements filed under the Securities Act of 1933 and the Securities Exchange Act of 1934. In addition, however, the Investment Company Act of 1940 requires the registration statement to contain a recital of the policy of the registrant with respect to certain specified subjects, such as issuing senior securities, borrowing money, engaging in underwriting, making loans, or investing in real estate or commodities. These required statements of policy, which must be as specific as is practicable, constitute one of the keystones of the Act. Once having stated such a policy in its registration statement, a registrant may not deviate from it without the consent of a majority of its outstanding voting securities.

The first form for a detailed registration statement was promulgated by the Commission on May 23, 1941. It is designated Form N-8B–1 and applies to all registered management companies. Tenta-

tive drafts of the form were submitted to all registered management companies for their comments and suggestions before the definitive form was adopted.

Because of the importance of the portion of Form N-8B–1 dealing with recitals of policy, members of the Commission's staff have been made available for conferences with investment companies, prior to the filing of the registration statement, concerning the problems of the company in answering the items in that part of the form. A considerable number of such conferences have been held.

In connection with the informational requirements of the Investment Company Act of 1940, the Congress has directed the Commission to avoid duplication where reports and statements are also required to be filed under the Securities Act of 1933 and the Securities Exchange Act of 1934. That policy has been carried into effect. Thus by rule, it has been provided that a company may, under proper circumstances, file copies of Form N–8B–1 in lieu of the annual report for the 1940 fiscal year required under the Securities Exchange Act of 1934. Similarly, rules have been adopted which are designed to allow companies having statements and reports already on file under the other Acts to file copies of such statements and reports in lieu of equivalent data required in Form N–8B–1. The Commission is presently engaged in developing a procedure whereby registration statements under the Investment Company Act of 1940 and the Securities Exchange Act of 1934 may be filed on a single form. Similar steps are being taken to correlate the information filed under the Investment Company Act of 1940 with that required for the registration of securities under the Securities Act of 1933, so that copies of registration statements and reports filed under the former Act may be used for the registration of subsequent issues of securities under the latter Act in lieu of the equivalent information otherwise required.

Forms of registration statements for classes of investment companies other than management companies are in preparation.

**Periodic Reports to the Commission.**

The Act requires registered investment companies to file annual reports with the Commission containing such information as is presently obtained from investment companies filing annual reports under the Securities Exchange Act of 1934 and, in addition, the Commission may require semi-annual and quarterly reports in order to keep current the information contained in registration statements.

The Commission has already adopted a rule requiring annual reports to be filed for each fiscal year after the filing of the registration statement, and a form is now in preparation for this purpose. It is the intention of the Commission to promulgate a single form which will satisfy the requirements of both the Investment Company Act of 1940 and the Securities Exchange Act of 1934.

Any action concerning semi-annual and quarterly reports will naturally be deferred until the forms for annual reports have been prepared. However, the Commission has been receiving, as required by the Act, copies of all periodic reports containing financial statements which are transmitted by registered investment companies to their security holders.

**Reports and Other Information Sent to Security Holders.**

Under the Act certain information is required to be transmitted to stockholders by registered investment companies at various times and under various circumstances. Thus, reports of condition must be rendered at least semi-annually. This requirement has already been implemented by rules applicable to management companies and to one type of unit trust. The significance of this requirement cannot be overestimated, when it is considered in the light of the power given to the Commission to bring about some standardization in the substance of information made public, particularly statements of accounts.

Other provisions designed to keep security holders better informed on matters relating to their investments are likewise important. When a dividend is paid by a registered company from a source other than certain types of income, or accumulated income, the payment to the security holder must be accompanied by a written statement indicating its source. The Commission has adopted a rule furthering this provision and all registered companies are now operating under it. The Act also provides that any solicitation of proxies, authorizations, and consents of security holders shall be made only in accordance with the rules of the Commission.[8]

**Financial Requirements.**

An especially important part of the informational requirements of the Investment Company Act of 1940 are those relating to financial statements and accounts. The Act authorizes the Commission to require a reasonable degree of uniformity in the accounting practices of investment companies, and work along this line has already been begun. Meantime, Regulation S-X, which is a compilation of the accounting requirements of the Commission developed in the administration of the Securities Act of 1933 and the Securities Exchange Act of 1934, is being employed under the Investment Company Act of 1940, with appropriate modifications. It has thus been possible to make provision for full and informative financial data in registration statements filed under the Act without unduly hastening the Commission's long-range program for developing uniform accounting practices in the industry.

[8] See page 232, *infra*.

## AFFILIATED PERSONS

Section 1 of the Act states, among other things, that the national public interest and the interest of investors are adversely affected—

> "when investment companies are organized, operated, managed, or their portfolio securities are selected, in the interest of directors, officers, investment advisers, depositors, or other affiliated persons thereof, in the interest of underwriters, brokers, or dealers, in the interest of special classes of their security holders, or in the interest of other investment companies or persons engaged in other lines of business rather than in the interest of all classes of such companies' security holders."

This declaration is based upon the disclosure of abuses in the reports of the Commission to the Congress on its study of investment companies. In order to eliminate such conditions as far as possible and to insure that the interests of all classes of security holders are paramount in the operation of investment companies, the Act contains a number of provisions imposing limitations and prohibitions with respect to the eligibility and activities of persons affiliated with investment companies and the transactions of such affiliated persons with those companies. It is in relation to these provisions that the Commission is delegated some of its most important administrative functions under the Act.

### Eligibility of Officers and Directors.

First, there is the provision that a person may not serve as an officer or director of or perform certain other functions for a registered company if he has been convicted of certain crimes involving security transactions, or if by reason of similar misconduct has been enjoined from specified activities. The Commission is directed to give relief from those prohibitions under proper circumstances by order upon application. Fifty applications for such relief have been filed and so far 10 of them have been granted with regard to affiliated persons of 4 companies. In all of these cases a consent injunction entered into prior to the enactment of the Investment Company Act of 1940 was the disqualifying element.

### Transactions with Investment Companies.

By far the most important provision concerning the activities of affiliated persons is that which, with certain exceptions, prohibits any affiliated person, promoter, or principal underwriter of a registered company from selling to, or buying or borrowing property from, the investment company or any company it controls. The prohibition is supplemented by a provision that the Commission shall exempt by order upon application any proposed transaction if evidence establishes that its terms are reasonable and fair and do not involve overreaching, and that it is consistent with the company's recitals of

policy in its registration statement and with the general purposes of the Act.

From the effective date of the Act to the close of the fiscal year, 12 applications to exempt transactions between affiliated persons and investment companies or companies controlled by them were filed. During the fiscal year the Commission disposed of 7 of these applications. The disposition of such applications requires a nice balance of conflicting factors which points up the need in such cases for the review of a specialized agency. On the one hand, in most of the situations resolved, there was the necessity of a speedy determination because the transactions depended a great deal on security markets. On the other hand, many of the issues involved in the determination of fairness were of a complicated nature, requiring the fullest use of financial experience and a delicate exercise of administrative judgment.

An illustration of the complicated nature of issues presented in these proceedings can be found in an application of Aviation and Transportation Corporation. This corporation (hereinafter called ATCO) controlled The Aviation Corporation (hereinafter called AVCO) through stock ownership. AVCO proposed to issue additional stock and to give its existing stockholders preemptive rights to subscribe to such stock at discounts from the market prices. A special arrangement was to be made with ATCO, so that the latter company would subscribe not only to the portion of the new issue to which it was entitled because of its stock ownership in AVCO, but would also have a commitment to take up a portion of the securities not purchased by the other AVCO stockholders. The remainder of such securities were to be publicly issued by underwriters, and, to the extent the underwriters could not dispose of them, ATCO would acquire them within the limits of its resources. In payment for the shares ATCO would transfer all its non-cash assets (except its AVCO stock) at designated values and the difference between the amount due and the value of the assets to be transferred would be paid in cash. The non-cash assets consisted of investment securities. After the consummation of the proposed transaction, ATCO, the registered investment company, intended to dissolve and to distribute in kind to its security holders all its stock in AVCO—its only remaining non-cash asset. In the proposed group of underwriters who were to distribute the securities to the public were persons affiliated with the investment company, and for their services the underwriting group would, of course, receive commissions.

This case presented to the Commission the following issues:

(1) Whether the offering price of the securities issued by AVCO was fair in relation to market values.

(2) Whether the valuations placed on the assets of ATCO which were to be exchanged for AVCO securities were fair and reasonable.

(3) Whether the underwriting fees obtained by the persons affiliated with ATCO would not result in overreaching on their part.

(4) Whether the entire transaction, including the proposed dissolution was within the policies of ATCO and consistent with the enumerated purposes of the Act.

All these issues required speedy determination because the transactions depended to a great extent on market conditions with respect to the outstanding securities of ATCO and AVCO. The application ultimately was granted.

Another case involved different considerations. A company that was a principal underwriter of a registered open-end company applied for an order permitting it to sell to the investment company certain securities which it was distributing publicly as a member of a selling syndicate. The application was the first of its kind, and up to that time the Commission had not announced its policy in relation to transactions of that general character. The Commission also recognized that the circumstances in this case were exceptional and, accordingly, permitted the consummation of the transaction. The importance of the case, however, is that the Commission, in its opinion, announced for future guidance of registered companies that the burden upon an applicant in any such case to show that a transaction of the kind here involved is consistent with the purposes of the Act is a heavy one and cannot be met merely by proof that the sales price is fair.

**Judicial Sanctions.**

The provision discussed above, which, in effect, requires persons affiliated with investment companies to obtain permission of the Commission in order that they may have certain dealings in money or property with such investment companies, is not the only kind of control the Congress gave to the Commission over the activities of such persons. Another such control is the power vested in the Commission to seek judicial sanction, i. e., an injunction, against any person for gross misconduct or gross abuse of trust in respect of any registered company that such person serves in any of certain designated capacities. In one instance, the Commission believed that the management of an investment company, with knowledge that they intended to dissolve such company, had acquired substantial blocks of the company's preferred stock from the public at a cost less than the value of that portion of the assets of the company to which such stock would be entitled on dissolution. At the suggestion of the Commission the management agreed to surrender to the com-

pany the stock they had acquired at a price equivalent to the cost of such shares to the management. As a result, the remaining holders of the company's preferred stock received a substantially higher proportion of the company's assets than they would otherwise have obtained.

**Protection Against Theft and Embezzlement.**

The Investment Company Act of 1940 has two provisions involving administrative functions, the purpose of which is to protect investment companies from theft and embezzlement by affiliated persons. First, there is a requirement with respect to the safekeeping of the securities and investments of such companies; and second, a provision concerning the bonding of persons connected with such companies who have access to securities and funds.

The safekeeping requirement in effect provides that the securities and similar investments of registered management companies shall be placed in the custody of a bank or in the custody of brokers who are members of a national securities exchange subject to rules and regulations of the Commission. The Commission is also given the power either by order on application or by rule to permit such companies to maintain in their own custody their securities and investments.

Soon after the effective date of the Act, the Commission adopted rules governing companies whose securities were in the custody of brokers. These rules require the execution of a written contract between the registered company and the broker which provide for physical segregation of the securities, prohibitions against hypothecation of or the creation of liens on such securities, and periodic examinations of such securities by the company's public accountants.

With regard to the power of the Commission to permit management companies to retain custody of their securities, 59 applications for orders were filed. The Commission analyzed these applications, classified the various methods employed to protect the securities maintained in this fashion, and, on the basis of the study, proposed to the interested companies uniform standards representative of the better practices as disclosed in the applications. The proposals were discussed with representatives of the industry and accounting societies, and submitted to the applicants for their suggestions.[9]

The provision concerning the bonding of persons having access to the securities and funds of registered management companies authorizes the Commission to adopt rules in that regard. Such rules are now in process of preparation.

[9] Since the close of the fiscal year, the proposed standards have been revised in the light of the comments received and on July 31, 1941, Rule N-17F-2 embodying them was promulgated.

**Informal Matters under Other Requirements.**

The Act contains a group of provisions involving various classes of persons affiliated with investment companies, which provisions, by their terms, do not take effect until some time after the effective date of the Act. The purpose of the waiting period is to give the investment companies and the classes of persons concerned an opportunity to revise their relations to comply with the respective requirements. Among other things, such revision may require amendments to charters and bylaws, special meetings of security holders, and a vote of security holders on a variety of possible matters.

In this group of provisions are the following: that no more than 60 percent of the members of the board of directors of a registered company shall be investment advisers, affiliated persons of an investment adviser, or officers or employees of such company; that a registered company cannot employ as broker or principal underwriter a director or officer or a person affiliated with a director or officer, unless a majority of the board of directors are not such persons; that investment advisers shall serve as such only under a written contract with certain prescribed terms; that neither the charter, certificate of incorporation, or bylaws of any registered company shall contain provisions which purport to protect any director or officer against any liability to the company or its security holders to which he would otherwise be subject by reason of willful misfeasance, bad faith, gross negligence, or reckless disregard of the duties in the conduct of his office; that investment advisers and underwriters should not be similarly protected; and that security holders shall ratify the selection of the independent public accountant.

Various problems have already been raised by companies now in the process of revising their operations to comply with these provisions when they become effective. Among those problems is the question of how far the limitations placed on charters and bylaws prevent indemnification of directors and officers for liabilities or expenses resulting from litigation arising out of their activities in connection with a registered company. The Commission has interpreted the relevant provision to prohibit such indemnification for expenses and the amount of any judgment handed down against such persons. Where suits are settled, indemnity may be offered only where the reasonable expenses of prosecuting a case to judgment would exceed the amount paid in settlement. Without such limitations, the officers and directors of investment companies would be in a position to shift from themselves to the security holders whose investments had been impaired the liability for any loss caused by their misconduct.

## DISTRIBUTION, REDEMPTION, AND REPURCHASE OF SECURITIES

**Redeemable Securities.**

It is the practice of open-end investment companies to sell their securities at prices based upon the value of their underlying assets and

to agree to redeem them at prices similarly based. Prior to the enactment of the Act, almost all open-end companies determined the market value of their underlying assets at 3 p. m., the time of the closing of most stock exchanges on which their portfolios were listed. The selling price of the shares based on this computation remained fixed until 3 p. m. of the next day when a new calculation was made. The effect of this one price system was often damaging to security holders. For example, if the asset value was $10 a share at 3 p. m. on Monday and at 12 noon of the next day because of a rise in market values the asset value was $15 a share, nevertheless the public could purchase such shares at a price to net the company $10 a share. Under such circumstances the value of the existing shareholder's stock would be substantially diluted. Moreover, insiders such as directors and officers and underwriters who could obtain shares without payment of a sales load could purchase them at $10 a share and redeem them at $15 a share, since the redemption price per share was computed almost unanimously on the basis of the market value of assets at the time of the redemption.

The Act seeks to prevent these abuses by providing that any securities association registered under the Securities Exchange Act of 1934 may adopt rules setting out methods of computing prices at which their members may purchase, sell, or redeem open-end securities and the minimum time that must elapse between purchases and redemptions of such securities. Such associations may also adopt rules limiting and prescribing the method of computing the commissions their members may take on transactions in the securities in order to avoid excessive sales loads. After 1 year from the effective date of the Act, the power to make rules concerning these matters vests in the Commission. To the extent that such rules may be inconsistent with the rules of any registered securities association, the latter will be superseded. In this manner the Act in effect gave the organized security dealers a year to work out for themselves the highly complicated and technical problems involved.

The National Association of Securities Dealers, Inc., an association registered under the Securities Exchange Act of 1934, has already adopted such regulations. Among other things, the regulations provide that prices, heretofore computed generally only once a day, shall be computed twice daily. The effect of this rule is to diminish, but not to eliminate, possible dilution in the value of the shares of existing stockholders. Pursuant to the Securities Exchange Act of 1934, the rules of these associations become effective unless the Commission takes affirmative action with respect to them. In the instant case the Commission, without indicating approval, allowed the rules to become effective.

**Closed-end Companies.**

Registered closed-end companies are prohibited from purchasing securities of which they are the issuer, except (1) on national securities exchanges or other open markets designated by the Commission under specified circumstances, (2) pursuant to tenders, or (3) under such other circumstances as the Commission may permit by rule, regulation, or order. The primary purpose of this provision is to eliminate unfair discrimination in these transactions

The Commission has adopted a rule (Rule N-23C–1) as to repurchases of securities of closed-end companies other than on an exchange or by tender which, in effect, permits a registered investment company to purchase only its most senior security for cash under the following circumstances: the securities involved are not listed on an exchange; the seller is not an affiliated person; the purchases do not exceed more than 1 percent of such securities outstanding; the securities are bought pursuant to a firm commitment; the price paid is not above market or asset value, whichever is lower; the issuer discloses to the seller the underlying asset value of the subject securities; no brokerage commission is paid; the purchase is made without discrimination; and if the security is a stock, notice of intention to purchase must have been given to the stockholders at large. In any case the issuer must file reports of its repurchases with the Commission on Form N-23C–1 provided for that purpose.

During the past year, 17 applications for orders involving special situations were filed with the Commission. Many of them were with respect to purchases by investment companies of their own securities from the British Government. Of the 17 applications filed, 11 were granted and 6 were pending at the close of the fiscal year.

Although the Act does not expressly impose limitations on repurchases by closed-end companies of their own securities except for a requirement of prior notice to shareholders of the company's intention to repurchase, such repurchases may be of advantage to the management and detrimental to public shareholders. However, it has already been pointed out that the Act confers upon the Commission the power to seek an injunction of gross abuse of trust by managements. The existence of this power has enabled the Commission to prevail upon the management of one investment company to circumscribe repurchase of the company's preferred stock on a stock exchange so as to prevent the management from gaining an advantage at the expense of selling shareholders.

In this case the management held a substantial block of the company's common stock which had no asset value. Dividends on the company's preferred stock were passed although the company legally was in a financial position to meet the dividend requirements. Instead, the management caused the company to buy substantial blocks

of the preferred stock on the stock exchange at prices substantially less than the liquidating value of such stock. This practice tended to build up value in the common stock and thus served the interest of the management. On the other hand, to prevent the company from repurchasing the preferred stock would result in a substantial decline in the market value of the stock since the company was virtually the only buyer. After several conferences with the management, a plan was worked out which permitted repurchases in sufficient amount to maintain a satisfactory market for such stock but which prevented the management from profiting on the repurchases through an enhancement in the asset value of the common stock held by the management. The plan also required the company to pay out all current earnings as dividends on the preferrred stock.

## PLANS OF REORGANIZATION

In connection with any reorganization [10] involving a registered investment company, the Act provides that copies of all the documents relevant to the solicitation of proxies, consents, and other type of action of security holders be filed with or mailed to the Commission. The Act also vests in the Commission two functions with reference to reorganizations. First, the Commission is authorized, if requested by any participating registered investment company or the holders of 25 percent of any class of its outstanding securities, to render an advisory report in respect of the fairness of any plan of reorganization and its effect upon any class or classes of security holders. Second, it may seek to enjoin the consummation of any such plan in the courts on the ground that it is grossly unfair or constitutes gross misconduct or gross abuse of trust on the part of officers, directors, or other specified persons sponsoring the plan.

With respect to the first—the power to render advisory reports on request—two such requests have been received. In both cases advisory reports were prepared and distributed to the interested security holders.

The first case involved a plan of reorganization proposing the consolidation of two investment companies followed by offers of the consolidated company to exchange its securities for outstanding securities of three other investment companies which were thereafter to dissolve. The companies involved were Standard Investing Corporation, International Equities Corporation, Central Capital Corporation, Atlantic Securities Company of Boston, and Beacon Participations, Inc. All of these companies were affiliated and were the component companies in a system of investment companies known as the Henderson Group. Standard Investing Corporation and

[10] The term includes among other things a dissolution, merger, consolidation, a sale of a substantial portion of assets, and recapitalizations.

International Equities Corporation were the consolidating companies, the other three the dissolving companies.

The complicated issues presented by this reorganization can be indicated merely by pointing out the complex capital structures of the companies (which created sharp conflicts of interest among the holders of the various classes of securities) and the types of assets which had to be valued (as a basis for determining the fairness of the treatment accorded by the plan to the various security holders). As to capital structure, Beacon Participations, Inc., had outstanding two classes of preferred stock and common stock; Atlantic Securities Company of Boston had outstanding debentures, a preferred stock, and a common stock; Central Capital Corporation had outstanding only common stock; Standard Investing Corporation had outstanding debentures, preferred stock, and common stock; International Equities Corporation had outstanding two classes of stock with different claims against the company's assets and profits. Various degrees of cross-ownership and circular-ownership existed among the companies and all of the companies were controlled by another company which was not being reorganized.

The underlying assets of these companies, upon the valuation of which depended in a large measure the fairness of the treatment accorded to all the classes of security holders involved, were as follows: real estate and hotel companies, service companies, a company manufacturing fiber containers, an aviation accessory company, and diversified investment securities.

After numerous conferences between the management of these companies and members of the Commission's staff some features of the original tentative plan desired by the management were altered. In the report of the Commission addressed to the security holders, the plan was carefully explained; the capital structures were outlined; the methods of evaluating the assets, particularly the assets having no quoted market values, were discussed; and the effect of the plan on the existing rights and privileges of each of the outstanding classes of securities were analyzed and defined.

It was indicated to the security holders that the Commission did not recommend or approve the plan. The stated purpose of the Commission was to assist security holders in exercising their judgment whether or not to accept the plan of reorganization. It was, however, the opinion of the Commission that the plan, on the basis of certain specified assumptions, was sufficiently within the limits of fairness to justify its submission to the security holders for their consideration.

The second case involved the proposed consolidation of Liberty Share Corporation and Western New York Securities Corporation. The situation in this case was simpler. Liberty Share Corporation had outstanding only one class of stock and its assets consisted chiefly

of cash, some bank stock, an oil property, and over 30 percent of the securities of the other consolidating company. Western New York Securities Corporation, beside cash and some stock of Liberty Share Corporation, held securities in over 35 different companies. The chief problems in this case were (1) the determination as to the reasonableness of the method of computing the relative interests the security holders of the respective companies were to receive in the consolidated company and (2) the determination as to the propriety of the appraised value on the oil property owned by Liberty Share Corporation. These problems were pointed out to the security holders in the report of the Commission, which report contained an analysis of the assets and capitalization of each of the companies, the plan, and its effect on the rights and privileges of the outstanding securities.

The function of the Commission in preparing advisory reports for the assistance of security holders of reorganizing investment companies fills a long-felt need. It enables security holders who often do not possess great financial knowledge to obtain an impartial analysis of the effects of a plan of reorganization on their securities, thus enabling them to arrive at an informed judgment as to the merits of the plan.

Although the Commission has authority to submit advisory reports only when requested by the reorganizing company's management or by 25 percent of its security holders, the existence of its power to seek an injunction restraining any grossly unfair plan of reorganization has resulted in the submission of several plans for informal consideration as to fairness before solicitation of security holder approval. The need for this type of analysis is particularly acute in the case of voluntary reorganizations which are at present substantially unsupervised by any governmental agency, administrative or judicial.

## PERIODIC PAYMENT PLAN CERTIFICATES AND UNIT INVESTMENT TRUSTS

Many investment companies issue periodic payment plan certificates, that is, a type of investment contract whereby the holder makes payments on an installment basis and obtains an undivided interest in certain specified securities or in a unit or fund of securities.[11] One of the main problems in relation to the sale of such securities is the cost to the purchaser, namely, the "sales load". Since these periodic payment certificates are sold to persons of small means, who frequently default in their payments, the sales load, if it is deducted in

[11] This type of security, representing as it does a participating or equity interest in specified assets should not be confused with the face amount certificate which represents an unconditional promise of its issuer to pay a specified sum at a specified or ascertainable future date and is thus a claim by the holder of the security.

its entirety from the early payments, will result in substantial loss to those investors whose payments lapse early in the period of the contract.

The Act copes with this problem by providing that the sales load on such certificates shall not be more than 9 percent of the total payments. Not more than one-half of this sum may be deducted during the first year and the balance must be spread proportionately over the entire period of the contract. However, the Commission is authorized, upon application or otherwise, to grant qualified exemptions from the sales load requirements to smaller companies whose operating costs are relatively higher than those of larger companies. Fourteen applications have been received requesting such relief. Seven of them have been joined in one proceeding. In respect of those seven, the Investment Company Division is contesting the relief sought on the grounds either that the companies involved are not smaller companies within the meaning of the Act or that it does not appear they are subjected to higher costs on that account; that in either case it is not consistent with the protection of investors and the purposes of the Act to grant the applications. Briefs have been filed and the Commission has heard oral argument on the cases.[12]

At the present time the certificates of unit investment trusts are sold almost entirely to investment companies issuing periodic payment plan certificates and form the underlying security which the investor purchases through his periodic payments. The Act designates the types of financial institutions which may act as trustee for such trusts, prevents the charging of expenses against such trusts before they are incurred, and seeks to insure that all of the securities and other assets of the trusts will be held intact for the benefit of investors.

### FACE-AMOUNT CERTIFICATE COMPANIES

In discussing above the different types of investment companies under the Investment Company Act of 1940 it was indicated that among the chief problems presented under the Act by face-amount certificate companies were those of certificate reserves and of selling methods. Since January 1, 1941 (the effective date of the Act for this type of investment company), the efforts of the Commission in relation to this type of company have been directed mainly to the enforcement of the reserve requirements and certain related provisions of the Act pertaining to eligibility of assets, custody of assets, and certain provisions relating to cash surrender and loan values.

[12] On November 6, 1941, the Commission issued its findings and opinion in these proceedings, denying the applications on the ground that the applicants had failed to show that exemption was necessary or appropriate in the public interest and consistent with the protection of investors. *American Participations, Inc., et al.*, Investment Company Act Release No. 249.

Probably the most important of these provisions are those requiring the establishment of reserve liabilities on an actuarial basis and the maintenance of eligible assets against such reserves. As the basic reserve requirement the Act requires a reserve be set up from each installment payment in an amount which, improved at the rate of 3½ percent compounded annually, will, together with similar amounts from all other such payments, equal the face amount of the certificate at its maturity. Any face-amount certificate company in business before the effective date of the Act which continues to issue face-amount certificates thereafter is required to maintain these reserves not only on the newly issued certificates but on all certificates issued and outstanding. Additional reserve requirements embrace deficiency reserves in the case of companies whose effective reserve rate is less conservative than that required by the Act and reserves against various kinds of special contract provisions.

The Investment Company Act of 1940 in its application to face-amount certificate companies thus differs somewhat in concept from the Act in its application to the more common types of investment company. A very close resemblance to State statutes regulating life insurance companies may be noted. It is obvious, therefore, that in administering these sections of the Act important actuarial questions arise in addition to the usual legal, accounting, financial, and selling problems. In its efforts to obtain compliance with these requirements the Commission has devoted much time to conferences and correspondence, much of it of a highly technical nature.

As of the end of the fiscal year there were 11 companies registered under the Act as face-amount certificate companies. It is impossible to state with accuracy how many of these companies intend to continue in active operation, that is to say, to continue selling their face-amount certificates. The largest company in this field is Investors Syndicate which had assets on a consolidated basis at the end of the fiscal year of approximately $176,000,000. This company discontinued the sale of its certificates at or prior to the effective date of the Act, although it registered and has otherwise indicated its intention to comply with all the applicable sections of the Act. Thus, Investors Syndicate is not required to maintain the reserves previously mentioned, nor is it required to comply with certain other provisions since those requirements pertain only to companies which have engaged in the public distribution of its securities after the effective date of the Act. In lieu of offering its own securities, Investors Syndicate organized a subsidiary face-amount certificate company—Investors Syndicate of America, Inc.—whose structure and securities were expressly devised to meet the requirements of the Investment Company Act of 1940 and in particular the provisions of Section 28. Investors Syn-

dicate acts as the underwriter for its subsidiary in the distribution of its face-amount certificates and as the manager of its assets.

Fidelity Assurance Association, formerly known as Fidelity Investment Association, likewise discontinued the sale of its face-amount certificates prior to January 1, 1941, and at the end of the fiscal year was in reorganization proceedings in the United States District Court at Charleston, W. Va., under Chapter X of the Bankruptcy Act. The future activities of this company are, of course, largely dependent upon the outcome of these proceedings.

A number of companies somewhat smaller than the foregoing companies have registered under the Investment Company Act of 1940 and have also filed registration statements under the Securities Act of 1933, thus indicating their intention of going forward with their selling program as soon as they have worked out the technical details of compliance with the Investment Company Act of 1940 and the other applicable statutes.

An interesting variant of the face-amount certificate company was found in a number of States. An insurance company (usually a fire or casualty company) is organized under State laws and an affiliated company organized by the promoters of the insurance company. The affiliated company then offers to the public a face-amount certificate under the terms of which the purchaser is to pay to the issuing company $1,200 over a 10-year period in monthly or other periodic installments, on the representation that at the end of the period the purchaser will receive back in cash the total of his payments to the company plus a specified number of shares of stock in the insurance company. These shares, under the plan, are purchased by the face-amount certificate company out of the earnings on the payments of the installment purchasers to the face-amount certificate company which are to be invested in various media. It is urged by these enterprises that the plan not only returns all the principal to the investor but finances the insurance company and secures a wide distribution of its stock which promotes good will. While 4 such companies registered under the Act during the fiscal year, no company of this type has yet revised its structure so that it could comply fully with the provisions of the Act and proceed with its selling program. The sales of the securities of all the companies of this type had been discontinued pending compliance with the Act.

In addition to the 11 face-amount certificate companies registered, there were perhaps 10 or 15 other companies throughout the country which had corresponded with or had been discovered by the Commission. With respect to these companies, disposition is being made of the questions as to their status and compliance.

The assets of the registered face-amount companies amounted approximately to $215,000,000 at June 30, 1941.

## RULES, REGULATIONS, AND FORMS

Pursuant to the provisions of the Investment Company Act of 1940 the Commission, during the past fiscal year, promulgated general rules and regulations, together with appropriate forms, as described below:

| | | *Effective Date* |
|---|---|---|
| Rule N-1 | Sets out definition of terms | Nov. 1, 1940 |
| Rule N-2 | General requirements of papers and applications; authorizations and verifications with respect to applications; procedure for using application as evidence. | Nov. 1, 1940 |
| Rule N-2A-1 | Pursuant to Section 2 (a) (39), this rule provides certain alternative methods of computing values of portfolio securities for the purpose of determining whether a registered company is a "diversified" or "non-diversified" company and for other specified purposes. | Nov. 1, 1940 |
| Rule N-2A-2 | In connection with the valuation of securities under Section 2 (a) (39), this rule provides alternative bases of computation with respect to the elimination of securities from the portfolio of an investment company. | Aug. 6, 1941 |
| Rule N-3 | Formal requirements of amendments to registration statements and reports. | Aug. 6, 1941 |
| Rule N-5B-1 | Defines the term "total assets" when used in computing the valuation of securities for the purposes of Sections 5 and 12 of the Act. | Aug. 6, 1941 |
| Rule N-6C-1 | Provides a temporary exemption from the requirements of Sections 26 and 27 upon specified conditions for certain companies issuing periodic payment plan certificates. The exemption terminates on February 15, 1941, or on disposition of an application filed prior to that date for an order pursuant to Section 27 (b), whichever is later. | Nov. 1, 1940 |
| Rule N-6C-2 | Provides a temporary exemption for any management company which filed, prior to November 15, 1940, an application for an order pursuant to Section 17 (f) (3) permitting it to maintain in its own custody its securities and similar investments. The exemption ceases upon final determination of any particular application. | Nov. 1, 1940 |
| Rule N-6C-3 | Provides a temporary exemption for any employees' securities company which applied prior to November 15, 1940, for an order pursuant to Section 6 (b), pending the disposition of the application. | Nov. 1, 1940 |
| Rule N-6C-4 | Provides a temporary exemption for any company which applied prior to November 15, 1941, for an order pursuant to Section 6 (d) pending the disposition of the application. | Nov. 1, 1940 |

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| Rule N-6C–5 | Exempts from the prohibitions of Section 17 (a) any transaction between a registered company and affiliated companies or between the affiliated companies of the registered company if the transaction was approved by the board of directors of the registered company prior to the effective date of the Act. | Nov. 4, 1940 |
| Rule N-6C–6 | As amended, provides a temporary exemption from Section 19 (dealing with information to accompany dividend payments) until February 28, 1941. | Nov. 29, 1940 |
| Rule N-6C–7 | Provides a temporary exemption upon specified conditions from the requirements that the independent public accountant for a registered company must be selected by a majority of certain members of the board of directors, with reference to any selection made up to November 1, 1941. | Jan. 2, 1941 |
| Rule N-6D–1 | Sets out the type of information which shall be included in any application for an order pursuant to Section 6 (d) concerning exemptions of small companies selling securities intrastate. (See discussion, *supra* at p. 6.) | Nov. 1, 1940 |
| Rule N-8A–1 | Prescribes Form N-8A for use as the notification of registration pursuant to Section 8 (a). (See discussion, *supra* at p. 9.) | Oct. 22, 1940 |
| Rule N-8B–1 | Permits registered companies to file recitals of policy under the Act prior to the filing of the detailed registration statement pursuant to 8 (b). | Feb. 14, 1941 |
| Rule N-8B–2 | Prescribes Form N-8B–1 as the form of detailed registration statement for management investment companies. (See discussion, *supra* at p. 9.) | May 23, 1941 |
| Rule N-8C–1 | Sets out the circumstances under which information filed pursuant to the Securities Act of 1933 and the Securities Exchange Act of 1934 may be used in lieu of information otherwise required in Form N-8B–1. (See discussion, *supra* at p. 10.) | May 23, 1941 |
| Rule N-10F–1 | Exempts upon specified conditions certain underwriting transactions of management companies which otherwise are prohibited unless such companies act as principal underwriters. | Feb. 26, 1941 |
| Rule N-13A–1 | Sets out certain conditions under which a company registered as non-diversified which had temporarily become diversified, may bring itself again within the former classification without the vote of a majority of its outstanding voting securities. | Aug. 6, 1941 |

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| Rule N-15A–1 | Exempts from a requirement of Section 15 (a) and (e) (that advisory contracts shall be approved by a majority of the outstanding voting securities) any advisory contract of a person not otherwise affiliated with the registered company where the fees for such service are relatively small. (See discussion, *supra* at p. 7.) | May 2, 1941 |
| Rule N-17A–1 | Exempts from the prohibitions of Section 17 (a) (1) any transaction falling within the provisions of Rule N-10F–1. | Feb. 26, 1941 |
| Rule N-17F–1 | States the conditions under which registered management companies may maintain their portfolio securities and similar investments in the custody of companies which are members of a national securities exchange. (See discussion, *supra* at p. 15.) | Nov. 1, 1941 |
| Rule N-17F–2 | States the conditions under which registered management companies may maintain in their own custody their portfolio securities and similar investments. (See discussion, *supra* at p. 15.) | Aug. 15, 1941 |
| Rule N-19–1 | Sets out the information which must accompany dividend payments by management companies to stockholders and methods of determining the sources from which such payments are made. (See discussion, *supra* at p. 11.) | Mar. 1, 1941 |
| Rule N-19–2 | Provides, for the calendar year 1941, a method of disclosure of the sources of dividend payments in lieu of that required by N-19–1. | Mar. 1, 1941 |
| Rule N-20A–1 | Blankets solicitations of proxies, consents, and authorizations with respect to any security issued by a registered company under Regulation X-14. (See discussion, *supra* at p. 11.) | Nov. 1, 1940 |
| Rule N-23C–1 | Sets up the conditions under which a registered closed-end company of a certain type may repurchase securities it issued where other methods provided by Section 23 (c) are not feasible. It also adopts Form N-23C–1. (See discussion, *supra* at p. 18.) | Mar. 4, 1941 |
| Rule N-30A–1 | Requires, in effect, that annual reports to the Commission must be filed by registered companies for each fiscal year ending after the filing of the detailed registration statement. (See discussion, *supra* at p. 10.) | Jan. 2, 1941 |
| Rule N-30B2–1 | Requires to be filed with the Commission copies of any reports to stockholders which contain financial statements. (See discussion, *supra* at p. 10.) | Jan. 2, 1941 |

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| Rule N-30D–1 | Requires reports to be transmitted by registered management companies to stockholders at least semi-annually and prescribes the information which such reports shall contain. (See discussion, *supra* at p. 10.) | Jan. 2, 1941 |
| Rule N-30D–2 | Requires reports to be transmitted by certain registered unit trusts to shareholders at least semi-annually and prescribes the information which such reports shall contain. (See discussion, *supra* at p. 10.) | Jan. 2, 1941 |
| Rule N-30F–1 | Prescribes Form N-30F–1 for initial statements of beneficial ownership of securities of registered closed-end companies to be filed by the persons specified in Section 30 (f) with certain exceptions. (See discussion, *infra* at p. 235.) | Nov. 16, 1940 |
| Rule N-30F–2 | Prescribes Form N-30F–2 for statements of changes in beneficial ownership of securities of registered closed-end companies to be filed by the persons required to file Form N-30F–1. (See discussion, *infra* at p. 235.) | Nov. 16, 1940 |
| Rule N-30F–3 | Exempts from the requirements of Section 30 (f) securities held by certain classes of persons, including those held in estates, by guardians and receivers. | Apr. 16, 1941 |
| Rule N-45A–1 | Provides that certain information (concerning the names and addresses of dealers distributing the securities of a registrant) supplied by open-end management companies in the registration statements shall be the subject of confidential treatment and made available to the public only under prescribed conditions. | May 23, 1941 |

# Part II

# ADMINISTRATION OF THE INVESTMENT ADVISERS ACT OF 1940

The Investment Advisers Act of 1940 requires the registration of investment advisers, that is, persons engaged for compensation in the business of advising others with respect to securities. The Commission is empowered to deny or revoke registration of such advisers if they have been convicted or enjoined because of misconduct in respect of security transactions. The Act also makes it unlawful for investment advisers to engage in practices which constitute fraud or deceit; requires investment advisers to disclose the nature of their interest in transactions executed for their clients; prohibits profit sharing arrangements; and in effect prevents assignment of investment advisory contracts without the client's consent.

## ENACTMENT AND GENERAL NATURE OF ACT

The Investment Advisers Act of 1940 was enacted on August 22, 1940, largely as a result of the Commission's study of and report to the Congress on investment advisory services [1] conducted ancillary to its study of investment trusts and investment companies pursuant to Section 30 of the Public Utility Holding Company Act of 1935. This new statute became effective on November 1, 1940. On and after that date it became unlawful for individuals or organizations to use the mails or any means or instrumentality of interstate commerce, including the facilities of any national securities exchange, in connection with their business as investment advisers, unless they were effectively registered with the Securities and Exchange Commission.

The Act covers all individuals, partnerships, corporations, or other forms of organization which for compensation engage in the business of advising others, either directly or through publications or writings as to the value of securities or as to the advisability of investing in, buying, or selling securities, or who for compensation and as part of a regular business disseminate analyses or reports concerning securities. Exempted from the provisions of the Act, however, are newspapers, magazines, and financial publications of general and regular circulation; brokers and security dealers whose investment advice is given solely as an incident of their regular business for which no special fee is charged; banks; certain bank holding company affiliates; individuals or organizations which give advice solely with reference to securities issued or

[1] Report of Commission to Congress on "Investment Counsel, Investment Management, Investment Supervisory, and Investment Advisory Services," August 1939.

guaranteed by the United States or corporations in which it is interested; and lawyers, accountants, engineers, and teachers whose investment advice, if any, is furnished solely incidental to the practice of their professions.

Exception from the registration requirements of this Act is provided for: (1) individuals or organizations which act as investment advisers solely for investment and insurance companies; (2) individuals or organizations all of the clients of which are residents of the State in which they do business, provided no advice is given with respect to securities traded on national securities exchanges; and (3) individuals or organizations which do not hold themselves out as investment advisers generally to the public and which have had during the preceding year less than fifteen clients.

Registered investment advisers are prohibited from employing any device, scheme, or artifice to defraud any client or prospective client, or to engage in any transaction, or practice, or course of business which operates as a fraud or a deceit upon any client or prospective client. These fraud provisions are similar to those under the Securities Act of 1933 and the Securities Exchange Act of 1934. Furthermore, if an investment adviser acts as a principal for his own account in connection with the sale of any security to or purchase of any security from a client, he must disclose to such client, in writing, the capacity in which he is acting with respect to such transaction, and obtain the consent of the client to such transaction.

## REGISTRATION OF INVESTMENT ADVISERS

**Application for Registration.**

During the fiscal year the Commission adopted Form 1–R, the form to be used by investment advisers in applying for registration with the Commission. This application for registration requires information relating to the form of organization of investment advisers, their partners, officers, directors, controlling persons, employees, the nature of their business, the nature and scope of authority with respect to investment advisory clients' funds and accounts, and the basis of compensation for the investment adviser.

Form 1–R was sent to approximately 1,400 persons. Of this number, 605 were effectively registered as at November 1, 1940. Approximately 250 claimed that they were not encompassed by the Act or that they were excepted from the registration requirements of the Act. Between November 2, 1940, and June 30, 1941, 196 additional persons became registered under the Investment Advisers Act. On June 12, 1941, the Commission effected a general check-up of the persons who failed to communicate in any way with the Commission with respect to their registration applications. As at June 30, 1941,

the Commission has been able to clarify the records with respect to approximately 370 additional persons.

The following table sets forth information with respect to the status of the registration of investment advisers under the Act as at the end of the fiscal year:

*Applications and registrations of investment advisers—Fiscal year ended June 30, 1941*

| | |
|---|---|
| Applications: | |
| Filed | 812 |
| Withdrawn | 4 |
| Pending | 6 |
| Registrations: | |
| Effective | 753 |
| Withdrawn | 29 |
| Cancelled | 19 |
| Denied | 1 |

The registrants which withdrew their applications had determined prior to effective registration to discontinue their activities as investment advisers. One application was withdrawn at the suggestion of the Commission. It was found that the registrant in question had been in the Wisconsin State Prison since 1930 on a charge of assault with intent to murder and was not subject to parole until 1942.

The largest number of registrants which requested withdrawal of their effective registration claimed that they had discontinued their activities as investment advisers. In some cases they had consolidated with other investment adviser firms; in other instances they entered other employment.

The Commission has by order cancelled the registration of nineteen firms after finding that they were no longer engaged in investment advisory activities. In some instances, the reason for the cancellation was due to the fact that the firms were dissolved. In nine cases, the old firms were succeeded by new investment advisers.

The Commission has authority by the provisions of Section 203 (d) of the Investment Advisers Act of 1940 to deny registration if an applicant, within the ten years prior to registration, has been convicted of a crime in connection with security transactions or if he is enjoined by a court in connection with a security or financial fraud, or if his application for registration is materially misleading. In the exercise of this power, the Commission has denied registration to one investment adviser. The Commission found that this registrant while acting as a broker had been enjoined on April 18, 1940, by the Superior Court of New York from engaging in various acts and practices in connection with the purchase and sale of securities. He had been guilty of selling securities at prices which represented a very high percentage of profit to him. His customers in every case were elderly

people of modest means, having little knowledge of financial matters, who relied on the applicant's knowledge of securities and investments.[2]

The Commission has excepted by order, pursuant to Section 202 (a) (11) (F), the following three institutions from the provisions of the Act: Marine Midland Group, Inc., First Service Corporation, and Savings Banks Association of Maine. The Commission found after a hearing that these institutions were, on the basis of their present activities, not intended to be encompassed by the Investment Advisers Act of 1940.

**Semi-annual Report of Registered Investment Advisers.**

To maintain reasonably current the information contained in the registration application, the Commission has adopted Form 2-R as the form for semi-annual reports to be made by all registered investment advisers. This form is required to be filed with the Commission by each such investment adviser within 10 days after June 30 and December 31 of each year. Each registered investment adviser is to disclose on this form that after an examination of his original application he finds either that (1) no changes have been effected in his business so that no amendments are required to the registration application, or (2) that changes were effected so that amendments are required for items in the original registration application. These corrections are to be supplied by using those pages of Form 1-R which include the items that require amendment.

## STATISTICS [RELATING TO REGISTERED INVESTMENT ADVISERS

**Classification of Registered Investment Advisers.**

*By date of organization.*—The number of investment advisers has increased steadily in the last 10 years. Significantly, approximately 84 percent of the total number of firms which, as at the end of the past fiscal year, were effectively registered with the Commission as investment advisers had commenced their investment advisory activities since 1930. Seventy-seven firms, the largest number to commence such activities in any one year, were organized in the year 1940. The following table shows the number of investment advisers organized during each year.

[2] George C. Crowder, 8 SEC 947 (1941), Investment Advisers Act of 1940 Release No. 16.

*Investment Advisers—By year of organization*

| Date of commencement of investment adviser activities | Number organized annually | Annual cumulative total | Date of commencement of investment adviser activities | Number organized annually | Annual cumulative total |
|---|---|---|---|---|---|
| 1898 | 1 | 1 | 1921 | 8 | 38 |
| 1899 | 0 | 1 | 1922 | 3 | 41 |
| 1900 | 0 | 1 | 1923 | 10 | 51 |
| 1901 | 0 | 1 | 1924 | 11 | 62 |
| 1902 | 2 | 3 | 1925 | 11 | 73 |
| 1903 | 1 | 4 | 1926 | 7 | 80 |
| 1904 | 1 | 5 | 1927 | 10 | 90 |
| 1905 | 2 | 7 | 1928 | 18 | 108 |
| 1906 | 0 | 7 | 1929 | 14 | 122 |
| 1907 | 1 | 8 | 1930 | 29 | 151 |
| 1908 | 1 | 9 | 1931 | 52 | 203 |
| 1909 | 0 | 9 | 1932 | 58 | 261 |
| 1910 | 1 | 10 | 1933 | 51 | 312 |
| 1911 | 0 | 10 | 1934 | 44 | 356 |
| 1912 | 1 | 11 | 1935 | 39 | 395 |
| 1913 | 0 | 11 | 1936 | 40 | 435 |
| 1914 | 3 | 14 | 1937 | 57 | 492 |
| 1915 | 2 | 16 | 1938 | 73 | 535 |
| 1916 | 0 | 16 | 1939 | 59 | 624 |
| 1917 | 2 | 18 | 1940 | 77 | 701 |
| 1918 | 0 | 18 | 1941 (first 6 months) | 52 | 753 |
| 1919 | 7 | 25 | | | |
| 1920 | 5 | 30 | Total | 753 | 753 |

*By number of employees and form of organization.*—Approximately 50 percent of the investment advisers effectively registered with the Commission are sole proprietors. The total number of their personnel, both part time and full time, constitutes only approximately 10 percent of the total personnel of all effectively registered investment advisers. Six firms, or less than 1 percent of the registered investment advisers, employ approximately 25 percent of the total personnel employed by all registered investment advisers. Among these 6 is 1 firm which is engaged exclusively in giving continuous investment advice on the basis of the individual needs of each client, and employs 173 full time persons. This constitutes the largest full time personnel of any registered investment adviser. The remaining 5 firms are engaged in part in selling uniform publications, and employ a large number of part time personnel. A large proportion of these persons functions in part as salesmen. Among these 5 firms is included 1 firm of which practically 80 percent of the personnel is employed on a part time basis. The following table shows the status of registered investment adviser firms classified by number of personnel and form of organization.

| Number of personnel [a] | Sole proprietors | | Partnerships | | Corporations | | Total | |
|---|---|---|---|---|---|---|---|---|
| | Number of firms | Number of persons employed [a] | Number of firms | Number of persons employed [a] | Number of firms | Number of persons employed [a] | Number of firms | Number of persons employed [a] |
| 1 | 183 | 183 | 3 | 3 | 10 | 10 | 196 | 196 |
| 2 | 141 | 282 | 10 | 20 | 21 | 42 | 172 | 344 |
| 3 | 44 | 132 | 18 | 54 | 24 | 72 | 86 | 258 |
| 4 | 21 | 84 | 13 | 52 | 17 | 68 | 51 | 204 |
| 5 | 11 | 55 | 10 | 50 | 20 | 100 | 41 | 205 |
| 6 | 5 | 30 | 12 | 72 | 16 | 96 | 33 | 198 |
| 7 | 4 | 28 | 8 | 56 | 15 | 105 | 27 | 189 |
| 8 | 1 | 8 | 2 | 16 | 6 | 48 | 9 | 72 |
| 9 | 2 | 18 | 7 | 63 | 10 | 90 | 19 | 171 |
| 10 | 2 | 20 | 4 | 40 | 1 | 10 | 7 | 70 |
| 11–15 | 5 | 63 | 9 | 120 | 22 | 292 | 36 | 475 |
| 16–20 | 1 | 18 | 12 | 217 | 9 | 164 | 22 | 399 |
| 21–25 | 0 | 0 | 3 | 67 | 9 | 210 | 12 | 277 |
| 26–50 | 0 | 0 | 11 | 334 | 16 | 551 | 27 | 885 |
| 51–75 | 0 | 0 | 0 | 0 | 7 | 429 | 7 | 429 |
| 76–100 | 0 | 0 | 0 | 0 | 2 | 181 | 2 | 181 |
| Over 100 | 0 | 0 | 1 | 173 | 5 | 1,311 | 6 | 1,484 |
| Total | 420 | 921 | 123 | 1,337 | 210 | 3,779 | 753 | 6,037 |

[a] Includes sole proprietors, partners, and officers; does not include directors.

*By nature of affiliation with other activities.*—Approximately 65 percent of the registered investment advisers indicated that they were engaged in no other activities but that of furnishing investment advice. However, the remaining investment advisers did indicate that they engaged in activities other than that of rendering investment advice. Only approximately 25 percent of the effectively registered investment advisers are also registered with the Commission as brokers and dealers.

The table below indicates the range and extent of other activities engaged in by registered investment advisers.

| Other business | Number | Other business | Number |
|---|---|---|---|
| Accountant | 9 | News syndicate | 1 |
| Advertising | 2 | Physicist | 1 |
| Bank adviser and agent | 2 | Professor and lecturer | 6 |
| Broker, dealer, and underwriter | 152 | Publisher | 19 |
| Business and estate management | 37 | Railroad operator | 1 |
| Engineer | 5 | Real estate business | 4 |
| Factory assistant | 1 | Salesman (not of securities) | 2 |
| Farming | 2 | W. P. A. | 1 |
| Importer | 1 | Writer | 4 |
| Insurance broker | 4 | | |
| Lawyer | 11 | Total | 274 |
| Manufacturer | 2 | Firms with no other affiliations | 479 |
| Medical and dental profession | 2 | | |
| Merchant | 4 | | 753 |
| Meteorologist | 1 | | |

*By method of compensation.*—The Investment Advisers Act of 1940 makes it unlawful for registered investment advisers to enter into any profit-sharing arrangements with their clients on or after the effective date of the Act. As at November 1, 1940, 60 firms indicated that they had such profit-sharing agreements with their clients.

Approximately 35 percent or 283 of the effectively registered investment adviser firms base their compensation on a percentage of the value of the funds under their supervision. The average fee is one-half of 1 percent per year of the value of the funds supervised. In most of these cases the fee is payable quarterly and usually in advance. In a few cases an average minimum of approximately $300 is charged.

Approximately 30 percent or 227 of the effectively registered firms charge a flat fixed fee. Some firms base their fee on a daily rate. The average fee of this kind is about $25 a day. In other cases, the charge is determined by the number and character of securities under supervision. For example, some firms may charge $1 for each stock in the client's portfolio under their supervision and $2.50 for each bond. Some firms, on the other hand, charge an annual fixed fee varying from $100 to $500 a year to supervise a client's portfolio.

In cases where the investment adviser sells uniform publications, his compensation is usually based on a fixed subscription for the publication. One hundred forty-six firms use this method of compensation. In some instances the fees are as low as $5 a month for the publications.

Thirty-three investment advisers indicated that they fix their compensation through individual negotiation with each client. In most cases they indicated that the fee was dependent on the amount of work required in supervising individual portfolios.

*By nature of investment advisory service.*—The Investment Advisers Act of 1940 provides that only those investment advisers who are primarily engaged in furnishing continuous investment advice as to the investment of funds on the basis of the individual needs of each client can represent, after November 1, 1940, that they are investment counsel or can use the name "investment counsel" as descriptive of their business.

An examination of the applications for registration filed under the Act discloses that approximately 300 persons indicated that they were primarily engaged in furnishing this personalized investment service. Approximately 165 firms indicated that their investment advisory service consisted only of the sale of uniform publications. These persons, of course, could not use the designation of "investment counsel" as descriptive of their activities. Likewise, persons who were engaged in furnishing personalized investment service and also issued uniform publications, or were conducting businesses other than that of investment adviser [3] cannot use the designation of "investment counsel" as descriptive of their activities. It was found upon an examination of the applications for registration that 283 firms were included in this category.

[3] See p. 34, *supra*, for a description of the various other businesses conducted by investment advisers.

## Part III

# PARTICIPATION OF THE COMMISSION IN CORPORATE REORGANIZATIONS UNDER CHAPTER X OF THE BANKRUPTCY ACT, AS AMENDED

Chapter X of the Bankruptcy Act, as amended in 1938, affords appropriate machinery for the reorganization of corporations (other than railroads) in the Federal courts. The Commission's duties under Chapter X are, first, at the request or with the approval of the court to act as a participant in proceedings thereunder in order to provide, for the court and investors, independent expert assistance on matters arising in such proceedings, and, second, to prepare, for the benefit of the courts and investors, formal advisory reports on plans of reorganization submitted to it by the courts in such proceedings.

### SUMMARY OF ACTIVITIES

During the past fiscal year, the Commission actively participated in 143 reorganization proceedings involving the reorganization of 176 companies (143 principal debtor corporations and 33 subsidiary debtors).[1] The proceedings were scattered among Federal district courts in 28 States, and involved the rehabilitation of companies engaged in such varied businesses and industries as shipbuilding, oil and gas production and transmission, manufacture of engines, lumber products, electrical and metal supplies, coal mining, wheat and flour mills, wholesale drugs, and many others. The aggregate stated assets of these 176 companies totaled approximately $2,214,638,000, and their aggregate indebtedness totaled approximately $1,354,357,000.[2]

In the development of administrative law the Commission's functions under Chapter X possess aspects to some extent novel. In the first place, its work in this sphere is done as a party to the proceedings before the court. The Commission does not initiate proceedings or hold its own hearings, nor has it the power to adopt rules and regulations governing these cases. In the second place, the Commission's functions under Chapter X are purely advisory in character. It has no authority under the Act either to veto or to require the adoption of a reorganization plan. It has no authority to adjudicate any of the other issues arising in a proceeding. Nor has it the right of appeal. The facilities of its technical staff and its disinterested recommendations are simply placed at the service of

[1] Appendix IV, p. 357 contains a complete list of reorganization proceedings in which the Commission participated as a party during the fiscal year ended June 30, 1941.

[2] These totals and those appearing in tables 38 to 42 inclusive of Appendix II include unpledged assets and direct operating indebtedness of one of the debtors, an investment company, but do not include outstanding face amount certificates on which the company's net cash liability was approximately $23,000,000, against which were deposited securities having a market value, as of June 30, 1941, of approximately $20,000,000.

the Federal courts, affording the latter the views of experts in a highly complex area of corporate law and finance.

In the exercise of its functions under Chapter X the Commission has continued in its endeavor to assist the courts in achieving equitable, financially sound, expeditious, and economical readjustments of the affairs of corporations in financial distress. To aid in attaining these objectives the Commission has stationed qualified staffs of lawyers, accountants, and analysts in its various regional offices and has assigned them exclusively to the performance of the Commission's duties under Chapter X. The presence of these staffs in the field permits them to keep in close touch with all hearings and issues in the proceedings and with the parties, and makes them readily available to the courts, thus facilitating the work of the courts and the Commission. During the fiscal year the Commission also submitted briefs as *appellee* or as *amicus curiae* in various appeals raising significant legal questions in Chapter X proceedings.

Because the Commission's advisory reports on plans of reorganization are usually widely distributed, this aspect of the Commission's work under Chapter X stands out most prominently. These reports by no means, however, represent the major part of the Commission's activities in these cases. As a party to a Chapter X proceeding, the Commission is actively interested in the solution of every major issue arising therein from the time it becomes a participant to the close of the proceeding. The Commission has felt that to perform its duties as a party adequately it is required to undertake in every case the same intensive legal and financial studies which are required for the preparation of formal advisory reports, whether or not such reports are required or will be requested. In all cases such studies are essential in order to consider and discuss various reorganization proposals while plans are in the stage of formulation, and in cases where the plans are not submitted to the Commission for advisory report it is necessary that the Commission be prepared to comment fully upon all proposed plans at hearings on their approval or confirmation.

During the past fiscal year the Commission submitted 5 formal advisory reports on plans of reorganization. In addition, 4 supplementary advisory reports were filed in proceedings where advisory reports had previously been submitted, and 1 other advisory report and 2 supplementary advisory reports were in the course of preparation at the end of the fiscal year. In 50 other cases, which had reached the plan stage in the proceeding and in which no formal reports as such were to be submitted, the Commission made extensive studies of the debtor's problems, and participated in conferences with respect to the formulation of plans or at the hearings thereon presented to the court analyses of the Commission's views and its recommendations with respect to them.

In its Sixth Annual Report [3] the Commission emphasized that it has been in an advantageous position to encourage the development of uniformity in the interpretation of Chapter X of the Bankruptcy Act and in the procedure thereunder. Thus, the Commission has often been called upon by parties, referees, and special masters for advice and suggestions with regard to matters of procedure and the form and content of necessary orders in the proceedings. Thereby, the Commission has been able to afford substantial aid out of the store of experience accumulated through participation in many reorganization cases. The Commission has also been able, in this manner, to save the court officers and the parties much of the effort that would have been entailed in handling such questions *de novo*, as well as the time and expense involved in retracing steps improperly taken. This work of the Commission has been of special value due to the fact that the solutions of most procedural and interpretative questions are not likely to find their way into the official or unofficial reports and are, therefore, largely unavailable outside of the particular district of their decision. The Commission has also proceeded, primarily through the method of informal suggestion and conference, to call to the attention of parties any violations of or lack of compliance with the procedural provisions of Chapter X. These activites continued with increased success during the past fiscal year.

Another important phase of the reorganization proceeding to which the Commission has been giving increasing attention relates to the drafting and preparation of corporate charters, bylaws, trust indentures, voting trust agreements, and other similar instruments which are to govern the internal structure of the reorganized debtor after the reorganization proceedings are consummated. In general, the Commission has striven to obtain the inclusion in these instruments of various provisions which will assure to the investors a maximum of protection. Thus, special attention has been given to (1) provisions which comply with the statutory requirements that security holders receive complete and reasonably up-to-date information with regard to the enterprise, and (2) provisions setting up adequate machinery whereby the investors may act together for the protection of their interests and enforcement of their rights. In these matters the Commission has proceeded generally through the method of informal conferences and recommendations to the trustee and other parties who may have the primary responsibility for the preparation of the instruments. In cases where this method proved unsuccessful to obtain a revision of an instrument, and the need for revisions was deemed sufficiently important, the matters were brought to the attention of the judge in open court.

[3] Page 59.

## STATISTICS ON CHAPTER X REORGANIZATIONS

**Proceedings in which the Commission Participated.**

During the period from September 22, 1938 (the date the amended Bankruptcy Act became fully effective) to the beginning of the fiscal year, the Commission had filed its notice of appearance in 134 proceedings involving the reorganization of 168 corporations (134 principal debtor corporations and 34 subsidiary debtors). During the past fiscal year, the Commission filed its notice of appearance in 40 additional proceedings involving the reorganization of 45 corporations (40 principal debtor corporations and 5 subsidiary debtors). The Commission filed its notice of appearance at the request of the judge in 16 proceedings, while in the remaining 24 the Commission entered its appearance upon approval by the judge of the Commission's motion to participate. Of the 40 proceedings, 35 were instituted under Chapter X, and 5 under Section 77B. The debtors involved in these 40 proceedings had aggregate stated assets and aggregate indebtedness of approximately $134,813,000 and $97,621,000, respectively.[4]

Of the total of 174 proceedings in which the Commission became a party from September 22, 1938 to June 30, 1941, 3 were closed in the 1939 fiscal year, 28 (involving 6 subsidiary debtors) were closed in the 1940 fiscal year, and 29 (involving 6 subsidiary debtors) were closed in the 1941 fiscal year. (As used here, the word "closed" means that a final decree had been entered, or that the proceeding had been dismissed or otherwise terminated, or that reorganization was so near completion that active participation by the Commission was no longer necessary.) The remaining 114 proceedings, in which the Commission was actively participating as of June 30, 1941, involved 141 corporations (114 principal debtor corporations and 27 subsidiary debtors). These debtors had aggregate stated assets of approximately $1,894,327,000 and aggregate listed liabilities of approximately $1,201,782,000.[4] Tables 38 to 42 of Appendix II, pages 307 to 308, contain further statistical information of reorganization cases instituted under Chapter X and Section 77B in which the Commission filed a notice of appearance and in which it was actively interested in the proceedings during the past fiscal year.

**All Reorganizations under Chapter X.**

Section 265a of the Bankruptcy Act, as amended, provides that the clerks of the various Federal district courts shall transmit to the Commission copies of every petition for reorganization filed under Chapter X and copies of other specified documents filed in the proceedings. The Commission has analyzed and compiled the information in these petitions and documents and makes the information available, for public use, by issuing periodic statistical analyses of proceedings under Chapter X.

[4] See footnote 2, *Supra*, p. 37.

A statistical analysis of Chapter X proceedings instituted during the past fiscal year is contained in Appendix III, page 315.

## THE COMMISSION AS A PARTY TO PROCEEDINGS

As stated previously, Section 208 of the Act provides that the Commission shall become a party to a proceeding under Chapter X if requested by the judge, and may become a party upon its own initiative with the approval of the judge. The Commission has not considered it appropriate or necessary that it move to participate in every Chapter X case. Apart from the fact that, with cases being instituted at the average rate of approximately 300 a year, the administrative burden would be very large, many of the cases are small, involving only trade or bank creditors and a few stockholders. As a general matter the Commission has deemed it appropriate to move to participate only in proceedings in which a definite public investor interest is involved. As a rough, practical test, proceedings are considered to have a public interest sufficient to warrant Commission participation if they involve securities outstanding in the hands of the public in the amount of $250,000 or more. But mere size of public investor interest is, of course, not the only criterion. Often, the Commission may deem it appropriate to enter smaller cases where an unfair plan has been or is about to be proposed, where the public security holders are not adequately represented, where the proceedings are being conducted in violation of important provisions of the Act, or where other facts indicate that the Commission may perform a useful service by participating. On occasion, also, the Commission has entered smaller cases in response to a request by the judge.

By reason of the immediate availability of a large portion of the Reorganization Division staff in the field at the location of the proceedings themselves, and because the provisions of the amended Act require the prompt transmission to the Commission of all petitions for reorganization filed under Chapter X, the Commission's consideration of the question of participation is greatly facilitated. In cases involving a substantial amount of public investor interest, the Commission's appearance in the case as a party is generally noted within 1 or 2 weeks after the original petition is filed. In smaller cases where the desirability of participation may not be immediately apparent, a preliminary study is promptly undertaken to obtain the data necessary to decide the question.

As soon as the Commission has become a party to a proceeding, the first effort of the Commission is to assemble and analyze all available information concerning the debtor and its affairs. This information normally relates to the physical and financial condition

of the company, the causes of its financial collapse, the quality of its management, its past earnings and future prospects, and the reasonable worth of its properties. In obtaining this information the members of the Commission's staff who are assigned to the various regional offices of the Commission generally work on the scene in consultation with the trustee of the debtor, his counsel, and the other parties to the proceeding. The information thus acquired is complemented by independent examination of the debtor's books and records by the accountants and by independent research of the analytical and financial staff of the Commission with respect to general economic factors affecting the particular company and competitive and market conditions and prospects in the particular industry. The results of these studies provide a solid factual basis for the future direction of the Commission's activity in the case.

As a party to the proceeding the Commission is represented at all important hearings and, on appropriate occasions, files legal and financial memoranda in support of its views with respect to the various problems arising in the proceeding. However, the activities of the Commission as a party are not limited to those formal appearances and formal memoranda. Of equal, if not greater, importance, is the function performed in regularly participating in informal conferences and discussions with the parties to the proceeding. These conferences generally take place in advance of formal hearing and argument on the various important issues arising in connection with the formulation of a plan or the administration of the estate, with a view to ascertaining if these issues may be worked out in terms of practicable solutions consistent with the purpose of the proceedings. By consultation and discussion before formal action or hearing, the Commission has often been able to bring facts, arguments, or alternative solutions to the attention of the parties which they had not previously considered, and parties have often been prompted thereafter to modify or alter their proposed action. Frequently a course of action suggested during the conference meets the approval of all concerned. In general, the Commission has found these informal round-table discussions an effective means for cooperation and of great value in expediting the proceedings.

There is a multitude of diverse issues with which the Commission is concerned as a party to a Chapter X proceeding. To illustrate the scope of the Commission's activity, a brief account is presented below of some of the issues which arose in representative cases in which the Commission participated during the past fiscal year. These are necessarily but a minute sampling of the manifold issues, wholly apart from the preparation of advisory reports, with which the Commission was concerned in the 143 cases in which it was participating during the year.

(1) A voluntary petition for the reorganization of a relatively small manufacturing company was filed late in 1938. The petition was approved by the court and a trustee was appointed. After a preliminary investigation and inquiry into the affairs of the debtor, the Commission determined, in view of the small amount of public investor interest involved, to defer the matter of participation but to observe closely developments in the proceedings. In August 1940, the reorganization being no nearer consummation than it was when the petition was filed, and it appearing that the bondholders were not being adequately represented by disinterested parties, that there was a need for independent investigation of certain charges of fraud and mismanagement, that fees were being sought which seemed excessive, and that there had been a failure to observe important procedural requirements of Chapter X, the Commission filed a motion for leave to file its notice of appearance, which motion was granted.

Immediately after the Commission became a party to the proceeding, conferences were held with the trustee and other parties concerning the future progress of the case. The requirements of the statute concerning the investigation by the trustee of the affairs of the debtor and the transmission to the security holders of a report of the results of the investigation, were emphasized to the trustee. Also, the Commission assembled all available information relating to the debtor and undertook an independent investigation covering, *inter alia*, such matters as possible causes of action for mismanagement and fraud, the relationship between the debtor and certain affiliated companies, and the amount and propriety of fees charged in connection with a prior voluntary reorganization.

After preparation of the trustee's report of the results of his investigation of the property, liabilities, and financial condition of the debtor, a draft of such report was submitted to the Commission for its views. In the opinion of the Commission the report was inadequate to fulfill its primary purpose, viz., to give the security holders full and accurate information concerning the affairs of the debtor so that they may be in a position to make suggestions with respect to a plan and to vote on a plan on the basis of an informed judgment. Representatives of the Commission conferred with the trustee and the report was amended in accordance with the Commission's suggestions for improvement. The report was sent to security holders and filed with the court in November 1940.

A plan of reorganization was then filed by the trustee in December 1940. Upon consideration and analysis of the plan, the Commission was of the view that the plan was neither fair nor feasible and, accordingly, filed a comprehensive memorandum stating its objections to the plan. *Inter alia*, the Commission pointed out that (1) the securities to be issued to senior claimants did not provide for full compensa-

tory treatment for their claims; (2) there was an unfair distribution of voting power as between the various classes of claimants; and (3) the plan provided for a capital structure which was needlessly complex. Thereafter, the trustee filed an amended plan of reorganization which substantially met the objections raised by the Commission to the original plan. After hearings on the amended plan, it was approved by the court on March 19, 1941, and was thereafter accepted by the security holders and confirmed on May 1, 1941.

After confirmation of the plan the Commission continued to be active in the proceedings. The proposed new trust indenture, chattel mortage, voting trust agreement, articles of incorporation, and by-laws of the reorganized company were examined. During informal conferences with the parties to the proceeding, the Commission made numerous suggestions for the revision of these instruments, which were adopted. In general, these suggestions were designed to assure greater protection for the interests of the public security holders.

The Commission also participated in the hearings and submitted to the court its recommendations with respect to the applications for allowance of compensation for services rendered and reimbursement of expenses incurred by the various parties. In addition, the Commission submitted its views with respect to the proper procedure to be followed in these matters and pointed out that the amounts requested by certain of the applicants were unreasonable because the services rendered by them were unnecessary and duplicative; and that certain of the requests were excessive in the light of the size of the estate, its ability to pay, and the benefit to the estate from the services rendered. Further, the Commission indicated that certain of the applicants should be denied any compensation because their services did not result in any benefit to the estate or contribute to the plan of reorganization, and that certain other applicants should be denied any compensation because they represented conflicting interests, on the basis of the recent United States Supreme Court decision of *Woods* v. *City National Bank and Trust Co. of Chicago*.[5]

Thus, within less than a year after the Commission became a party to the proceedings, a plan of reorganization has been confirmed and, except for the decision of the court on the applications for allowances, the reorganization has been completed.

(2) In another case, a voluntary petition was approved by the judge and a trustee was appointed for a debtor which had discontinued its manufacturing operations and was engaged in the leasing of its various plants and buildings. Over $1,000,000 of the debtor's first mortgage bonds were widely distributed in small amounts in the hands of the public. In view of this substantial public investor interest the

[5] 61 Sup. Ct. 493.

Commission moved promptly to participate in this case, and filed its notice of appearance with the approval of the judge.

The following are some of the matters which the Commission considered during the course of the proceeding:

(a) After examining into the facts bearing upon the qualifications and disinterestedness of the trustee in accordance with the standards prescribed by Sections 156 and 158 of Chapter X, the Commission determined that there was no basis for objecting to the retention of the trustee in office.

(b) A petition for an order fixing the time and manner of presentation of claims was filed in the proceedings. The Commission pointed out to the trustee that the order on such petition should provide that individual bondholders be allowed to file proofs of claim, even though the trustee under the indenture for the bonds was also authorized to file a claim on behalf of all bondholders, because under the provisions of Chapter X only those bondholders who file proofs of claim could be counted in connection with voting on a plan of reorganization. The Commission also recommended that forms of proof of claim be sent to all bondholders, to make it unnecessary for individual bondholders to obtain the services of counsel in preparing their proofs of claim. These recommendations of the Commission were adopted by the trustee.

(c) The trustee had presented to the court *ex parte* applications, asking approval of proposed leases and authority to expend substantial sums of money for repairs. The Commission opposed the presentation of such matters *ex parte*. In discussions with the trustee, it was pointed out that, even if the matter was not of sufficient importance to require notice to all security holders, notice should at least be given to all parties to the proceedings, with which the trustee agreed. Again, the trustee requested from the court authority to sell certain of its machinery and equipment. The Commission discussed with the trustee the proper procedure to be followed in this matter and, as suggested by it, notice of the proposed sale was sent to all security holders; the sale was held by public auction, subject, however, to subsequent approval by the judge; and an opportunity was given all security holders to object to the terms of the sale before the judge.

(d) In July 1940, the trustee filed a plan of reorganization with the court. After examination thereof, the Commission advised the trustee that his plan was in many respects incomplete and that it disregarded the requirements of fairness and feasibility in that there was no attempt made in the plan to recognize the respective priorities of the claimants. Thereafter, the plan of reorganization was discussed with the trustee and other parties before the date set for hearing on the plan. These conferences led to a satisfactory plan of reorganiza-

tion, worked out with the trustee and the parties, which was filed with the court. After hearings thereon the plan was approved by the court; two alternative plans proposed by other parties were opposed by the Commission and rejected by the court.

(e) In connection with the plan which he later approved, the judge raised certain legal and procedural questions and requested that the Commission and certain other parties submit their views. The plan provided for a gradual liquidation of the debtor's assets and the principal question raised by the judge was whether such a plan was permissible under the statute. The Commission expressed the view that such a plan is within the statutory definition of a plan of reorganization.

**Activities with Regard to Allowances.**

Every reorganization case ultimately presents the difficult problem of allowances to the various parties for services rendered and expenses incurred in the proceeding. In this matter the general practice of the Commission has been, initially, to make certain that the individual applications contain full information as to the nature and the extent of the services and expenses for which allowances are sought, that the necessary affidavits are submitted, and that adequate notice of the hearing on the applications is given to the security holders. A detailed study is then made by the Commission of the amount and kind of work performed by the different applicants. At the hearing on the applications, the Commission advises the judge with respect to its recommendations concerning the merits of the respective applications and the total charges with which the estate can be burdened, in light of its financial condition and related factors.

The Commission has been able to provide considerable assistance to the Federal courts in dealing with this problem. The Commission itself may not receive allowances from the estate for the services it renders, and is able to present a wholly disinterested, impartial view of the problem. It has sought to assist the courts in protecting reorganized companies from excessive charges while, at the same time, equitably allocating compensation on the basis of the claimants' contributions to the administration of the estate and the formulation of a plan. In this connection, it has been deemed important that unnecessary duplication of work shall not be compensated and that the aggregate of allowances shall not exceed an amount which the estate can afford to pay. With these objectives in mind, the Commission may undertake to make specific recommendations to the courts as to the amount to be allowed in cases where the Commission has been a party throughout the proceeding and is thoroughly familiar with the activities of the various parties and all significant developments in the proceedings; in other cases, e. g., where it has entered the proceeding at an advanced stage, the Commission has undertaken at

least to advise the court generally as to whether it considers the requested amounts reasonable, moderately excessive, or exorbitant, and the reasons for these views.

## PLANS OF REORGANIZATION UNDER CHAPTER X

The Act requires, as a condition to confirmation of a plan of reorganization, that the judge be satisfied that the plan is "fair and equitable, and feasible." The consummation of a plan which meets these requirements is, of course, the ultimate objective of any reorganization proceeding. The Commission's primary function under Chapter X is to aid the courts in the attainment of this objective.

In appraising the fairness of plans the Commission has consistently taken the position that, to be fair, plans must provide full compensatory treatment for claims and interests of creditors and stockholders according to the order of their legal and contractual priority, either in cash or new securities or both. The implications of this principle have been followed consistently by the Commission, and its position has been fully sustained by the decision of the Supreme Court in *Case* v. *Los Angeles Lumber Products Co., Ltd.*,[6] in which the principle was reiterated and given new vigor in its application to Chapter X proceedings.

The requirement of feasibility relates to economic soundness of the proposed financial structure. In a recent opinion, the Commission stated that the essence of feasibility "may be said to be that a plan is of such a character that it gives reasonable assurance that the reorganized enterprise will operate economically and efficiently, will be able to perform the purposes of its existence and will not so far as foreseeable result in the necessity for another reorganization with its attendant expense and injury to investors."[7] In appraising the feasibility of plans the Commission has given consideration to such matters as the adequacy of working capital, the relationship of the funded debt or capital structure to property values, the ability of corporate earning power to meet interest and dividend charges, the effect of the proposed new capitalization upon the company's prospective credit, and the desirable objective that new securities shall not by their terms or otherwise be deceptive to subsequent purchasers.

**Determination of Value.**

A prerequisite to the formulation of a fair and feasible plan of reorganization is the determination of the value of the debtor's enterprise for reorganization purposes. The Commission has consistently adhered to the position that, for reorganization purposes, the capitalization of reasonably prospective earnings is the most reliable method of valuation; that the value so found should be the controlling factor

[6] 308 U. S. 106.

[7] *In the Matter of Inland Power and Light Corporation*, Holding Company Act Release No. 2042

in arriving at an appropriate capital structure for the reorganized debtor and should provide the basis of allocation of new securities among the debtor's creditors and stockholders. The position which the Commission has consistently urged with respect to valuations was fully sustained by the decision of the United States Supreme Court in *Consolidated Rock Products Co.* v. *DuBois*, decided March 3, 1941, in which the Commission participated as *amicus curiae*. The Court's opinion, per Douglas, J., contained the following controlling statement on the problem of valuation in reorganization proceedings:

"In the second place, there is the question of the method of valuation. From this record it is apparent that little, if any, effort was made to value the whole enterprise by a capitalization of prospective earnings. The necessity for such an inquiry is emphasized by the poor earnings record of this enterprise in the past. Findings as to the earning capacity of an enterprise are essential to a determination of the feasibility as well as the fairness of a plan of reorganization. Whether or not the earnings may reasonably be expected to meet the interest and dividend requirements of the new securities is a *sine qua non* to a determination of the integrity and practicability of the new capital structure. It is also essential for satisfaction of the absolute priority rule of *Case* v. *Los Angeles Lumber Products Co., supra.* Unless meticulous regard for earning capacity be had, indefensible participation of junior securities in plans of reorganization may result.

"As Mr. Justice Holmes said in *Galveston, Harrisburg & San Antonio Ry. Co.* v. *Texas*, 210 U. S. 217, 226, 'the commercial value of property consists in the expectation of income from it.' And see *Cleveland, Cincinnati, Chicago & St. Louis Ry. Co.* v. *Backus*, 154 U. S. 439, 445. Such criterion is the appropriate one here, since we are dealing with the issue of solvency arising in connection with reorganization plans involving productive properties. It is plain that valuations for other purposes are not relevant to or helpful in a determination of that issue, except as they may indirectly bear on earning capacity. *Temmer* v. *Denver Tramway Co.*, 18 F. (2d) 226, 229; *New York Trust Co.* v. *Continental & Commercial Trust & Sav. Bank*, 26 F. (2d) 872, 874. The criterion of earning capacity is the essential one if the enterprise is to be freed from the heavy hand of past errors, miscalculations, or disaster, and if the allocation of securities among the various claimants is to be fair and equitable. *In re Wickwire Spencer Steel Co.*, 12 F. Supp. 528, 533; 2 Bonbright, Valuation of Property, pp. 870–881, 884–893. Since its application requires a prediction as to what will occur in the future, an estimate, as distinguished from mathematical certitude, is all that can be made. But that estimate must be based on an informed judgment which embraces all facts relevant to future earning capacity and hence to present worth, including, of course, the nature and condition of the properties, the past earnings record, and all circumstances which indicate whether or not that record is a reliable criterion of future performance. A sum of values based on physical factors and assigned to separate units of the property without regard to the earning capacity of the whole enterprise is plainly inadequate. See Finletter, The Law of Bankruptcy Reorganization, pp. 557 *et seq.* But hardly more than that was done here. The Circuit Court of Appeals correctly left the matter of a formal appraisal to the discretion of the District Court. The extent and method of inquiry necessary for a valuation based on earning capacity are necessarily dependent on the facts of each case."

To illustrate various aspects of the fair and feasible plan which have arisen in cases in which the Commission was not required to file a for-

mal advisory report and to indicate the position of the Commission with respect thereto, a number of examples are given below.

In one of the proceedings in which the Commission participated during the past fiscal year, the debtor's only asset, an apartment hotel, had an estimated value considerably less than the amount of the first mortgage bondholders' claims. Nevertheless, a plan of reorganization proposed by the debtor provided for participation by both second mortgage bondholders and stockholders. It was proposed that a loan would be obtained, part of the proceeds of which would be used for improvements and the remainder to be distributed to bondholders on the basis of approximately 28 cents on the dollar. The preferred stock of the reorganized company would be divided equally between the first mortgage bondholders and the second mortgagees, while the stockholders would retain their present interests. The Commission successfully opposed the plan on the ground that it was unfair in recognizing junior interests for which there was admittedly no equity. The Commission also was of the opinion that the plan was not feasible since the value of the assets was probably less than the amount of the proposed new mortgage; furthermore, it seemed extremely doubtful whether, even after rehabilitation, the earnings would be sufficient to pay interest and amortization charges. Subsequently, the trustee proposed a plan which provided for complete elimination of all interests junior to the first mortgage bondholders. Under the trustee's plan the bondholders would have received all of a new issue of preferred stock and 40 percent of the new common. The remainder of the common stock was to be sold for cash to an experienced hotel operator. Although the Commission did not object to the trustee's plan, it made several suggestions with respect to minor modifications, most of which were adopted. Subsequently the plan was accepted by the bondholders and confirmed by the court.

In another proceeding in which the Commission is participating, the debtor carries on, directly and through a number of wholly-owned subsidiaries, the business of subdividing and developing real estate, operating hotels, cottages, a water supply company, a lumber and supply company, and owning and leasing farm properties, dam sites, and other properties. The debtor has outstanding in excess of $800,000 principal amount of first mortgage bonds which are secured by certain of the debtor's properties and all of the outstanding shares of one of its subsidiaries. The debtor also owes approximately $250,000 to a bank secured by certain other properties of the debtor and the shares of another of the debtor's subsidiaries, viz., a hotel subsidiary. All of the preferred and common stock of the debtor is closely held by persons who are also creditors of the debtor.

The trustee filed a plan of reorganization. The main features of this plan provided for the continued existence of the debtor and the organization of a new corporation which was to acquire all of the assets pledged as security for the first mortgage bonds. All of the common stock of the new corporation was to be distributed to the bondholders. A new loan of approximately $195,000 was to be made by the bank to the new corporation, which loan was to be secured by a pledge of all of the bondholders' assets. Of the loan, $120,000 was to be used to purchase furniture and equipment from the hotel subsidiary and the balance was to be used to pay all reorganization expenses, outstanding trustee certificates, all claims requiring payment in cash, and unsecured obligations of the hotel subsidiary. The entire $120,000 secured by the hotel subsidiary upon the sale of the furniture to the new corporation was to be returned directly to the bank, $30,000 by way of payment of a note to the debtor pledged by the bank and the balance by virtue of the hotel subsidiary's guaranty of the bank loan.

After careful analysis of all available information, the Commission came to the conclusion that the plan, on its face, was unfair as well as lacking in feasibility. In the first place it was the belief of the Commission that the plan, in essence, operated to improve the status of the bank claim at the expense of the bondholders. It appeared that two of the directors of the debtor were also directors of the bank. Under the plan, the bondholders were required to accept equity securities in a new corporation and pledge all the assets of the new corporation to secure a new loan of $195,000 from the bank from which they were to receive no benefit and the necessity of which was not shown. Also, the bondholders were being foreclosed of any right to a deficiency claim against other assets of the debtor without any determination of the value of their security. The bank, on the other hand, which had a $250,000 claim against the debtor, secured by a small portion of the assets, would, upon consummation of the proposed plan, have a $325,000 claim, $195,000 of which would be secured by a first lien against all of the property which now secured the bonds, and the balance of $130,000 would be secured by all the property now securing its present $250,000 claim.

Also under the plan, the present stockholders were to receive all of the stock of the debtor without any determination that there was any equity over the secured claims. Further, it appeared that the stockholders had obtained possession of approximately two-thirds of the bonds, at least a substantial portion of which had been acquired under circumstances which might afford substantial grounds for the subordination of the claims of such bonds to the claims of the public bondholders. In the opinion of the Commission, approval of any plan as fair before this question had been fully explored was unwarranted.

The Commission also noted that the trustee had failed to investigate causes of action available to the estate, based upon the possible violation of the trust indenture on the part of the directors and the indenture trustee with respect to partial releases of the security underlying the bonds which were in default. Further, in the opinion of the Commission, the plan was not feasible (1) because it appeared that both the debtor and the new corporation would begin operations with a large secured indebtedness and with no apparent source of income sufficient to meet the fixed charges on this indebtedness or to meet its payment at maturity; and (2) because it did not appear that either corporation would begin operations with sufficient working capital and since substantially all of the assets were to be pledged, there was little likelihood that either corporation would be able to later obtain funds for working capital.

The Commission's objections to the plan were incorporated into a memorandum which was filed in the proceedings. Also, counsel for the Commission participated at the hearing on the plan and presented the views of the Commission with respect to the plan in open court. In accordance with the position urged by the Commission the court disapproved the plan. A new plan is now in the process of being formulated.

In another case, the debtor owned a hotel which, on the basis of prospective earnings, had a value considerably less than the amount due on the first mortgage certificates. A plan was proposed which gave no recognition to any class below the first lienors. It called for an extension of the entire mortgage at a modified interest rate payable if earned. The property was to be administered by three trustees, the successor trustees to be appointed by the court.

The Commission was opposed to the trustee mechanism, urging instead a corporate arrangement which would, *inter alia*, increase certificate holders' control of their affairs. Also, it took the position that the plan was not feasible unless the proposed mortgage was reduced to a figure duly proportionate to the valuation.

Primarily as a result of informal conferences with the parties, the original plan was amended to eliminate these objectionable features. In the final plan, the bonds were extended 10 years, the new mortgage was 50 percent of the total face amount of the outstanding bonds, and a new corporation was provided as the vehicle. As a result of these major changes, the Commission did not oppose approval of the plan.

### ADVISORY REPORTS ON PLANS OF REORGANIZATION

As has been pointed out, in order to be in a position to render the utmost assistance to the court with respect to the legal and financial problems arising in the course of the proceedings, the Commission undertakes its own comprehensive examination of the financial

condition of the debtor, including the factors bearing upon its earnings and valuation. Accordingly, when the proceeding reaches the stage of preparation and submission of plans, the Commission is in a position to discuss its views thereon with the parties and to present its recommendations on the plan in open court or, if required to do so, to submit a formal advisory report expressing its opinion with respect to the proposed plans.

The usual procedure in the reference of a plan to the Commission for such report is as follows: after the trustee has filed a plan a hearing is held at which the plan and objections thereto are considered. Also any other plans or amendments to the trustee's plan which may at that time be submitted by creditors, stockholders, or the debtor may be considered at this hearing. At this stage of the proceeding it is the concern of the attorneys representing the Commission to see that an adequate factual record is made to enable the judge to decide whether any one or more of the plans are worthy of consideration, and to supply the factual groundwork for the Commission's report. If the record develops inadequately, the Commission's attorneys endeavor to remedy the deficiencies either through the trustee's witnesses or by calling their own experts. Frequently, the Commission has cooperated with the appropriate parties in the preparation for such hearings, during which it goes over the matters necessarily to be considered, and aids in the formulation of the record. After such hearing, if the judge finds any one or more of the plans worthy of consideration, they are referred to the Commission, which then prepares and submits its report. If a plan is then approved by the judge as fair and equitable, and feasible, it is transmitted to the security holders for their acceptance or rejection, accompanied by a copy of the judge's opinion on the plan and a copy of the Commission's advisory report or a summary thereof prepared by the Commission. In this manner, the advisory report serves also to aid security holders in their decision to accept or reject the plan.

During the past fiscal year the Commission submitted formal advisory reports on five plans of reorganization. A brief summary of these reports follows:

*Mortgage Guarantee Company, Debtor, and Saratoga Building and Land Corporation, Druid Park Apartments Company, and Wyman Park Apartments Company, Subsidiaries.*—The business of the debtor and its subsidiary companies was investing in mortgages on real estate and selling guaranteed participations in these mortgages to the public. The debtor also acted as agent for the certificate holders in the collection of interest and in the performance of similar duties. Financial difficulties, which struck the debtor at the beginning of the depression, led to a voluntary plan of reorganization in 1933, the principal feature of which was a reduction in the interest received by the certificate

holders. In 1937, steps were taken toward a second voluntary plan. Inability to secure sufficient assents, however, led to abandonment of the 1937 plan and to the filing of the debtor's petition on September 16, 1939.

The reorganization was complicated by the fact that, during the years preceding the filing of the petition, the debtor, pursuant to the terms of the certificates, had foreclosed and taken title to many of the properties on which mortgage participation certificates had been sold. These properties, referred to as the debtor-owned properties, were treated differently in the final plan from other properties on which the mortgages had not as yet been foreclosed, referred to as the third-party mortgages. The first attempt at a plan of reorganization, formulated by the independent trustee, contemplated pooling all of the properties and mortgages and pledging them with the Reconstruction Finance Corporation as security for a loan, the proceeds of which would be used for distributions to the certificate holders. This plan failed, however, because of the decision of the Reconstruction Finance Corporation that the debtor did not have title to the properties. Another plan was then formulated by the trustee. In this plan the right to alter the liabilities of the debtor to the certificate holders was asserted only in connection with the so-called debtor-owned properties.

The debtor and its subsidiaries were clearly insolvent. The liability of the debtor on its guarantee of first and second mortgages exceeded by $6,434,000 the appraised value of the properties which secured the mortgages. In addition, the debtor was liable on notes payable to the extent of $335,000, and had sundry liabilities of $87,000. As against liabilities of $6,856,000 (exclusive of its liability on the guarantees covered by the appraised value of the properties) the debtor had free assets of only $485,000.

This case reflected the value of continued discussion between the Commission and participants in the reorganization at every stage of the proceedings up to the final consummation of the plan. As originally submitted, the plan did not contain all of the safeguards which certificate holders eventually received, and did not fully comply with the principle that senior creditors are entitled to full recognition of their claims before junior creditors may participate. In frequent conferences with the trustee and with representatives of certificate holders, the Commission was able to obtain adoption of many suggested amendments. Changes suggested by the Commission to the trustee included drastic revisions of the clauses pertaining to the allotment of participation in the new company, sinking fund provisions, and control of the new company. These were adopted by the trustee and were filed by him as amendments to his plan prior

to the court's submission of the plan to the Commission for advisory report.

As finally submitted the compulsory features of the plan, i. e., its effect as binding the minority of creditors if two-thirds of them accepted it, applied only to certificate holders in the debtor-owned properties. A new company was set up, the stock of which was placed in a voting trust for 10 years. Three voting trustees were named, all of whom were independent of the debtor and were men of experience and standing in the real estate or related fields. The assets of the debtor were to be transferred to the new company. The activities of the new company were to be devoted to the liquidation of the properties for the benefit of the certificate holders, and to their management pending liquidation. An attempt was to be made to liquidate the properties within a 5-year period. Prior to liquidation of, and payment of the certificate holders in, any particular mortgage, interest at the rate of 4½ percent was to accumulate and be paid if earned. An additional 1 percent of interest was to accumulate, but was not to be paid until final distribution resulting from liquidation of each property. On vote of two-thirds of the certificate holders of each property, not only might the servicing of the property be transferred to an outside agency, but its sale at any price could also be compelled. A sinking fund was created out of which certificates might be retired. So far as free assets existed, they were to be devoted to payment of unsecured creditors, the largest part of whom were the certificate holders to the extent of their deficiency claims.

The Commission recommended acceptance of this amended plan, but suggested amendment of other provisions which granted participation to holders of certificates in third-party mortgages on a voluntary basis. Under the plan certificate holders in these mortgages might, by action of a majority, appoint the new company as their agent to service the mortgages and to take steps in their behalf. Such an action had no effect on any minority who might refuse to appoint the new company as their agency. In the event of foreclosure by the new company on their account, however, the assenters surrendered rights which they would have had upon foreclosure in the usual manner. The Commission, therefore, recommended amendment of this portion of the plan. The plan as submitted was approved by the court and submitted to the certificate holders.

*The Higbee Company.*—Under the plan proposed in this case the holders of the Senior Bank Indebtedness for their claim of $591,930 received $150,000 in cash and $441,930 in notes bearing 4 percent fixed interest and maturing serially within 4 years. Holders of the Senior Rent Indebtedness of $846,922 received an equal par value of 4 percent notes maturing in 7 years. Holders of the Junior Indebted-

ness, which aggregated $1,951,727, received as a compromise $600,000 in 4 percent 10-year notes and new $1 par common stock at the rate of 1 share for each $100 of the balance of their claim. They would thus receive a total of 13,517 shares, or about 51 percent of the total new common stock.

The holders of the First Preferred Stock, having a claim of $1,139,900 principal and $738,085 dividends, accrued to February 1, 1941, received new 5 percent cumulative $100 par preferred stock for the par amount of their claim and one-third of the accrued dividends. For the balance of their accrued dividends, they received new common stock at the rate of 1 share for each $100 claim, or an aggregate of 4,921 shares. Valuing the new common stock on the basis of the Commission's estimated valuation of the debtor's assets, as discussed below, the First Preferred Stock would receive a value of between $1,915,000 and $1,953,000 for its claim of $1,877,985.

The holders of the Second Preferred Stock, having a claim totaling $783,637, were given 1 share of new common stock for each $100 due them. The 7,836 shares they would receive would have an aggregate value of between $843,000 and $902,000 on the basis of the Commission's valuation. The present common stock did not participate in the plan.

The debtor submitted no specific valuation in support of the plan, but in view of the capitalization proposed and the basis on which the new common stock was to be allocated, it was evident that a valuation of at least $6,000,000 was presupposed. The Commission, using the 1941 fiscal year earnings of $617,000 before Federal income taxes, less an adjustment of $25,000 for executive salaries, concluded that this base of $592,000 was a reasonable measure of the company's earnings for purposes of valuation. Capitalizing these earnings at a rate which seemed appropriate in the light of rates of capitalization ap plicable to comparable department stores and adding excess working capital to the result, the Commission determined that a value within a range of approximately $6,100,000 to $6,300,000 did not appear unreasonable. These figures compare with indebtedness and claims of preferred stockholders under the old capitalization totaling $6,-052,000. Under the proposed plan, debt and preferred stock would total $3,274,752, leaving a substantial equity for the new common stock.

The plan is unusual in that it provides for the accumulation of dividends on the new preferred stock for a period of from 5 to 10 years. Usually such a proposal would not be considered feasible, but it was viewed as acceptable in this case because the accumulation will be due not to lack of earnings, but rather to a predetermined policy of applying earnings to payment of all outstanding debts as quickly as possible. No dividends are to be paid on the new common stock

until payment has been made in full of all notes and all accumulations of dividends on the new preferred stock.

The plan provided that holders of the new preferred stock, voting as a class, were entitled at all times to elect three members of the board of directors, holders of the 7-year notes one member, and common stockholders the remaining three. However, after the retirement of the 7-year notes, the common stockholders were to elect four members, a majority. In accordance with the recommendation of the Commission, the plan was amended to provide that, after retirement of the senior indebtedness, the preferred stockholders should elect a majority of the board of directors until all accumulated dividends on the stock have been paid, and at any time thereafter upon default of six quarterly dividends.

The major problem presented in this proceeding involved the proposed compromise of the junior indebtedness and its effect on the public investors—the two classes of preferred stockholders. This junior indebtedness consisted originally of a $1,500,000 loan from The Cleveland Terminals Building Company, to enable Higbee to move into its new store. The Cleveland Terminals Building Company, which was controlled by the Van Sweringen Brothers, owned all the common stock of the debtor. After various intermediate transactions, the two notes evidencing this loan were purchased for $600,000 in 1937 by a director of Higbee and an associate.

It has been contended that these notes should (1) be completely subordinated to claims of preferred stockholders or (2) be limited to $100,000, the amount for which they were carried on the books of Midamerica Corp., which was an intermediate holder among whose officers and directors were the Van Sweringen Brothers, or (3) be allowed only in the amount paid by the last purchaser—$600,000. Litigation of the issues presented by these contentions would have required the solution of many difficult factual and legal questions. In addition, if the disputed question of ownership of these notes were resolved in favor of certain of the claimants, the full amount of the notes together with interest might ultimately be determined to constitute a claim ahead of the preferred stock. The Commission, under the circumstances, was of the opinion that the proposed compromise could not be said to be unfair.

The compromise would relieve both classes of the old preferred stock of the possibility that a claim in excess of $600,000 for the junior indebtedness would be allowed. On the other hand, if litigation were to result in eliminating the $600,000 prior claim, their position would be improved. The Commission concluded, however, that even with elimination of these prior claims the First Preferred Stockholders claims in amount would be no larger than at present, and that it was questionable whether the value of the securities they would receive

in such event would materially exceed the provision made for them in the present plan. As to the effect on the Second Preferred Stock, which represented a residual claim in this case, the Commission concluded that the company's new common stock would have an asset value in excess of the rate at which it was to be allocated to the Second Preferred (one share for each $100 claim), and that, considering all elements, the proposed compromise did not appear detrimental to the interests of this group.

The Commission, on March 20, 1941, filed its report approving the plan as amended. The court approved the plan on July 2, 1941.

*Atlas Pipeline Corporation.*—The trustee's plan in this case provided for the issuance of $1,011,400 of 4½ percent first mortgage bonds; $435,000 of 4 percent preferred stock; and $100,000 of common stock with a par value of $20. The first mortgage bondholders were to receive $961,400 of the new 4½ percent first mortgage bonds, which in face amount corresponded to the principal amount of their claims plus interest. The remaining $50,000 of the new bonds were subscribed by the American Locomotive Company under a guarantee by a Producers Group which controlled substantial oil production in the area. The Producers Group was to take the stock at cost plus interest over a period of 5 years. The second mortgage bondholders received the new preferred stock equalling one-third the amount of their claims without interest. Because of debtor's insolvency the common stockholders were eliminated. The new common stock was to be purchased by the Producers Group for $100,000; and the common stock could not be divested of control for at least 3 years because of failure to pay preferred dividends. Further, the debtor agreed to purchase all crude oil from the Producers Group. The Producers Group was to advance short term secured credit during the life of the purchase contract up to $200,000 if additional working capital was needed.

Under the plan complete control was given the Producers Group for 3 years. The first mortgage bondholders took a reduced interest rate, extended the maturity of their bonds, accepted a reduced sinking fund requirement, lost their conversion privilege, and gave up their lien on approximately $150,600 in cash held by the indenture trustee. The second mortgage bondholders accepted 4 percent preferred stock having a par value equal to one-third the principal amount of their claims, and gave up their creditor position entirely.

From the Commission's investigation, it appeared that there was no adequate support for the estimated annual earnings or future economic life of the debtor; and financial judgment dictated a higher capitalization rate in arriving at going-concern value.

The Commission concluded that the plan was neither feasible, fair, nor equitable. The debtor's present liquidation value might exceed its value as a continuing entity, its earning prospects were uncertain,

and its remaining economic life limited by advancing obsolescence. The debtor would emerge from reorganization with an unsound and unbalanced financial structure. The new bond issue would represent 92 percent of what the Commission found the going-concern value to be and 65 percent of the total capitalization. The equity investment of the Producers Group on the other hand would amount only to 7 percent of the total capitalization and less than 10 percent of what the Commission found the going-concern value to be. In addition, the bondholders would place the fate of the corporation in the hands of the Producers Group under a contract of questionable benefit, and despite the conflicting interests of the Producers Group. The Commission concluded that the benefits to the bondholders were inadequate to compensate them for the risks involved and that the proposed plan created a situation similar to that condemned in *Taylor* v. *Standard Gas & Electric Co.*[8]

The Commission suggested three alternatives for the debtor: (1) if continued operation were found desirable, there was nothing to show that the debtor could not obtain the funds necessary, above the amount of its own earnings, from banks, etc. (therefore the contribution of the Producers Group was not shown to be essential); (2) the record showed interest in the debtor's property by other producers, and out of such interest a satisfactory plan might develop; and (3) if no reorganization could be effected on a fair and feasible basis, a liquidation of the enterprise offered brighter prospects than liquidation at the end of the company's relatively short economic life.[9]

*Ulen & Company.*—Both plans submitted in this case provided for the liquidation of the company's assets. The debtor had outstanding $4,306,185, principal and accrued interest, of 6 percent debentures; an unsecured note of $67,524, including accrued interest; two series of preferred stock; and some common stock. Thus the creditors' claims amounted to $4,373,709. The trustee found the value of debtor's assets to be $1,279,327; and the debenture holders' committee set it at $2,969,350—both far below the amount of the creditors' claims.

The trustee's plan provided for the issuance of $800,000 of 10-year 6 percent cumulative income debentures, and 400 shares of new common stock. Each general creditor, including debenture holders, would receive one $200 income debenture, and one share of stock for each $1,000 of principal claim. After payment of expenses, etc., all cash in the hands of the trustee would be distributed *pro rata* to the creditors in final settlement of their claims for interest. Unpaid interest on the new debentures would accumulate.

The debenture holder committee's plan differed in two important respects. Instead of income debentures, it provided for $3,967,924.69

[8] 306 U. S. 307.

[9] The plan proposed by the trustee was approved by the court on July 16, 1941.

of unsecured liquidation certificates carrying interest at 6 percent, if earned. The second basic difference was that whenever the net proceeds from the liquidation of assets amounted to $25,000, the board of directors was required to apply 75 percent of such proceeds to the retirement of liquidation certificates, either by purchase through tenders or in the open market, and only in the event that retirement of the liquidation certificates could not be effected through tender or purchase would resort be made to *pro rata* distribution.

Under both plans the holders of the present preferred and common stock were to receive no recognition.

The Commission found both plans fair in excluding stockholders from participation, and thought both plans sound in their underlying purpose to discontinue the business and liquidate. But on the score of feasibility it was pointed out that in order to avoid the issuance of deceptive securities, funded debt, even in a liquidation plan, should bear such a relation to the value and nature of the company's assets as to provide adequately for the payment of interest charges and the ultimate repayment of the principal. Largely due to the fact that many of debtor's investments were in foreign countries now involved in the war, any income therefrom was highly questionable. In the view of the Commission, no appellation of the new company as a Realization Corporation and no form of descriptive legend on the proposed securities would adequately offset the misrepresentation implicit in the promise of repayment of principal and the promise ultimately to pay interest, in light of the high degree of uncertainty attending these contingencies.

The Commission further noted that if the plan was to provide for any funded debt, the *pro rata* method of distribution provided for in the trustee's plan was preferable to retirement of "liquidation certificates" by purchase either through tender or in the open market as provided in the debenture holders' plan.

After the Commission had filed its advisory report the trustee filed amendments to his plan, in which petition he was joined by the proponents of the alternative debenture holders' plan. The amended plan [10] eliminated the provision for funded debt. The securities to be issued under the plan consist solely of about 400,000 shares of common stock, with a 10-cent par value, to be distributed to the debtor's general creditors, including its debenture holders, at the rate of 100 shares for each $1,000 in principal amount of creditors' claims. The Commission approved the amended plan because, in providing for the issuance solely of common stock, it eliminated the unsound and misleading characteristics which would necessarily inhere in the issues of funded debt originally proposed in this case.

[10] On July 8, 1941, Judge Goddard approved the trustee's amended plan and disapproved the debenture holders' committee's alternative plan in accordance with the recommendation of the Commission.

*McKesson & Robbins, Inc.*—The debtor was engaged in the manufacture and Nation-wide wholesale distribution of drugs and drug sundries and liquor operating in 37 States and the Territory of Hawaii, with net sales averaging well over $100,000,000 annually. Its president and active directing head for the decade from its incorporation until the filing of the petition for reorganization had been Phillip M. Musica, alias F. Donald Coster, who committed suicide a week after the commencement of the proceedings. Although Coster's notorious frauds and depredations had resulted in his withdrawal of approximately $2,870,000 from the business and the inflation of reported assets by some $21,000,000, the trustee's investigation disclosed that his fraudulent activities had been wholly confined to the crude drug department and to the Canadian subsidiary and did not pervade the other departments of the business.

The Commission became a party to the proceedings on December 8, 1938, the same day that the voluntary petition for reorganization was filed and William J. Wardell, the disinterested trustee, was appointed.

Extensive investigations of the debtor's affairs were undertaken by the trustee and his counsel and accountants, and detailed reports of their findings were distributed to the company's security holders and the parties to the proceedings in accordance with the provisions of Section 167 of the Act. The facts disclosed by these inquiries enabled the trustee to assert very substantial claims against the debtor's former directors, accountants, and others, and as a result more than $2,500,000 in cash and property was recovered for the estate.

The submission of suggestions for plans of reorganization was invited by the trustee, and on November 7, 1940, the trustee filed his proposed plan of reorganization. From time to time during the interval between the filing of his plan and the court's submission thereof to the Commission for advisory report on February 20, 1941, numerous amendments were adopted by the trustee as the desirability therefor was disclosed.

The plan, as finally proposed, provided for the payment in cash in full of all priority debt. Interest on all other debt was also to be paid in cash, and the principal amount of such other debt was to be paid 40 percent in cash, 40 percent in new 15-year 4 percent sinking fund debentures, and 20 percent in new 5½ percent cumulative redeemable preferred stock. The plan provided also that the trustee was to procure an underwriting for the new debentures and new preferred stock otherwise issuable to creditors (to be underwritten by the trustee) if this were possible upon terms to net the estate the par or face value of these securities. In its advisory report the Commission pointed out that the plan would appear to require creditors to accept certain sacrifices (e. g., change of status from creditor to stockholder

with respect to 20 percent of their claims, an extension of maturity for 15 years of 40 percent thereof, and a reduction in the rate of return upon their claims), but that in the event of an underwriting the plan would nonetheless be fair to them since they would realize in cash the full value of their claims with interest. It was pointed out further in the report that even if no underwriting were possible, market conditions then prevailing indicated that the debentures and preferred stock provided for in the plan would sell at par or better, and that if such conditions continued to prevail without substantial change until confirmation of the plan, the package of securities and cash allocable to creditors would have an aggregate value equal to the full amount of their claims with interest, and that in that event, the plan would also provide full compensation to creditors and would be fair and equitable within the applicable judicial and statutory standards. The report contained the cautionary comment that there should be reserved for further consideration what changes would be necessary in the plan in order to give creditors full compensation for their claims, in the light of the sacrifices imposed upon them by the plan, in the event that market conditions at the time of confirmation of the plan would not permit creditors to realize the full value of their claims.

The new debentures and preferred stock were in fact successfully underwritten, and creditors were paid the principal and interest of their claims in cash in full.

The trustees' plan was predicated upon an over-all value of the debtor's estate of $76,900,000, of which approximately $16,900,000 was excess cash. After providing for the claims of creditors, an equity of approximately $43,800,000 remained. Under the plan, this equity was capitalized by the issuance of 1,685,901 shares of common stock of a par value of $18 per share. The preference shareholders were to receive about 81 percent of the new common stock, representing in terms of the trustee's valuation $35,596,000. The Commission approved this allocation after concluding that the new securities were of a value commensurate with the interest of the preferred shareholders. The holders of the old common stock were allocated about 19 percent of the new common stock. This was fair since the class was to receive the full residual equity after no more than equitable provision was made for creditors and senior stockholders.

The Commission concluded that the new capital structure was sound, that the working capital appeared to be sufficient, and that the provisions respecting management and control were appropriate. Therefore, it found the plan to be both equitable and feasible, and recommended that it be approved. The plan was approved by the court. Subsequently, several slight modifications were ratified by the court to facilitate the underwriting of the securities.

In December 1938, the Commission undertook an investigation of the auditing practices followed by McKesson & Robbins and its accountants, and in December 1940, it issued its report thereon. In this report [11] the Commission concluded that the general adoption of changes in respect to the appointment of auditors and the determination and execution of the audit program would have a salutary effect upon auditing practice in the United States, and suggested specific procedures that appeared to have certain advantages over others that had been proposed.[12] Consistently with our general practice in cases under Chapter X counsel for the Commission participated in the preparation of the numerous documents required for the consummation of the plan and the launching of the reorganized McKesson & Robbins, Inc., and the corporate by-laws finally adopted with the approval of the court include provisions which carry fully into effect the program suggested by the Commission.

## APPEALS

Although the Commission may not appeal or file any petition for appeal in a proceeding under Chapter X, it may appear in proceedings before the appellate court in the event that appeals are taken by other parties in cases in which the Commission is participating. Thus, during the fiscal year the Commission participated as a party appellee in 9 cases in the appellate courts. In 4 other cases the Commission participated in appeals in reorganization proceedings as *amicus curiae*. Of these 13 cases, 4 were before the Supreme Court of the United States and the remaining 9 were before the circuit courts of appeals. In 12 of the 13 cases the position urged by the Commission was upheld by the courts; in 1 case the court decided adversely to the position of the Commission.

Five of the appeals in which the Commission participated involved questions dealing with allowances, and in all of them the position urged by the Commission was sustained.

*In the Matter of Keystone Realty Holding Company.*[13]—In this case the district court, in a Chapter X proceeding, granted to an attorney for the debtor and an attorney representing a bondholder allowances out of the debtor's estate as compensation for services rendered in connection with a prior insolvency proceeding in the State court. On

[11] In the Matter of McKesson & Robbins, Inc.; Report on Investigation Pursuant to Section 21 (a) of the Securities Exchange Act of 1934.

[12] The Commission's suggestions are stated at pages 10 and 368, 369 of the Report.

Cf. recommendations of the American Institute of Accountants and of the New York Stock Exchange, Appendix A; and provisions of the English Companies Act, 1929 and Horace B. Samuel's proposed amendments to that Act, Appendix B. See also Samuel's discussion in Shareholders' Money, Sir Isaac Pitman & Sons, Ltd., London, 1933, at pp. 231–235, 315–321. For a recent adoption in the United States of the essential features of a program substantially in accord with that proposed in the text, see Section 32 (a) of the Investment Company Act of 1940.

[13] 117 F. (2d) 1003 (C. C. A. 3rd, February 24, 1941).

appeal from the orders granting these allowances, the Commission took the position that the District Judge had power under Section 258 to make allowances for services rendered in the prior proceeding but that the Judge abused his discretion in making such allowance at this particular stage of the proceeding. The court sustained the position of the Commission holding that it was an abuse of discretion for the district court to direct payment of these allowances, even though for completed work, where the ultimate success of the reorganization was doubtful and the total amount to be available for allowances was not known.

*In re Mountain States Power Co.*[14]—In this case the Circuit Court of Appeals for the Third Circuit affirmed the denial of compensation or reimbursement of expenses to a member of a committee, who was also a member of a brokerage firm which, during the pendency of the reorganization proceeding, purchased and sold securities of the debtor for its own account. The decision was predicated on the holding that, as to allowances to persons in a fiduciary or representative capacity who trade in securities of the debtor while acting in the proceeding, the law applicable to proceedings under Section 77B was similar to Section 249 of Chapter X, the latter being no more than a codification of the existing law. The circuit court of appeals also held that the allowances granted by the district court to certain other applicants were so inadequate as to constitute an abuse of discretion and ordered that the allowances to these applicants be increased.

*In the matter of Porto Rican American Tobacco Company.*[15]—In this case it was contended that since Section 206 of Chapter X accords the debtor the right to be heard on all matters arising in a Chapter X proceeding and Section 169 recognizes that the debtor may propose plans or amendments thereto and submit objections to plans, it is implicit in the statute that the debtor may be represented by an attorney who shall be compensated out of the estate whether or not his services were beneficial. The Circuit Court of Appeals for the Second Circuit rejected this contention, ruling that, in order to be compensable, services performed by the attorney for a debtor must be beneficial. Also, the court pointed out that where a trustee has been appointed by the court and the trustee has his own attorney, if an attorney for the debtor without prior court authority performs legal services which fall within the scope of the administrative duties of the trustee or his attorney, the attorney for the debtor must be regarded as a volunteer and even if his services have been beneficial, he may be denied compensation out of the estate.

*In the Matter of Postal Telegraph and Cable Corporation.*[16]—An individual employed, without court authority, by a committee to

[14] 118 F. (2d) 405 (C. C. A. 3rd, March 5, 1941).
[15] 117 F. (2d) 599 (C. C. A. 2d, February 10, 1941).
[16] 119 F. (2d) 861 (C. C. A. 2d, May 19, 1941).

investigate and study the debtor's lease situation, was denied compensation out of the estate for his services by the district court. On appeal from the denial of compensation, the Commission urged in support of affirmance of the district court order that the appellant was not entitled to compensation since he had failed to establish that his services were necessary, non-duplicative, and beneficial. The circuit court of appeals affirmed the order of the district court on the ground (1) that there was no clear evidence that the services were beneficial, and (2) that the services of the appellant in examining leases were administrative services such as the debtor in possession or the trustee was charged with the duty of performing in connection with the administration of the estate and that the appellant who acted without prior court authorization cannot recover from the estate for such services.

*In the Matter of Balfour Manor Apartments Company.*—An order was entered by the district court granting allowances. Subsequently the district court directed that a rehearing be held for the reconsideration of its prior order. Without making any mention of this order for rehearing, one of the applicants filed a petition for leave to appeal from the original order of the district court with respect to allowances. The petition was granted and the appeal allowed by the Circuit Court of Appeals for the Sixth Circuit on May 10, 1941. The Commission moved to dismiss the appeal on the ground that there was no final order from which an appeal would lie. On October 14, 1941, the Circuit Court of Appeals for the Sixth Circuit entered an order granting the motion of the Commission to dismiss the appeal.

*"Deep Rock Oil" cases.*—Three briefs were filed on behalf of the Commission in connection with further controversies which arose out of the same reorganization proceeding which was before the Supreme Court in the so-called "Deep Rock" case.[17] One of these briefs was presented to the Circuit Court of Appeals for the Tenth Circuit and the other two were presented to the Supreme Court. In the "Deep Rock" case, the Supreme Court reversed a decision of the United States Circuit Court of Appeals for the Tenth Circuit which had affirmed orders of the district court confirming a plan of reorganization for Deep Rock Oil Corporation. The Supreme Court disapproved the plan because of the participation accorded to the claims of Standard Gas & Electric Company, the parent of the debtor, Deep Rock Oil Corporation. The Court held that the abuses in the management of Deep Rock by Standard required that Standard's claim as a creditor be subordinated to the interests of the debtor's preferred stockholders. Upon the return of the case to the district court, Standard filed an amended claim and petitioned for its allowance. The court decreed that Standard's claim was subordinate to the claims

[17] *Taylor* v. *Standard Gas & Electric Co.*, 306 U. S. 307.

and interests of all other creditors and of the preferred stockholders. Since the value of the debtor's assets was less than the amount of these prior claims and interests, the court held that Standard's claim was not entitled to participation, whatever its amount. Hence the court refused to allow the amended claim. From this decree of the district court, Standard appealed to the circuit court of appeals, which affirmed the decree.[18] Standard then filed a petition for a writ of *certiorari* to review the decision of the circuit court of appeals. In the brief presented to the Supreme Court on behalf of the Commission in opposition to the petition for the writ of *certiorari*, it was urged that the district court properly construed the mandate of the Supreme Court and that its decree followed inevitably from the requirement of subordination directed by the Supreme Court and from the application to the case of well-settled principles of law. The Supreme Court denied Standard's petition for a writ of *certiorari*.[19] Thereafter, the district court approved the plan, which excluded Standard from participation, and after acceptance by the security holders, confirmed the plan on July 24, 1940. Standard appealed from the orders of approval and confirmation and the appeals were consolidated. The Commission and the other appellees filed a brief urging that the circuit court of appeals dismiss Standard's appeal or affirm the orders appealed from. The circuit court of appeals in a unanimous opinion affirmed [20] the orders of the district court. Again Standard petitioned for a writ of *certiorari* to review the decision of the circuit court of appeals. In the brief filed on behalf of the Commission, it was urged that the petition be denied on the ground that this second petition for a writ of *certiorari* was in effect an attempt to secure review by the Supreme Court of questions which the Court had refused to review when it denied the Standard's earlier petition for *certiorari*. On April 14, 1941, the Supreme Court denied the petition.

*In the Matter of American Fuel and Power Co., Inland Gas Corporation, Kentucky Fuel Gas Corporation.*—In this case the district court approved a proposed settlement whereby Columbia Gas & Electric Corp., the parent company, would surrender its bonds, debentures, and stockholdings of the debtor companies in exchange for a substantial cash payment and release from pending lawsuits brought by the trustee against Columbia for violation of the anti-trust laws. It was uncontroverted that the material facts of Columbia's misconduct as alleged in the anti-trust suits were provable, and although the district court assumed the truth of the allegations it approved the settlement on the theory that substantial doubt existed as to whether Columbia's securities might not nevertheless be entitled to parity treatment with those held by the public. On appeal to the Circuit Court of

[18] 113 F. (2d) 266 (C. C. A. 10th, June 29, 1940).
[19] Decided November 12, 1940.
[20] 117 F. (2d) 615 (C. C. A. 10th, January 13, 1941).

Appeals for the Sixth Circuit by two committees representing public investors, the Commission contended (1) that without regard to the adequacy of the assumed facts as a good cause of action under the anti-trust laws they were adequate to establish a breach of fiduciary obligations owing by Columbia to the debtors and other holders of the debtors' securities; (2) that on the basis of such assumed facts and under equitable principles announced by the Supreme Court in *Taylor* v. *Standard Gas & Electric Co.*, 306 U. S. 307 (1939), *Pepper* v. *Litton*, 308 U. S. 295 (1939), and other recent cases, Columbia's claims were required as a matter of law to be ranked subordinate to other claims, in which event its claims would be admittedly worthless and their surrender would constitute no consideration for the settlement; and (3) that the proposed settlement should therefore have been rejected and the issue of subordination tried on the facts. In an opinion rendered August 15, 1941 the Circuit Court of Appeals, on a somewhat different rationale, reversed the order approving the settlement and directed the district court to reject all of Columbia's claims and interests which should be found to have been acquired in violation of the anti-trust laws.

In connection with appeals in four reorganizations, the Commission obtained leave to file briefs as *amicus curiae* because of the significance of the issues involved. Two of the briefs were presented to the Supreme Court and two to the circuit court of appeals.

*In the Matter of Julius Roehrs Company.*[21]—The debtor filed a petition under Chapter X. The district court, by order, directed the debtor to file its plan of reorganization within 5 days and to offer proof for the purpose of demonstrating its good faith and its ability to carry out its plan. The debtor filed a tentative plan of reorganization and a hearing was held. The court was not satisfied that the petition was filed in good faith and dismissed it. An appeal was taken by the debtor. Pursuant to leave granted by the circuit court of appeals, the Commission filed a brief as *amicus curiae* in which it urged that the district court was in error when it required the debtor to file its plan and prove its ability to consummate this plan as a prerequisite to approval of the petition. The circuit court of appeals ruled that the district court had applied an erroneous test of good faith, reversed the order dismissing the petition, and remanded the proceedings.

*In the Matter of 11 West 42nd Street, Inc.*[22]—This appeal raised a procedural question. Because the problem was of general application under Chapter X the Commission, although not a party to the proceedings below, obtained leave to submit a brief as *amicus curiae*. The Commission took the position that a debtor against whom an involuntary petition has been filed may not seek dismissal thereof by

[21] 115 F. (2d) 723 (C. C. A. 3rd, November 14, 1940).
[22] 115 F. (2d) 531 (C. C. A. 2d, November 25, 1940).

motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure, since that procedure is inconsistent with the procedural provisions of Chapter X which relate to summary determination of factual issues arising out of a petition for reorganization. The court ruled adversely to the position urged by the Commission.

*Case* v. *Jenney, In the Matter of Los Angeles Lumber Products Company, Ltd.*[23]—This controversy arose in the same proceeding which was before the Supreme Court in *Case* v. *Los Angeles Lumber Products Co., Ltd.*,[24] discussed in the Commission's Sixth Annual Report.[25] After the remand of the cause to the district court in conformity with the opinion and decree of the Supreme Court, a new plan of reorganization for the debtor was formulated and confirmed by the district court. Under this plan the assets of the debtor were to be transferred to a new corporation which would issue 859,628 shares of $1 par value common stock. The stock to be issued was to be distributed only to bondholders of the debtor and represented the entire capitalization of the new corporation. Upon a finding that the debtor was insolvent, the stockholders of the debtor were excluded from all participation in the plan. Thomas K. Case, an appellant in *Case* v. *Los Angeles Lumber Products Co., Ltd., supra*, filed objection to the new plan. His objections were overruled. He then filed with the Supreme Court a motion for leave to file a petition for writ of *mandamus* or prohibition on the ground that the new plan was not fair and equitable and the order of the district court confirming it failed to comply with the mandates of the Supreme Court. The Commission presented to the Supreme Court a memorandum in opposition to the motion in which it took the position that the amended plan did not contravene the mandate of the Supreme Court. On October 14, 1940, the Supreme Court denied the motion.

*Consolidated Rock Products Co.* v. *DuBois.*[26]—The facts with respect to the prior proceedings in the district court and in the circuit court of appeals relating to this case were presented in the Commission's Sixth Annual Report.[27] The Supreme Court granted a petition for a writ of *certiorari* to review the decision of the circuit court of appeals reversing an order of the district court confirming a plan of reorganization of the debtor and its two wholly-owned subsidiaries. On March 3, 1941, the Supreme Court rendered its opinion affirming the decision of the circuit court of appeals. The Commission, as *amicus curiae*, submitted a memorandum urging that the petition for *certiorari* be granted, and a brief in which it urged the affirmance of the decision of the circuit court of appeals which had reversed the order confirming the plan of reorganization.

[23] 311 U. S. 612, October 14, 1940.
[24] 308 U. S. 106.
[25] Page 65.
[26] 61 S. Ct. 675 (March 3, 1941).
[27] Page 66.

## Part IV

# ADMINISTRATION OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

The Public Utility Holding Company Act of 1935 deals with holding companies having subsidiaries which are electric utility companies or which are engaged in the retail distribution of natural or manufactured gas. The Act was passed for the express purpose of eliminating certain evils and abuses which the Congress had found to exist in connection with the activities of such companies, and was intended for the protection of both investors and consumers. It provides for the registration of holding companies; elimination of uneconomic holding company structures; supervision of security transactions of holding companies and their subsidiaries; supervision of acquisitions of securities and utility assets by holding companies and their subsidiaries; and the supervision of payment of dividends, solicitation of proxies, inter-company loans, and service, sales, and construction contracts. The Commission must pass upon plans for the reorganization of registered holding companies or their subsidiaries, and must require the geographic and corporate simplification of public utility holding company systems. The Commission does not have the power to regulate public utility rates.

## SUMMARY OF ACTIVITIES

The past fiscal year has witnessed important developments in both the activities of and the problems confronting the Commission in its administration of the Public Utility Holding Company Act of 1935.

Substantial advances have been made during this period in securing compliance by the major holding-company systems with the integration and simplification provisions of the Act. Further progress has also been achieved in improving the financial structure of companies in holding-company systems, as an incident to the exercise of jurisdiction over security issues and of control over dividend policies and intercompany payments. Other important developments have included the requirement of competitive bidding in connection with sales of securities subject to the provisions of the Act, and the requirements, pursuant to Section 13, that holding companies pay the entire salary expenses of such of their officers as are also officers of service companies and of operating companies. In addition, there has been complete revision of the rules and regulations of the Commission under the Act.

As of June 30, 1941, there were registered with the Commission, pursuant to the provisions of the Act, 147 public-utility holding

companies, the total consolidated assets of which amount to $15,129,000,000. These 147 registered holding companies constitute 53 public-utility holding-company systems, which include 1,457 holding, subholding, and operating companies. Since the total assets of the privately owned electric and gas utility industry (including natural gas) are estimated to be approximately $22,000,000,000, the assets of registered public-utility holding-company systems represent about 68 percent of the total private industry. Prior to the end of the fiscal year, the defense program had already reached the point where expansion of power supply facilities was recognized to be of vital importance. This aspect of the program has received increasing impetus in subsequent months. Our Commission has collaborated with other Government agencies interested in this program, our contribution being primarily related to the financial aspects of that portion of the program which involves new construction by registered holding companies and their subsidiaries.

The operating companies in registered holding-company systems constitute a large proportion of the industry affected by the program. Over 70 percent of the total additions to steam capacity included in recent estimates as to requirements for the years 1943 to 1946, inclusive, were tentatively assigned to the areas served by these companies. We have been closely following the plans for expansion of power supply facilities in an effort to determine the amount which the various companies subject to the Act may be called upon to spend for new construction; to determine how much cash individual companies and holding-company systems as groups can generate from their own operations, i. e., the sum of the earnings available after meeting their obligations to security holders and the non-cash items in their expense accounts, such as provisions for amortization and depreciation.

These studies make it possible to anticipate demands for raising additional capital and to study in advance the problems which this will involve. It is, of course, of paramount importance that funds be made available just as soon as called for by the construction program, but by advance planning, it should be possible to make a wise choice among alternative methods of financing with a view to preserving the financial integrity of the companies subject to the Act, keeping them in the best possible position to meet any future wartime demands, and leaving them in the best possible position to meet the shock of readjustment to a peacetime economy. With these considerations in mind, our studies are directed to the amounts which the individual companies and the holding-company groups could safely raise through bonds, short-term notes, and preferred stocks, and the balance that must be provided from some form of an equity investment.

Although there is necessarily some uncertainty as to the ultimate expansion of electric utility facilities, it does appear certain that, for

several years at least, increases in generating capacity will be limited only by the ability of manufacturers to produce the essential equipment. While a substantial portion of the new generating facilities presumably will be in hydroelectric projects financed by the Federal Government, the private electric utilities will be called upon to make capital expenditures not only for steam generating facilities, but also for related additions to transmission and distribution facilities.

The aggregate cost will be far in excess of what the utilities have been expending on new construction in recent years. In fact, during the years from 1933 to 1940, comparatively little new capital has been raised by the electric utility industry from the sale of securities. Construction expenditures have been financed in large part from earnings. This was possible partly because of the slowing up of the growth of power demand in the early years of the depression, and partly because construction in the years immediately preceding the depression had been in advance of immediate demands for energy. Both of these factors have diminished in importance in recent years and, when the demands of the defense program are added to the normal growth in power demand, it becomes clear that the industry is confronted with a problem of raising and conserving cash in an amount far in excess of what has been called for by the pre-war economy. Providing these facilities is of paramount importance and this, of course, means that such construction must be financed. This will prove no easy challenge—and it is possible that some Federal aid may be necessary.

As to the ability of the industry to meet this challenge, it must be remembered that in the heyday of the promotion of ever greater holding-company systems, the operating companies were bled. In many instances depreciation accruals were inadequate and capital was paid out as dividends in the guise of income, while at the same time the companies were subjected to ever increasing burdens in the form of debt and other senior securities and in some instances exorbitant or unearned charges for so-called service or management fees. Moreover, the complicated holding-company structure which was superimposed has proved ill-equipped to meet the needs of the subsidiaries for equity money. In some instances, despite the upward flow of dividends to holding companies, there are still large arrearages of dividends on holding-company preferred stocks which, until eliminated, are virtually an insuperable obstacle to holding-company financing.

As described elsewhere in this and in prior annual reports of this Commission, much progress has been made in clearing away the financial debris with which the Commission was confronted at the outset of its administration of the Act. Much, however, remains to be done. Our efforts during the prior year to get the operating subsidiaries of the holding companies in a position to finance defense

construction has related primarily to the following aspects of administration of the Act:

1. Enforcement of Section 11 (b) (1) to the end that there may be greater progress toward the integration of the industry along logical regional lines, and that managerial responsibility may gravitate away from one or two financial centers toward the territories served.

2. Elimination of unnecessary complications in the financial structure of holding companies, in accordance with Section 11 (b) (2), so as to remove present-day obstacles to the raising of additional capital. Compliance with the integration and corporate simplification standards of the Act are interrelated since, in many instances as the holding companies reconcile themselves to the narrowing of the area of their operations, they will find that the same transaction which accomplishes a divestment of a non-retainable subsidiary may also be a step in corporate simplification. For example, the holding company's interest in such a subsidiary may be exchanged for its own outstanding senior securities, or the cash proceeds from the sale of certain of their holdings can be used to reduce their top-heavy debt structures, or can be a basis for additional equity investment in other subsidiaries which require strengthening.

3. Increasing emphasis on requiring more adequate provisions for depreciation and more conservative dividend policies so as to preserve available cash in the operating companies, and to minimize the necessity to seek outside sources of additional capital. What, if any, change in emphasis may result from the transition from preparation for war to actual entry into the war cannot now be predicted. It would seem obvious, however, that there can be no slackening in the effort to put the industry in a financial position to meet whatever demands may be placed upon it. It is significant in that connection that in the first three weeks after the outbreak of war, a number of companies have been pressing forward to avail themselves of the machinery provided in the Act for effectuating voluntary compliance with the provisions of Section 11.

Each of the above aspects of Commission activity are discussed in separate sections of this report.

## INTEGRATION AND CORPORATE SIMPLIFICATION OF PUBLIC-UTILITY HOLDING-COMPANY SYSTEMS

The past fiscal year has been one of very substantial progress in the geographical integration and corporate simplification of public-utility holding-company systems required by Section 11 (b) of the Public Utility Holding Company Act of 1935.

Although the statute was enacted by Congress in August 1935, the Commission was directed to enforce the integration and simplification provisions only "* * * as soon as practicable after January 1, 1938." In the intervening period holding companies were given an oppor-

tunity to take voluntary steps to comply with Section 11, which opportunity was unfortunately neglected in favor of costly litigation directed against the constitutionality of the Act. After the termination of the period of litigation by the decision of the Supreme Court in March 1938, upholding the constitutionality of the registration provisions, the Commission gave all holding companies a further opportunity to submit to the Commission their plans for voluntary compliance. Most of the plans submitted, however, although helpful in some respects, amounted to little more than arguments attempting to justify the retention of the existing scattered holdings.

It finally became evident that compliance with the Act could be achieved only by the institution of affirmative proceedings, pursuant to the statutory direction in Section 11 (b). Accordingly in the spring of 1940, as reported in our last Annual Report[1] the Commission instituted integration proceedings with respect to nine major utility holding-company systems and corporate simplification proceedings with respect to three major systems. In the past fiscal year a number of additional proceedings were instituted principally to effect compliance with the corporate simplification standards of Section 11 (b) (2). The two classes of proceedings are interrelated, in that action taken to comply with the geographical standards may also be a step toward achieving corporate simplification, and steps taken in the direction of corporate simplification may serve to eliminate substantial problems which would otherwise require determination in proceedings under Section 11 (b) (1). At the close of the fiscal year, proceedings involving integration or corporate simplification, or both, were pending with respect to the 14 holding-company systems named below, which systems had consolidated assets aggregating $10,219,000,000, or 67 percent of the consolidated assets of all registered holding-company systems:[2]

*Proceedings under Section 11 (b)*

| System | Proceeding | |
|---|---|---|
| | Section 11 (b) (1) | Section 11 (b) (2) |
| Cities Service Power & Light Company | X | |
| Commonwealth & Southern Corporation (The) | X | X |
| Electric Bond and Share Company | X | X |
| Engineers Public Service Company | X | |
| General Gas & Electric Corporation | | X |
| International Hydro-Electric System | | X |
| Middle West Corporation (The) | X | X |
| Midland United Company | | X |
| North American Company (The) | X | |
| North American Gas and Electric Company | X | X |
| Northern New England Company and New England Public Service Company | | X |
| Standard Power and Light Corporation | X | X |
| United Gas Improvement Company (The) | X | |
| United Light and Power Company (The) | X | X |
| Total | 10 | 10 |

[1] Page 14, et seq.

[2] The proceeding involving the United Corporation which is referred to below at page 84 was begun after the close of the fiscal year.

The heads of some of the largest holding-company systems have stated publicly to their security holders that the enforcement of Section 11 will not prejudice their interests. William G. Woolfolk, president of The United Light and Power Company, in April 1941, reported to his security holders:

"In the rearrangement of properties by way of compliance with the Act, we have noted no indication that the regulatory authorities will be other than helpful in protecting the investor, and out of what must now seem to you a complex and nebulous situation, your management foresees in the reasonably near future the emergence of a company which, though smaller perhaps, will be in every way creditable. To this end we are bending our every effort."

Leo T. Crowley, chairman of the board and president of Standard Gas and Electric Company, in a message to his stockholders, in March 1941 stated:

"The management of your Company has continued to devote its attention to the two major problems affecting the Company; namely, integration and recapitalization. The solution of these problems has been viewed not merely as a means of compliance with the requirements of the Public Utility Holding Company Act of 1935, with which they are so often associated in the public mind, *but also as a necessary and practical treatment of obvious corporate needs.* The two problems might well be classed as one in view of their equal importance from many standpoints. The method of solution of the first—integration—seems to present the only feasible way of meeting the second." (Italics supplied.)

A number of factors prompt increasing compliance with Section 11. There is an increasing necessity, largely rising out of National defense requirements, of securing funds for the financing of new construction. There are concrete indications that many holding companies, particularly in scattered systems, actually block needed operating company financing. Thus, holding companies, desirous of retaining control of operating companies, refuse to permit the operating company to issue common stock in situations where common stock can be sold on favorable terms and where further debt or preferred stock financing is inappropriate. Moreover, their policies of inadequate depreciation and excessive dividends have taken away many millions of dollars from operating companies which should have been used for new plant construction.

The difficulties of financing essential power expansion under present holding-company control—where the holding company is unable to raise the money itself and where its control of the operating company is an obstacle to the latter's financing—has thus accelerated a realization of the need for the severance of such control. An independent operating company is in a position to make its own decision as to its depreciation and dividend policies and as to the form of security most appropriate for the financing of its needs. It may issue common stock—a source of funds generally closed to the operating subsidiaries of holding-companies. Moreover, the remaining properties of the

holding-company system which may be retained under Section 11 frequently benefit materially from the sale of outlying system properties. Thus, the present emergency and the need for rapid expansion of the Nation's power resources have served to reinforce the desirability of a rapid compliance with Section 11.

There is also a growing recognition in financial circles and among investors that many holding companies are a source of economic loss to investors. Senior security holders in many holding companies—holders of debentures and preferred stock—especially have indicated their views in this respect and, in some cases, are organizing to protect their interests. Superfluous holding companies merely serve to reduce the return on the common stock investment in operating companies—the liberal holding company salaries, additional Federal and State taxes, and all the other heavy expenses of running the holding company, are items deducted before the investor in the holding company secures any return. Studies of independent statistical agencies indicate that the "breakup" value of many holding companies is greater than the present market value of their outstanding securities. In other words, the market appears to consider such holding companies (with their heavy expenses and taxes) and the holding-company management to be liabilities rather than assets.

That the provisions of Section 11 are not to be applied indiscriminately as a "death sentence," but with full regard to the protection of investors, is well illustrated in the proceeding with respect to The North American Company system. While that proceeding was pending before the Commission for decision, North American Light & Power Company, a subholding company in The North American Company system controlling numerous subsidiary public-utility operating companies and a party to the integration proceeding, announced its intention to liquidate and dissolve. In a letter to its security holders, the company stated that such action was being taken in anticipation of the Commission's decision in the pending proceeding; that upon liquidation of the company its preferred stockholders would not receive their full preferential amount of $152.50 a share, which included dividend arrears of $52.50 a share; and that accordingly, the common stockholders would receive nothing. It was also stated that The North American Company, the top holding company, owning 44 percent of the preferred stock, 85 percent of the common stock, and 62 percent of the outstanding debentures, had indicated its intention to vote its shares in favor of the dissolution and liquidation which was proposed to be accomplished under the aegis of the Court of Chancery of the State of Delaware. The company did not propose to submit the plan of liquidation to the Commission as appeared to be required by the provisions of the Public Utility Holding Company Act of 1935.

The Commission informed the company of its doubts as to the propriety and validity of the contemplated procedure. After efforts to evolve a satisfactory solution failed, the Commission was forced to institute proceedings and enter an order forbidding The North American Company and North American Light & Power Company from taking steps to dissolve the latter except in accordance with appropriate orders of the Commission. In its opinion[3] the Commission stated that, in the integration proceeding pending before it for decision, there were numerous questions present involving North American Light & Power Company and its subsidiaries, as well as other subsidiaries of The North American Company, the proper disposition of which might be thwarted if the liquidation and dissolution of the company took place before such questions were decided. It was pointed out that in the case of a voluntary as well as an involuntary liquidation of a company in a holding-company system, or where the voluntary action was taken for the stated purpose of complying with the integration provisions of Section 11, the Commission was charged with specific administrative duties which were designed, among other things, to protect the scattered public security holders of the company against the concentrated power of a holding company possessing, as in the instant case, absolute voting control.

It was therefore the Commission's position that, before the company could dissolve and liquidate its assets in the manner proposed, Section 11 of the Public Utility Holding Company Act of 1935 required not only that the Commission be permitted to consider the effect of such action on the pending Section 11 (b)(1) proceeding, but also that it be permitted to determine whether the proposed manner of liquidation was fair and equitable to the security holders affected thereby; including a consideration under the applicable precedents of the treatment to be accorded The North American Company which, as a dominant stockholder of North American Light & Power Company, had acquired senior securities of the latter company at prices substantially below their face amount.

After the entry of the above order the companies would not assure the Commission that its order would be obeyed. Consequently, the Commission filed suit in the United States District Court of Delaware to insure compliance with its order. This suit is described on page 206. *infra.*[4]

The Commission's opinions during the past year have clarified most of the interpretative problems arising under Section 11 (b). The de-

[3] *In the Matter of The North American Company and its Subsidiary Companies,* Holding Company Act Release No. 2632.

[4] Since the end of the fiscal year, the defendants and the Commission have agreed to a postponement of the scheduled stockholders' meeting called for the purpose of authorizing the dissolution of North American Light & Power Company, in order to afford the parties an opportunity to discuss the possibilities of composing their differences.

terminations of the Commission, tentative and final, are discussed separately in relation to Sections 11 (b) (1) and 11 (b) (2).

**Section 11 (b) (1)—Integration.**

The opinion of the Commission in *The United Gas Improvement Company and its Subsidiary Companies* [5] clarified several important interpretative issues raised by the respondents. The Commission interpreted the portion of Section 11 (b) (1) relating to "interests in other businesses" and pointed out the specific statutory standards which holding companies must meet to retain interests in other businesses, including investment interests in utilities not subsidiaries of the holding company. The Commission also reaffirmed its earlier decision in *Columbia Gas & Electric Corporation* [6] that gas and electric utility companies cannot be considered as together constituting a "single integrated public-utility system" within the meaning of the Act. Thus a holding company must satisfy the requirements prescribed by Congress for the retention of *additional* systems if it desires to retain both an electric and gas utility system.

In a later decision in *The United Gas Improvement Company* proceeding [7] the Commission, having taken complete evidence as to the status of many of the scattered subsidiary utility properties and having given the companies concerned full opportunity to be heard, ordered the divestiture of such properties from the system. Despite the respondents' contention to the contrary, the Commission held that the statute permitted it to order such evolutionary adjustments prior to its final decision on the system or systems retainable; and that such progressive orders of divestiture resulted in the most expeditious solutions of problems arising under the Act and enabled a more orderly trial of the remaining issues with consequent savings in time and expense to the company and to the Government.

In a subsequent case, *Engineers Public Service Company and its Subsidiary Companies*,[8] the Commission's opinion settled the most important interpretative issue arising under Section 11 (b) (1). The company had contended that it was not precluded under clause (B) of Section 11 (b) (1) from having one integrated system in Virginia and States adjoining Virginia, and another in Texas and States adjoining Texas. Interpreting clause (B) in the light of its legislative history, and in the light of other provisions of the statute, the Commission concluded that additional systems are retainable under clause (B) only if they are located in the State or States in which the principal system operates or in States adjoining thereto.

[5] Holding Company Act Release No. 2692.
[6] Holding Company Act Release No. 2477.
[7] Holding Company Act Release No. 2913.
[8] Holding Company Act Release No. 2897.

The Commission further held in this case that it will require a complete disposition of all interests by a holding company in a controlled subsidiary and will not permit the holding company to retain a so-called "investment interest" through which the holding company might continue to exert influence.

**Status of Major Integration Proceedings.**

The following description of the status of the major integration proceedings instituted by the Commission indicates the extent of the progress made at the close of the fiscal year in complying with the requirements of Section 11 (b) (1).

*Electric Bond and Share Company.*—The Commission instituted Section 11 (b) (1) proceedings directed against the Electric Bond and Share system on February 28, 1940. The subsequent Section 11 (b) (2), or corporate simplification proceedings, indicated that progress in eliminating the innumerable corporate complexities of the system would facilitate securing compliance with the integration requirements of the Act. As a consequence, the integration proceeding has been held somewhat in abeyance pending progress in the corporate simplification proceedings.

During the year, National Power & Light Company, a major subholding company of the Electric Bond and Share system, filed with the Commission an application to exchange the common stock of Houston Lighting & Power Company for the outstanding preferred stock of National. This plan is advanced as a step in the prospective dissolution of National Power & Light Company, consonant with the objectives of the pending 11 (b) (2) proceeding.

*Cities Service Company* and *Cities Service Power & Light Company.*—In March 1940 the Commission instituted an integration proceeding against Cities Service Power & Light Company and its subsidiary companies. Extensive public hearings were held intermittently up to June 23, 1941, at which time the record was closed. The company has accepted the Commission's interpretation of Section 11(b) (1) (B) and is making no claim that it can retain control of more than one of its large group of properties.

On June 3, 1941 the Commission instituted a similar proceeding directed against Cities Service Company. Shortly thereafter, Cities Service Company and Cities Service Power & Light Company filed an application under Section 11 (e) covering a plan for the divestment of Cities Service interests in its principal utility holding company subsidiary. The plan calls for the organization of three regional holding companies, one owning the securities now owned by Cities Service Power & Light Company in the Rocky Mountain area, another owning the securities now owned by Cities Service Power & Light in Ohio, and a third owning the securities now owned by Cities Service Power & Light Company in midwestern and southwestern States. It is

proposed that the common stock in the three new regional corporations will be offered in exchange to holders of the preferred stocks of Cities Service Company. This plan is presently pending before the Commission for approval.

*The Commonwealth & Southern Corporation.*—The Commission instituted integration proceedings against The Commonwealth & Southern Corporation system on March 6, 1940. After the institution of the proceedings, the company requested the Commission to indicate its tentative views on the system's status under Section 11(b) (1). This request was granted and tentative views were released.

Because of the interrelationships of the geographical simplification requirements (in Section 11(b) (1)) and the corporate simplification requirements (in Section 11(b) (2)), the Commission, shortly after issuing the statement of tentative conclusions, instituted proceedings under Section 11(b) (2). In these proceedings the question was raised as to whether the holding company should not reduce itself to a single class of stock. Hearings proceeded in both cases. On June 20, 1941, the Commission, in an opinion holding that valuation testimony would not be received prior to determining whether a one-stock order should be entered, held that, under Clause (B) of Section 11(b) (1), the northern and the southern properties of The Commonwealth & Southern Corporation could not be retained in the same holding-company system. It is anticipated that after the decision on the one-stock order question, further hearings will be held and appropriate orders entered in the Section 11(b) (1) proceedings.

*Engineers Public Service Company.*—The Commission instituted integration proceedings against the Engineers Public Service system in February 1940. In response to a request by respondents for a tentative statement of the Commission's views as to the system's status under Section 11(b)(1), tentative conclusions were released by the Commission. Hearings were held and the Commission, shortly after the end of the fiscal year, issued its findings and opinion clarifying the status of the system under Section 11(b) (1).[9] The Commission determined that two subsidiaries of Engineers—Virginia Electric and Power Company and Gulf States Utilities Company—each constitute a single integrated public-utility system and that either of them may be retained by Engineers as its principal system under Section 11(b) (1). In deciding that Engineers could not retain both of these systems, the Commission made the important interpretative decision as to the scope of Clause (B) of Section 11(b) (1) which has been referred to above.

At the close of the fiscal year, the case was pending for the introduction of further evidence and resolution of the remaining issues.

[9] Holding Company Act Release No. 2897.

*The Middle West Corporation.*—The Commission instituted Section 11 (b) (1) proceedings on March 1, 1940 against The Middle West Corporation and its 49 utility subsidiaries, which operate electric facilities in 16 States and gas facilities in 12 States and 40 non-utility subsidiaries.

The integration hearings are now virtually completed. The answer filed by The Middle West Corporation in the proceedings proposed a "plan" for the retention of the system's southwestern and northern "groups" of properties and the disposition of approximately $100,000,000 of miscellaneous scattered companies. The company's claim for retention of the widely scattered southwestern and northern properties is based upon the "two-area" construction of Section 11 (b) (1) (B) which has been rejected by the Commission as an improper construction of the Act.

During the past year or more, in compliance with Section 11 (b), Middle West has taken the following steps: It has disposed of its interests in Missouri Public Service Corporation; Central Power Corporation, its subsidiary, sold substantially all of its assets to a public power district; Northwestern Public Service Company, an indirect subsidiary, sold a portion of its assets to a public power district. Middle West also has a pending application to sell its interests in Albion Gas Light Company and Michigan Gas and Electric Company.

*The North American Company.*—The Commission instituted integration proceedings against The North American Company and its subsidiaries on March 8, 1940. Extensive hearings were held, and a full record was developed as to the operating characteristics and relationships within the holding-company system. The North American Company early conceded that it was necessary for it to dispose of its interests in the District of Columbia group of properties, controlled through its subholding company, Washington Railway and Electric Company. Consequently, North American has reduced its interest in these properties by paying out in common stock dividends participating units in its holdings in Washington Railway and Electric Company. North American has also liquidated some of its holdings in its subsidiary, Detroit Edison Company, by paying common stock dividends in Detroit Edison stock. The cash conserved as a result of paying dividends in kind has been used to retire holding company debentures and to make further investments in other operating properties.

The integration hearings were closed on April 15, 1941, briefs were filed, and arguments were held before the Commission on the remaining issues in the proceeding. The case is now pending before the Commission for decision.

*Standard Power and Light Corporation* and *Standard Gas and Electric Company.*—The Commission instituted Section 11 (b) (1) proceedings in regard to Standard Power and Light Corporation, Standard Gas and Electric Company, and their subsidiaries on March 6, 1940. The answer filed by Standard Gas and Electric Company indicated that Standard Gas proposed to take certain major steps in order to comply with the integration requirements of the Act. Thereafter, conferences were held between representatives of the company and the staff of the Commission in which the proposals of Standard Gas were thoroughly discussed. After these discussions, the Commission was advised by Standard Gas that it proposed to dispose of all of its interests except the common stock of Philadelphia Company, which operates in and around Pittsburgh, Pennsylvania.

Shortly thereafter, hearings were held on the issues of the case as framed by the Commission's Notice of and Order for Hearing and the Respondents' answer. In accordance with the position taken by the company, the Commisson, shortly after the close of the fiscal year, ordered Standard Gas and Electric Company to dispose of all of its utility properties, with the exception of Philadelphia Company and its subsidiaries. The Commission concluded that the properties of Duquesne Light Company, a subsidiary of Philadelphia Company, constituted an integrated public-utility system within the meaning of Section 2 (a) (29) (A), but the Commission made no finding as to the gas properties of Philadelphia Company and its subsidiaries and as to the Philadelphia Company's non-utility interests.[10] These matters are reserved for future hearings and decision.

*The United Gas Improvement Company.*—The United Gas Improvement Company controls approximately 38 utility subsidiaries which operate electric facilities in 10 States, gas facilities in 5 States, and approximately 41 non-utility subsidiaries.

The Commission instituted integration proceedings against The United Gas Improvement Company and its subsidiaries on March 4, 1940. Subsequently, the respondents requested the Commission to furnish them its tentative conclusions as to the system's status under Section 11 (b) (1). The Commission granted the request, and on June 18, 1941 issued its statement of tentative conclusions.

Following a tentative conclusion by the Commission that The United Gas Improvement Company could not retain its interests in the Connecticut Light and Power Company under the integration standards of the Act, The United Gas Improvement Company sold its stock holdings in the Connecticut Company in a successful offering to the public. Connecticut Light and Power Company, with consolidated book assets of $118,916,972, constituted U. G. I.'s largest acknowledged subsidiary outside of the Pennsylvania area.

[10] Holding Company Act Release No. 2929.

On April 15, 1941, the Commission entered an order requiring that U. G. I. divest itself of certain scattered utility interests which it was found, on the basis of the record made, did not meet the standards of Section 11 (b) (1).[11] Thereafter, in response to a petition for rehearing filed by the company, the Commission suspended the effectiveness of the order requiring divestment. Additional evidence was introduced, additional briefs were filed, and further argument was held. The matter is presently pending before the Commission for decision.[12]

There is presently pending before the Commission for decision the question of whether The United Gas Improvement Company may retain its interests in the electric utility assets of Luzerne County Gas & Electric Corporation and the transportation assets of Connecticut Railway and Lighting Company. Further hearings will be held to obtain evidence as to the status of other outlying properties and investments.

*The United Light and Power Company.*—The Commission instituted integration proceedings directed against The United Light and Power Company system on March 8, 1940. Subsequent thereto, The United Light and Power Company and its subsidiaries requested that they be furnished with the Commission's tentative views with respect to what action the Commission tentatively believed would be required by Section 11 (b) (1) of the Act. On the basis of further examination of the problems of this holding-company system, the Commission concluded that achievement of the objectives of Section 11 would best be promoted by the taking of concurrent action under Section 11 (b) (2) requiring corporate simplification of holding companies. Such proceedings were therefore instituted, as a result of which an order was entered on March 20, 1941, directing the dissolution of The United Light and Power Company, the top holding company of the system, and the dissolution of United American Company, an intermediate holding company.

Subsequently, during June 1941 the Commission issued its tentative conclusions under Section 11 (b) (1) and consolidated the proceedings under Sections 11 (b) (1) and 11 (b) (2). After opportunity for hearing, a final order was issued under Section 11 (b) (1), directing the elimination from the holding-company system of a very substantial portion of its properties, including those operating in Michigan, Wisconsin, Ohio, West Virginia, and Texas. This order was based primarily on the applicability of Clause (B) of Section 11 (b) (1) to the entire system. The far-flung operations of the system could not, of course, be held to comply with the geographical limitations composed

[11] Holding Company Act Release No. 2692.

[12] On July 31, 1941, the Commission issued an order directing The United Gas Improvement Co. to dispose of its interests in outlying ice, cold storage, water, and certain inactive companies located in Arizona, Kansas, Kentucky, Missouri, Oklahoma, and Texas (Holding Company Act Release No. 2913).

by Congress under that clause and the order therefore required extensive dispositions of outlying properties of the top holding and subholding companies. The Commission also reaffirmed earlier opinions to the effect that a holding company must dispose of its "investment interests" in non-controlled public-utility companies where such interests are not reasonably incidental or economically necessary or appropriate to the operations of the system's integrated public-utility systems. Jurisdiction was reserved to determine issues remaining under Sections 11 (b) (1) and 11 (b) (2), among which questions are whether remaining properties can be kept under the provisions of (A) and (C) of Section 11 (b) (1).

**Section 11 (b) (2)—Corporate Simplification.**

*The United Light and Power Company* [13] involved a system containing 5 tiers of companies. It included 8 companies which were holding companies as defined in the Act and, in addition, had 23 operating subsidiaries rendering electric and gas service in 14 different States. One of the first problems as to compliance with Section 11 (b) (2) which the Commission considered was that of bringing the system into compliance with the "great-grandfather clause" which imposes a requirement limiting holding-company systems to not more than three tiers of companies, i. e., a holding company may not be the "parent" of a holding company which in turn is "parent" of another holding company. The Commission's order in this case directed the dissolution of two of the companies in The United Light and Power Company holding-company system. The two companies ordered dissolved were The United Light and Power Company, the top holding company, and United American Company, an intermediate holding company having no publicly-held securities. The selection of these two companies as the ones to be eliminated was based in part upon the fact that the degree of complexity as affecting particular classes of securities was the greatest at the top of the pyramid of holding companies involved, and in part upon the fact that the respondents themselves suggested a method, apparently in general accord with the statutory standards, which would bring about compliance with the statutory requirement by means of dissolving the top holding company. The Commission's order reserved jurisdiction to consider the taking of such further steps as might be appropriate to effect compliance with the corporate simplification requirements of the Act as applied to this holding-company system.

Subsequently, the proceedings were consolidated with others already pending under Section 11 (b) (1), which deals with geographical limitation of systems, and the issue was raised, among

[13] Holding Company Act Release No. 2923.

others, as to whether the holding-company system should eliminate all but a single holding company.[14]

An earlier proceeding, involving the corporate structure of *The United Illuminating Company*, resulted in the elimination of certain holding companies from the super-structure of that system. The United Illuminating Trust and the Illuminating Shares Company held the controlling stock of The United Illuminating Company. This voting trust had been created in 1930 for the purpose of retaining local control of the holding company. The Commission approved a plan providing for the termination of the trust and the return of the shares of The United Illuminating Company to their beneficial owners.[15]

During the year, proceedings were instituted against *General Gas & Electric Corporation* under Section 11 (b) (2).[16] This corporation is a holding company in the Associated Gas and Electric Corporation system and, either directly or indirectly through certain subholding companies, controls various utility properties scattered from Delaware to Florida. Shortly after the Commission's proceedings were instituted, the company filed a plan providing for various exchanges of stock and contemplating the subordination by Associated Gas and Electric Corporation of certain securities.

While these proceedings were pending the Commission entered an order approving one phase of the plan, the elimination of Southeastern Electric and Gas Company, a subholding company, by merger of that company into General Gas & Electric Corporation. The Commission's opinion [17] did not discuss the "great-grandfather clause" nor did it consider any problems presented under Section 10. The opinion held, however, that the Southeastern Electric and Gas Company performed no useful functions, required expenses of approximately $10,000 per year, and might therefore appropriately be dissolved. Jurisdiction was reserved over various phases of the transaction, including accounting entries and the validity of open accounts and certain other obligations payable to the parent company, Associated Gas and Electric Corporation.

The elimination of companies to comply with Section 11(b) (2) is also involved in pending proceedings involving *The United Corporation*. That company is a holding company which has as direct subsidiaries The United Gas Improvement Company, Columbia Gas & Electric Corporation, Niagara Hudson Power Corporation, and Public Service Corporation of New Jersey. These, in turn, are all hold-

[14] While action with respect to the physical limitation of the holding-company system was taken shortly after the close of the fiscal year (*The United Light and Power Company*, Holding Company Act Release No. 2923), hearings have not been completed on the question of whether the holding-company system should be reduced to a single holding company.

[15] *The United Illuminating Company*, Holding Company Act Release No. 2245.

[16] Holding Company Act Release No. 2543.

[17] Holding Company Act Release No. 2757.

ing companies, some of which have subsidiaries which are holding companies. In March 1941, The United Corporation filed a plan under Section 11(e) which contemplated the gradual reduction of its utility holdings and, pending such reduction, the sterilization of voting rights, the discontinuance of interlocking directorships, and the termination of participation by the parent in transactions with its subsidiary companies. In order that consideration of the company's plan be accompanied by appropriate consideration of all relevant standards of Section 11(b) (2), the Commission, in setting the plan down for hearing, instituted proceedings under Section 11 (b) (2). [18] One of the principal matters raised for consideration under this section was as to the appropriate action to be taken to eliminate holding-company relationships so as to comply with the "great-grandfather clause."

Proceedings under Section 11(b)(2) were instituted against *International Hydro-Electric System* shortly before the beginning of the past fiscal year.[19] This system is a Massachusetts trust whose ownership of securities is limited to equities in certain other holding companies, among which are the New England Power Association and the Hudson River Power Corporation. Several of the subsidiaries of the New England Power Association in turn are holding companies.

When the proceedings were instituted, International Hydro-Electric System had outstanding large amounts of debentures, preferred stock, Class A stock, Class B stock, and common stock. All of the Class B and common stocks were owned by certain trustees, who held as trustees for the benefit of International Paper and Power Company and International Paper Company. On January 17, 1941 the Commission issued findings and an order pursuant to Section 11(b) (2).[20] The Commission found that the common and Class B stocks had no value and directed the trustees owning such stocks to cancel them. In response to a request that such stocks be permitted to be sold at public auction, the Commission held that such a sale would not be in the public interest since such securities definitely had no value. On June 16, 1941 the trustees turned in their Class B and common stocks for cancellation, thereby complying with the Commission's order.[21]

In proceedings involving *Northern New England Company* and its subsidiary holding company, *New England Public Service Company*, the Commission on May 2, 1941 entered an order directing recapitali-

[18] Holding Company Act Release No 2907.

[19] Holding Company Act Release No. 2122.

[20] Holding Company Act Release No. 2494

[21] Subsequent to the order of January 17, 1941, further proceedings have been had with respect to the International Hydro-Electric System. A voluntary one-stock plan for Massachusetts Power and Light Associates, a subholding company, was filed; because of inability to obtain consents, this plan was later withdrawn. Proceedings meanwhile have continued under Section 11(b) (2).

zation on a one-stock basis.[22] The order permitted as an alternative the liquidation of the company. This order was entered before the completion of valuation evidence and the Commission made no finding that the junior securities were without value, but concluded that a single class of stock was the only appropriate capitalization for this holding company in view of the unstable earnings record, the substantial debt and preferred stock of its utility subsidiaries, and the speculative character of other assets.

In Federal Water Service Corporation,[23] the company had outstanding debentures, four series of preferred stock, and Class A and B stocks. In addition, there were substantial arrears of dividends on the preferred stock as well as on the Class A stock, which had priority as to assets and earnings over the Class B stock. The capital of the company had been impaired to a substantial extent and under the State law current earnings could not be used to pay dividends until this impairment was eliminated. The plan presented by the management contemplated a statutory merger of the company with a parent company and wholly-owned subsidiary in accordance with State law, leaving the debentures undisturbed, but proposed to substitute a single class of par value common stock for the present shares, 95 percent of which was to be allocated among holders of the various series of preferred on the basis of their respective dividend preferences, and the remaining 5 percent to be distributed to holders of the Class A stock. No provision was made for the B stock.

The Commission unanimously held that although the company was not relying upon the machinery of Section 11 (e) for the effectuation of the plan, it was, nevertheless, to be considered in the light of the standards imposed by the Act for plans presented under Section 11 (e), namely, that it must be "fair and equitable to the persons affected."[24] The Commission was also in agreement that the Class B stock, which had no reasonable probability of receiving anything from the company under its existing capitalization, should not be permitted to participate in any manner in the plan. It therefore disapproved of a provision in the plan for a staggered board of directors designed to continue in control in management to some degree identified in interest with the Class B stock. A difference of opinion

[22] *Northern New England Company et al.*, Holding Company Act Release No 2737.

[23] Holding Company Act Release No. 2635.

[24] The majority opinion pointed out that the language of Section 7 (d) (6), which requires consideration of the question whether "the terms and conditions of the issue or sale of the security are detrimental to the interest of investors," while not identical with the standard of "fair and equitable" contained in Section 11 (e), means substantially the same thing in a situation where it is apparent that reorganization is necessary to comply with Section 11 (b) (2) of the Act and the plan before the Commission is evidently designed to effect compliance therewith. Commissioner Healy expressed the view that the designation by the applicant of the sections of the Act relied upon was inconclusive. He pointed out that the applicant was presenting a plan of the type described in Section 11 (e) of the Act; that is, for "action * * * for the purpose of enabling such company or any subsidiary company thereof to comply with the provisions of subsection (b)." Accordingly, he concluded that it must be appraised in the light of the standards which Congress had prescribed for such plans, i. e., the "fair and equitable" standard.

was expressed, however, with respect to the continuing interest of the Class A stockholders under the plan by reason of the allocation to them of new common stock.

Both the majority and dissenting opinions considered the application of the recent decision of the Supreme Court in the Los Angeles Lumber and Consolidated Rock cases,[25] which had held that the "fair and equitable" standard prescribed by Congress as applicable to plans of reorganization under Section 77B or Chapter X of the Bankruptcy Act, had the same meaning as had been developed in connection with that phrase in the equity receivership cases, and that that standard requires full recognition of liquidation priorities. Section 11 (e) also expressly prescribes the "fair and equitable" standard as applied to plans for compliance with Section 11 (b) of the Act, but the majority of the Commission held that this standard does not have the same application in the setting of a plan to comply with Section 11 where, as contrasted with the typical equity receivership or bankruptcy organization, liquidation of the company is not the alternative to reorganization. The majority concluded that on the basis of the pre-reorganization capitalization, the Class A stockholders of Federal had a reasonable, though remote, expectation of participating in future earnings and that, on this basis, it was "fair and equitable" to give them a continuing interest in the corporation in the comparatively small amount provided in the plan. It recognized, however, that the earnings prospects for Federal were not such as to warrant the finding of a present value for its properties equal to the full amount of the prior claims of the preferred stockholders on a liquidation basis.

Commissioner Healy dissented on the ground that, since a reorganization was legally compulsory under Section 11 (b) (2), rights to participate should be determined in the light of the respective contract rights to priority in the event of liquidation. On the basis of this reasoning and of his analysis of the facts, he concluded that any allocation to the Class A stock would be unfair. The same analysis led to a disapproval of the treatment of the various series of preferred stockholders, since the allocation was based on the relative dividend preferences and did not take into account their respective rights to priority on liquidation.

Another aspect of the decision, on which there was no difference of opinion, limited to cost the participation accorded to securities purchased by the management while the reorganization proceeding was pending before the Commission. Since the close of the fiscal year an appeal has been taken by those whose participation was so limited.

[25] *Case* v. *Los Angeles Lumber Products Co., Ltd.*, 308 U. S. 106 (1939); *Consolidated Rock Products Co.* v. *DuBois*, 61 S. C. 675 (1941).

Proceedings under Section 11 (b) (2) were instituted against *The Commonwealth & Southern Corporation*,[26] which company is a large holding company owning the equities of various operating companies. The order instituting the proceedings required the company to show cause why it should not reduce itself to a single class of stock.

On the basis of a showing as to the underlying facts concerning the holding-company system, the Commission held that expert evidence as to valuation of the company's assets was immaterial and that such evidence would not be permitted on the issue of whether a one-stock structure was the appropriate structure for this company.[27] One of the factors considered by the Commission in its opinion was the company's status under Section 11 (b) (1). The Commission indicated that a one-stock capital structure might be particularly appropriate or even necessary where, as it appeared here, the company must dispose of substantial amounts of assets in order to comply with that section. After this ruling the hearing proceeded on the issue of whether a one-stock order should be entered. At the close of the fiscal year, the matter was pending.

A number of pending proceedings under Section 11 (b) (2) involve the issue of possible subordination of the debt claims of a parent holding company against its subsidiary to the rights of the public holders of the securities of the subsidiary. These cases are discussed in a subsequent section of this report, entitled "Protection of the Financial Integrity of Utility Companies." [28]

Tables 43 to 45 of Appendix II, pages 308–309, indicate the number of applications under Sections 11 (e), 11 (f), 11 (g), and 12 (e), relating to plans for the simplification and reorganization of registered holding companies or their subsidiaries, and applications under Section 11 (f) and Rule U-11F–2, relating to fees and expenses, received and disposed of during the past fiscal year.

## PUBLIC UTILITY FINANCING

**Statistics.**

During the fiscal year ended June 30, 1941, 125 applications or declarations filed by registered public-utility holding companies and their subsidiaries were declared effective pursuant to Sections 6 and 7. These effective filings aggregated $1,065,893,281 in principal amount, compared with $1,002,051,051 for the preceding year. This brought the total of new securities issued since the effective date of the Act, December 1, 1935, to $3,951,825,783. Sixty-five filings were pending at the end of the fiscal year.

The following table indicates the number of applications and declarations under Sections 6 and 7, relating to issues of securities, received and disposed of during the year ended June 30, 1941:

[26] Holding Company Act Release No. 2679.

[27] *The Commonwealth & Southern Corporation*, Holding Company Act Release No. 2631.

[28] Page 102, *infra*.

*Applications and declarations under Sections 6 and 7*

| | Number pending June 30, 1940 | Number filed | Number approved | Number withdrawn or dismissed | Number denied | Number pending at close of fiscal year |
|---|---|---|---|---|---|---|
| To June 30, 1940 | | 533 | 420 | 54 | 2 | 57 |
| Filings for the fiscal year ended June 30, 1941: | | | | | | |
| Section 7 issues | 24 | [a] 99 | 63 | 20 | 1 | 39 |
| Section 7 assumptions of liability | 4 | 11 | 8 | 2 | 1 | 4 |
| Section 7 alteration of rights | 8 | 25 | 24 | 5 | 0 | 4 |
| Section 6 (b) issues | 20 | 63 | 62 | 2 | 2 | 17 |
| Section 6 (b) assumptions of liability | 1 | 2 | 1 | 1 | 0 | 1 |
| Total for fiscal year | 57 | [a] 200 | 158 | 30 | 4 | 65 |
| Grand total | | 733 | 578 | 84 | 6 | |

[a] Three reopened.

The past fiscal year's effective filings, some of which covered more than one security issue, consisted of the following:

*Effective applications and declarations under Sections 6 and 7—By type of issue*

| Type of issue | Number of issues | Amount | Percent |
|---|---|---|---|
| Mortgage bonds | 55 | $629, 860, 423 | 59.1 |
| Debenture bonds | 3 | 12, 700, 000 | 1.2 |
| Notes | 48 | 104, 093, 457 | 9.7 |
| Preferred stock issues | 19 | 178, 806, 100 | 16.8 |
| Common stock issues | 43 | 140, 433, 301 | 13.2 |
| Total | 168 | 1, 065, 893, 281 | 100.0 |

These securities, in the amounts indicated, were issued for the following purposes:

*Effective applications and declarations under Sections 6 and 7—By purpose of issue*

| Purpose | Amount | Percent |
|---|---|---|
| Refunding | $853, 432, 439 | 80 1 |
| Reorganization | 200, 000 | |
| Exchanged for other securities | 115, 140. 070 | 10 8 |
| Acquisition of property | 6, 352. 000 | .6 |
| Miscellaneous | 19, 025, 242 | 1.8 |
| New financing | 71, 743, 530 | 6.7 |
| Total | 1, 065, 893, 281 | 100. 0 |

It was proposed to market or dispose of these securities in the following manner:

*Effective applications and declarations under Sections 6 and 7—By method of disposal of issue*

| Method | Amount | Percent |
|---|---|---|
| By underwriters | $537, 005, 093 | 50.4 |
| By private placement | 316. 637, 982 | 29.7 |
| To parent or affiliates | 79, 933, 034 | 7.5 |
| Through other channels | 132, 267, 172 | 12.4 |
| Total | 1, 065, 893, 281 | 100.0 |

**Standards of the Act.**

Before securities of registered public-utility holding companies or their subsidiaries can be issued they must meet the standards of Section 7 or be exempted pursuant to Section 6(b).[29] The Commission, through formal orders with conditions attached or through informal conferences, which the companies frequently request, has continued to strengthen the terms of the issue to the point where investors and consumers receive the protection intended by the Act. In these meetings, sometimes extending over a considerable length of time, the weak points of the issuer and its securities are carefully canvassed and adequate safeguards agreed upon. Changes, such as increased maintenance and depreciation charges, restrictions on dividends, greater voting rights, limitations as to the future issuance of securities having a preference over the proposed issue, elimination of conflicts of interests of indenture trustees, restatement of certain accounting items, and similar matters, are frequently made. It should be noted that the statute and the precedents set by the Commission in earlier cases have greatly changed the type and character of the financing plans now being filed with the Commission.

From November 1, 1935, to June 30, 1941, the Commission has granted 186 applications for exemption under Section 6 (b). It has been the Commission's policy to review a Section 6 (b) application with the same care as a declaration under Section 7. Bond indentures and preferred stock contracts of exempted securities must meet the same standards, with respect to protective covenants, as securities issued under Section 7. The significant difference between the power which the Commission has exercised under the two sections is that in Section 6 (b) cases the Commission has never imposed conditions preventing the issuance of securities in the amount and type approved by the State Commission.

When, however, it appears that a proposed debt issue in a Section 6 (b) case is excessive or that there is an insufficient equity "cushion" under the senior securities, including preferred stock issues, it is the Commission's policy to impose conditions which will improve the company's financial structure. Among the conditions imposed which related to matters other than fees and commissions there were the following general types:

(a) No dividend shall be paid on common stock or in excess of a specified amount without Commission approval.

(b) No dividend shall be paid on common stock if common stock and surplus fall below a stated minimum.

(c) No dividend shall be paid on common stock except out of earned surplus accumulated after a specified date.

[29] For a distinction between the Commission's powers under these two sections, see concurring opinion of Commissioner Healy, *West Penn Power Company*, 7 SEC 69, 90. See also *Dayton Power and Light Company*, 6 SEC 787.

(d) No dividend shall be paid on common stock unless earned surplus after such dividend declaration is equal to or greater than a fixed sum plus a specified annual amount.

(e) No dividend shall be paid on common stock and no common stock shall be repurchased unless a stipulated amount has been set aside for depreciation and maintenance or any deficiency therein has been frozen in the surplus account.

(f) Reduction or prohibition of the payment of interest or principal on system advances; reduction of the amount of fees and commissions to be paid in connection with the financing.

**Utility Bond Issues under Section 7.**

In passing upon applications and declarations to issue securities, close scrutiny is given to the ratio of bonds, or of bonds and preferred stock, to total capitalization and to net tangible property, and to the relation between "earning power" and fixed charges and preferred dividend requirements. In no case has the Commission permitted the issuance of fixed interest-bearing obligations when it has felt that fixed charges are inadequately covered.

In cases where it appeared that a declaration for the issuance of securities would result in an excessive amount of funded debt the Commission, until recently,[30] was inclined to make a distinction between refunding and new money issues.

In the El Paso case, decided February 4, 1941, the Commission took occasion to reverse its previously indicated policy with respect to refunding issues as contrasted with new money issues in the following words:

"In order that future applicants presenting declarations for refunding of outstanding senior securities may be fully forewarned of the problem and be prepared to meet it we take this occasion to announce our future general policy as follows: A refunding of outstanding senior securities where the issuer has a high ratio of debt to net property or where the security issue does not fully meet the standards of Section 7 (d) will not be permitted effectiveness *merely* because it is a refunding. Such effectiveness will be permitted only where it appears that the circumstances are so unusual and extraordinary as to justify a departure from the general policy announced. Even in such cases the applicants should else be prepared to have included in their refunding operations measures definitely providing for a reduction of the ratio of debt to net property and of debt to total capitalization to a reasonable level."

The Commission deemed the matter of such importance that it attached to its opinion in the *El Paso* case an appendix giving comprehensive reasons for its changed policy. Referring to its former policy, the Commission said:

"Several opinions of the Commission and of individual Commissioners have in the past stated that our policy was to apply the standards of Section 7 (d) less

[30] See appendix to the El Paso opinion, Holding Company Act Release No. 2535. See especially concurring opinion of Chairman Frank in the *Southwestern Gas and Electric Company* case, 6 SEC 822.

strictly to refunding issues than to issues for new money. While such statements have been largely predicated on special circumstances appearing in the cases wherein the statements were made, it is apparent that reliance has been placed upon them as authority for the general proposition stated."

It was pointed out that, although Section 7 (c) (2) (A) of the Act provides for flexibility as to the *type* of securities which may be issued in refunding cases, no such differentiation or exemption is provided with respect to the application of the standards of Section 7 (d).

The Commission originally made this distinction on the assumption that

"any improvement of a bad financial structure is necessarily a step in the right direction, and that the issuer should be permitted to take steps in the right direction, even though his proposals stop short of the point where the resultant financial structure is consistent with sound finance and the objectives of the Act. Most of the refunding issues which have come before the Commission have involved proposals to take advantage of declining interest rates and to substitute low coupon bonds for those originally issued at a higher rate. Interest savings have been substantial, and consequently there have been such improvements in the ratio of earnings to fixed charges as to present a better picture with respect to the new bonds being 'reasonably adapted to the earning power of the declarant.' In addition, indentures have been modernized, possible conflicts of interest affecting indenture trustees have been eliminated, and similar improvements made in miscellaneous terms and conditions of the securities. Without attempting to minimize the extent of the improvements in the financial condition of the issuer and the protection for investors which may have resulted, it is, nevertheless, the Commission's conclusion that it may have frequently fallen short of giving full effect to the intention of Congress, to the extent that it has permitted refundings without requiring them to fully measure up to the standards of Section 7 (d).

"Aside from the statutory provisions, the wisdom of identical treatment of new money issues and refunding issues is indicated also from the practical point of view. Where corporate debt is excessive and the refunding is accomplished through the sale of new long term obligations, the issuer perpetuates the two attendant major perils—the necessity of paying it off at some date in the future, and the necessity of meeting fixed charges in the meantime."

It should be emphasized that the El Paso decision stated a general ideal or objective, that refunding issues which fail to meet the standards of Section 7 (d) will not be approved *merely* because they are refundings.

A recent interesting case which illustrates the work of the Commission with respect to improving the financial structure of companies issuing securities is that which involved the refinancing of *The Commonwealth & Southern Corporation* and its subsidiary, *Georgia Power Company*.[31] Originally, the parent company, which held $34,000,000 of 5 percent bonds of its subsidiary, planned to resell them to insurance companies along with $17,000,000 2⅛ percent 10-year installment notes to 5 New York banks to retire its outstanding funded debt amounting to nearly $52,000,000. In discussions, it was pointed out

[31] Holding Company Act Release No. 2586.

to the management that the sale of these bonds would have the effect of freezing the outstanding bonded debt of the subsidiary at approximately $125,000,000 which, in the staff's opinion, was greatly in excess of the amount which could safely be supported by its assets. After further discussion, the management decided to proceed immediately with the refunding of the $125,000,000 of Georgia Power Company bonds. This refunding was consummated by a private sale to 27 insurance companies of $101,000,000 of 3½ percent mortgage bonds, together with $13,500,000 of 2½ percent 8-year installment notes sold to banks.

Before declaring the application effective, the Commission discussed with the Georgia Power Company the desirability of making a thoroughgoing readjustment of its accounts. As a result, among other things, the operating company eliminated write-ups in its property account aggregating over $32,000,000; restated its preferred stock at its liquidating value of $100 per share (its stated value averaged $86); increased its depreciation reserve by $13,000,000; reduced the stated value of its common stock from $35 to $22 per share; charged unamortized debt discount and expense of $5,000,000, attributable to the refunded bonds, against earned surplus; and consented to a condition restricting dividends to earnings accumulated subsequent to December 31, 1940.

On a *pro forma* basis, funded debt amounted to 53 percent, preferred stock 21 percent, and common stock equity 26 percent, respectively, of total capitalization. The total of the new bonds and notes represented 53 percent of the utility's net property after the write-downs referred to above, but without adjustment for estimated remaining intangibles. The Commission noted that the *pro forma* property account was still substantially in excess of original cost of its utility plant, which was being reclassified in accordance with the uniform system of accounts of the Federal Power Commission. Depreciation accounting, however, had superseded retirement accounting and the provisions for this expense had shown considerable improvement during the last 4 years. The Commission declared that the sinking fund provisions of the bonds and the retirement of the installment notes would rapidly improve the capital structure of the company. It was noted that there had been a marked upward trend in earnings and that the total fixed charges and preferred stock dividend requirements were earned on a *pro forma* basis 1.60 times.

The parent company made a capital contribution to the subsidiary totaling $18,500,000, which consisted of $14,337,319 of its portfolio bonds and all of its holdings of preferred stock which cost $4,162,681. The Commonwealth & Southern Corporation then eliminated its own funded debt amounting to $51,857,500. The funds for this purpose were obtained as follows: from the corporation's cash account

($16,500,000), in payment of the remaining Georgia Power Co. bonds in its portfolio ($18,493,122) and from the proceeds of an issue of 10-year installment notes ($17,000,000). It was found that the *pro forma* debt of the parent company was reasonable in proportion to its total assets and that the fixed charges were amply covered. It was also found that the issuance of the short-term notes would not be a hindrance to compliance with Section 11. The transactions covered by these applications were beneficial and constructive to The Commonwealth & Southern Corporation, as well as to the Georgia Power Company.

In June 1941, the Commission authorized the *Philadelphia Company*, a registered holding company and a subsidiary of *Standard Gas and Electric Co.*, to issue $48,000,000 collateral trust bonds, $12,000,000 collateral trust serial notes (due 1942–1952), and not to exceed 413,794 shares of common stock (to be sold to its parent at $7.25 per share), for the purpose of refunding outstanding bonds amounting to $60,000,000 at a call premium of $3,000,000. Philadelphia Company's principal investment is in the common stock of *Duquesne Light Company* and the *Pittsburgh Railways Company*, which is in the process of reorganization under Section 77B.

In 1939, anticipating the necessity of creating a reserve to absorb the depreciation of its investment in the Railways Company, Philadelphia Company applied for approval of a reduction in the stated value of its common stock and the creation of a revaluation reserve amounting to $23,000,000. The Commission granted the application although it expressed "doubts of the adequacy of the revaluation reserve." [32]

In its opinion [33] on the refunding program, the Commission noted that the transactions "are not without their difficulties" for "in relation to the book values of the properties of the system, with adjustment for write-ups and deficiencies of depreciation reserves, as well as unrealized depreciation in the Railways, the debt initially is higher than we should like to see it." In approving the transactions [34] the Commission noted, however, that the provisions for debt retirement and for increasing the amortization reserve were quite drastic and gave evidence of a "bona fide endeavor to rectify a top-heavy structure as rapidly as circumstances permit."

On October 2, 1940, Northeastern Water and Electric Corporation, [35] a registered holding company and an indirect subsidiary of *Associated Gas and Electric Corporation* in bankruptcy proceedings, filed an application to purchase *Union Water Service Company*. The company declared that it regarded the acquisition of the Union properties as an

[32] 6 SEC 752. See Sixth Annual Report, pp. 32 and 33.
[33] Holding Company Act Release No. 2816.
[34] Commissioner Healy dissented without opinion.
[35] Holding Company Act Release No. 2314.

anticipatory investment of the proceeds of the sale of certain electric properties in Ohio. The applicant further stated that it was engaged in negotiations looking toward the complete severance of *Northeastern* from the *Associated* system.

The consolidated *pro forma* balance sheet showed that funded debt and minority interest represented 41 percent of the total capitalization, while preferred stocks represented another 46 percent, and the common stock the balance. Furthermore, senior securities (debt and preferred stock) represented 86 percent of the net book fixed capital. When write-ups were eliminated these securities represented 113 percent of the net fixed capital. When, however, preferred stock investments in nonsubsidiaries were added to the adjusted property account, the common stock equity appeared to be 7.50 percent.

In reviewing the declaration in the light of the standards of Section 7 (d), the Commission noted that Northeastern was one of a tier of four holding companies and that control was exercised through a disproportionately small investment in the common stock. Earlier assurances that Northeastern would promptly liquidate its electric properties had not been fulfilled. The Commission found that, on a corporate basis, prospective earnings of the company would not be adequate to pay interest charges, sinking fund requirements, and preferred stock dividend requirements during the next 3 years. The Commission also noted that the preferred stock of Northeastern represented the investment made by bondholders in a predecessor company which was reorganized less than 6 years before. In approving the declaration, however, the Commission pointed out that there were off-setting factors: (1) the issuance of common stock at this time was precluded by the complexity in the financial structure of the corporation; (2) even if Northeastern is not able to obtain cash from the sale of its Ohio properties during the next 3 years, nevertheless, its anticipated earnings on the corporate basis would suffice to pay the interest and liquidate the principal of the note and to make possible the payment of full dividends on the preferred stock for 2 of the 3 years and a portion of the third—provided that no dividends are paid on the common stock.

The Commission permitted the declaration to become effective only upon condition that no common stock dividends be paid until the retirement of the note and that the declarant file a stipulation that, if the electric properties were not disposed of within 6 months, the company will consent to the entry of an order by the Commission pursuant to Section 11(b) (1) requiring their disposition.

In replying to argument of counsel that the condition restricting the payment of dividends constituted "an unwarranted intrusion on managerial discretion", the Commission stated that the Public Utility

Holding Company Act of 1935 was intended to restrict transactions proposed by management which did not meet the prescribed standards, and that the Commission was bound to carry out the mandate of the statute. The Commission's "statutory powers and duties under Sections 7 and 10 * * * are in no way diminished by the fact that Northeastern is controlled by the *Associated* trustees who, in turn, are subject to the supervision of the Bankruptcy Court." This was admitted by counsel for the trustees of the insolvent parent. As a reply to the contention of counsel, the Commission set forth, at length in an appendix, some of the reasons which prompted Congress to enact the statute.

**Debt Retirement Policies.**

As a remedial measure designed to conform top-heavy corporate structures to statutory standards where the ratio of debt to net property is excessive, the Commission has frequently required issuers to follow some systematic debt reduction plan. Several methods of providing for gradual debt reduction have been utilized. In some instances, conditions have been attached requiring that the interest savings from refunding or a certain amount of net earnings be reserved to redeem outstanding debt. In other instances, the Commission has required the inclusion of sinking fund provisions whereby the issuer agrees to devote annually a stated amount to retirement of bonds or to property additions. In still other instances, the objective of debt reduction has been achieved by means of serial financing.

The Commission has referred to the need of debt amortization as follows:

"Too many utilities regard their debt as perpetual and make no adequate provision for its ultimate liquidation.[36] There appears to be an abiding faith in the permanency of existing generating and transmission facilities, although it is well known that rapid scientific progress might change the methods of the power industry overnight. A similar optimism once prevailed in the street railway industry: 'As late as 1921 an investment banker wrote—"Sinking funds are found in some of the earlier street railway mortgages, but the present tendency is to omit them, on the theory that a street railway is permanent property and not of a wasting character where sinking funds are essential to reduce the debt as the assets are diminished." ' " [37]

**Equity Financing.**

As a corrective measure, the Commission is becoming more insistent that, wherever possible, more common stock financing be done to

[36] In this connection it is noteworthy that as a result of numerous recent refundings, it is estimated that some $3,656,200,000 of debt (or well over one-half of the total fixed debt of the utility industry) falls due in the decade from 1961 to 1970. Moreover, it is estimated that $2,543,500,000 of funded debt (or almost 40 percent of the total) falls due in the five years from 1965 to 1969. Experts have suggested that this may constitute an undue concentration of maturities and a possible future source of trouble to the utility industry. 21 *Savings Bank Journal* (May, 1940) 40.

[37] Appendix, *El Paso Electric Co.*, Holding Company Act Release No. 2535.

improve the capital structure of those companies which have a high ratio of bonds to (a) "capitalization" and (b) net property, adjusted for write-ups. All too frequently holding companies and their subsidiaries have been so overburdened with senior securities that they are unable to sell common stock to the public without a thoroughgoing recapitalization.[38]

In a number of instances, however, the Commission, in passing upon declarations before it, has required companies to take action to increase the ratio of equity to senior securities.[39]

One method of increasing common stock equity has been to require the conversion of open accounts, bonds, or preferred stock held by the parent company into common stock of its subsidiary.[40] When the *Appalachian Electric Power Company* [41] refinanced its bonds and preferred stock, its parent, *American Gas and Electric Company*, made a $30,670,000 capital contribution to its subsidiary. This was accomplished by converting an open-account advance and preferred stock into capital surplus, with the further provision that $22,500,000 of that amount would be placed in an appropriate reserve account to be available for possible adjustments to fixed capital accounts and the depreciation reserve account. The principles of the *Deep Rock* case [42] established by the Supreme Court of the United States have given considerable impetus to the conversion of senior security holdings into common stock. This case is discussed at p. 105 of this report.

A number of holding companies have increased their equity investments in their subsidiaries either by outright cash contributions or the purchase of additional common stock. Although the aggregate amount has not been large, there has been a substantial increase in the number of such instances since June 30, 1940.[43]

**Mortgage Indenture.**

Since the mortgage indenture is one of the principal instruments of utility finance, the Commission has long desired to secure a greater degree of uniformity and simplicity in its covenants. To that end the Commission is now making a study of the provisions of a large number of existing utility mortgage indentures.

Wherever possible the Commission has sought to limit funded debt to 50 percent of the net fixed assets. In passing upon this relationship

[38] See, for example, the conclusion in report of Public Utilities Division entitled "Dividend Status of Preferred Stocks of Registered Public Utility Holding Companies and Their Electric and Gas Utility Subsidiaries as of December 31, 1938."

[39] See appendix, *El Paso Electric Company*, Holding Company Act Release No. 2535.

[40] See *Public Service Co. of Colorado*, 5 SEC 788; *Gulf Public Service Company*, Holding Company Act Release No. 2253; *East Tennessee Light & Power Co*, Holding Company Act Release No. 2344. See also *Georgia Power Company* financing, p. 93, *supra*.

[41] Holding Company Act Release No. 2430.

[42] *Taylor* v. *Standard Gas and Electric Company*, 306 U. S. 307 (1939).

[43] See, for example, *Union Electric Company of Missouri*, Holding Company Act Release No. 2780; *The Ohio Power Company*, Holding Company Act Release No. 2660; *Wisconsin Public Service Company*, Holding Company Act Release No. 2550; *Lake Superior District Power Company*, Holding Company Act Release No. 2528; *Missouri General Utilities Company*, Holding Company Act Release No. 2661.

consideration is given to the existence, if any, of write-ups which may be included in the property account. In general, the issuance of additional bonds is limited to 60 percent of the cost or fair value, whichever is less, of net additions to fixed property. This higher ratio for bonding additions is sanctioned to give greater flexibility under the indenture to meet unforeseen future conditions.

The Commission has been careful to see that each mortgage indenture has adequate maintenance and replacement provisions to insure, as certainly as possible, that the net value of the property securing the mortgage will not decrease and thereby diminish the security of the outstanding bonds. Furthermore, the sum specified in the indenture for maintenance and replacement must annually be accounted for to the trustee. Since the enactment of the Trust Indenture Act of 1939, the trust indenture provisions of all utility bond issues must meet the standards of that Act with respect to the duties, responsibilities, and the rights of the trustee.

**Preferred Stock Protective Provisions.**

In order to protect preferred stockholders more adequately the Commission has insisted upon an increasing number of safeguards. These have to do primarily with voting privileges. The Commission now insists that in order to meet the standards of the Act, preferred stock, as a class, must have the right to elect a majority of the board of directors upon accumulation of six quarterly dividend arrearages.[44]

Furthermore, the Commission has insisted that the assent of a specified majority of the preferred stock voting as a class shall be necessary before certain corporate actions may be taken which may affect the rights, privileges, or priorities of the preferred stockholders, such as issuing additional senior securities or effecting a merger or consolidation.

## COMPETITIVE BIDDING

On April 7, 1941, the Commission adopted Rule U-50, under the Public Utility Holding Company Act of 1935, requiring competitive bidding in the sale of securities by registered public-utility holding companies and their electric and gas utility subsidiaries.[45] The rule, applicable both to new security issues and to the sale by holding companies of portfolio utility securities, prescribes public invitation of sealed bids. Certain transactions are specifically exempted, including securities sold for less than $1,000,000; securities issued *pro rata* to existing security holders pursuant to any preemptive right or privilege or in connection with any liquidation or reorganization; and loans of a maturity of 10 years or less, where the lender is a moneyed institution not purchasing for resale, and no finder's fee or other negotiation

[44] *The Ohio Power Company*, Holding Company Act Release No. 2660; *Luzerne County Gas and Electric Corporation*, Holding Company Act Release No. 2784.

[45] Holding Company Act Release No. 2676.

charge is to be paid to any third person. In addition, there is a general provision for exemption from competitive bidding by order of the Commission.

Prior to the adoption of Rule U-50, the customary method of selling utility securities involved a sale by the issuing corporation to an underwriting syndicate at a price determined by private negotiation with the principal or so-called originating underwriter. It was an established policy of investment bankers not to compete among themselves for the securities business of any issuer which had a continuing investment banking relationship with a particular firm. Similarly, with very few exceptions, the issuing corporation made no attempt to seek competitive bids or to "shop around" for better terms than those offered by its customary banker. In some cases, moreover, there was a clearly traceable affiliate relationship, sometimes extending over a considerable period of time, between the originating underwriter and the issuer. In fact some of the underwriters had been promoters of some of the major holding company systems. As a result of these conditions there was a definite absence of free market competition in the underwriting of utility security issues. Fortunately, the provisions of the Public Utility Holding Company Act of 1935 provided ample authority for meeting the problem.

Section 1 of the Act enumerates various abuses and evils which gave rise to the need for control of public-utility holding companies and their subsidiaries, including those which occur when public utility companies enter into transactions in the "absence of arm's-length bargaining" or where there is "restraint of free and independent competition." In addition to the provisions which are aimed at the maintenance of competitive conditions, the Commission was given very special authority over dealings with "affiliates." In fact, the Commission's first approach to the problem of maintaining arm's-length bargaining in the issuance and sale of public-utility securities was evidenced by an attempt to control relations of holding company systems with investment banking affiliates.

Early in the administration of the Act, the Commission was confronted with security transactions in which there was serious question whether the negotiations were conducted at arm's-length. The Commission eventually concluded that it was necessary to establish a procedure to cope with the problem of affiliation in security issues. Accordingly, in December 1938, it adopted Rule U-12F–2 which prohibited, with exceptions, the payment of any underwriter's fee by registered holding companies or subsidiaries thereof to any affiliate unless the affiliate had been awarded the securities as the most favorable bidder in open competition. One of the exceptions was that an affiliate might act as an underwriter without competitive

bidding if its participation did not exceed 5 percent of the total offering and its fee was computed at the same rate as that of other underwriters having a similar participation. The theory of this exception was that with their participation so limited investment bankers would no longer find it worth while, and therefore would cease, to dominate the securities transactions of the companies with which they were affiliated.

The Commission's experience with Rule U-12F–2, however, was that, despite the fact that their participation was so limited, affiliated investment bankers continued to negotiate, as managing underwriters, the securities transactions of the companies with which they were affiliated. Significantly, during the 2 years that Rule U-12F–2 was in effect no use was made of the competitive bidding procedure it provided. Thus, the attempt to assure competitive conditions and arm's-length bargaining in the issuance and sale of securities by companies subject to the Act was defeated because affiliated investment bankers, whatever their incentive may have been, continued to use their position of superior advantage to dominate such transactions.

It was claimed, moreover, that Rule U-12F–2 was burdensome and costly to issuers and underwriters alike because prolonged investigations and hearings were found necessary in many cases to determine whether, under the Act, an underwriter and an issuer were affiliated within the meaning of Section 2 (a) (11) (D) and the corresponding standard imposed in the rule. The Commission recognized that these hearings were not only costly and time consuming for the parties, but presented for decision complex questions of fact. Thus it examined and re-examined the record in the *Dayton Power & Light Company* case,[46] decided in March 1941, to avoid any possible unfairness in drawing inferences from the details of a large mass of evidence adverse to the investment bankers there involved; and the delay and suspense, necessarily incident to that careful scrutiny, had occasioned further criticism of Rule U-12F–2.

The Commission's realization of the shortcomings of Rule U-12F–2 led, in February 1940, to the solicitation of suggestions as to the method by which it might "best insure the reasonableness of fees and commissions and the fairness of the terms and conditions of any proposed issue and sale of utility securities." It also instructed its Public Utilities Division to make a full study of the problem and, more than a year ago (February 29, 1940), a letter was written to each holding-company system subject to the Act, as well as to State commissions, investment bankers, and securities dealers throughout the country. It was stated in this letter that competitive bidding and "shopping around" had been suggested as possible ways of meeting

[46] Holding Company Act Release No. 2654.

the problem. Many replies were received, but after careful consideration and discussions with representatives of the Investment Bankers Association, the National Association of Securities Dealers, Inc., and others, it appeared that none of the suggestions received in response to that inquiry, other than competitive bidding, gave promise of effectively achieving the desired results. Then, in a report to the Commission dated December 18, 1940,[47] the Public Utilities Division formally recommended the adoption of a competitive bidding rule. Copies of that report were distributed to registered holding companies, State and Federal regulatory bodies, and to a broad list of investment bankers and dealers, both directly and through the Investment Bankers Association and the National Association of Securities Dealers, Inc. In distributing the report, written comments were invited, following which numerous responses were received. The Commission then called a public conference to consider the recommended rule and public discussion continued for 4½ days. The conference was attended by approximately 200 persons from every part of the country, including two members of Congress, investment bankers, securities dealers, and representatives of other governmental agencies. Four members of the Commission were present at all times. All shades of opinion, *pro* and *con*, were expressed on the question, both in the written responses and at the conferences.

After weighing the evidence and considering all aspects of the problem, the Commission concluded that there was no way short of competitive bidding that would afford it satisfactory means of determining the reasonableness of spreads or the fairness of prices, assure disinterested advice in financial matters to the companies concerned, and effectively control their dealings with affiliates.[48]

In connection with hearings on the rule, there was considerable emphasis upon the difficulties of investment bankers, particularly the small local dealers, in making enough money to keep them in business under present day conditions of the financial markets. It was urged that competitive bidding might result in a further shrinkage of income for the small firms. The Commission indicated its concern with the problems of the local dealers. However, it appeared that these difficulties had developed to an acute degree during a period when competitive bidding was the exception rather than the rule. The small dealers had no assurance of obtaining an adequate share of negotiated issues or a fair division of the gross underwriting spread. Moreover, there had been a growing practice of direct sales by issuers to insurance

[47] "The Problem of Maintaining Arm's-Length Bargaining and Competive Conditions in the Sale and Distribution of Securities of Registered Public Utility Holding Companies and their Subsidiaries."

[48] "Statement of the Securities and Exchange Commission upon the promulgation, under the Public Utility Holding Company Act of 1935, of Rule U-50, requiring competitive bidding for securities of registered public utility holding companies and their subsidiaries"—Holding Company Act Release No. 2670.

companies, which gave no opportunity to the investment banking industry at large to earn commissions, although there might be payment of so-called "finders' fees" to a few investment banking firms who act as intermediaries in conducting the negotiations with the insurance companies. Among the factors which appear to have led to the growth of private placements and consequent elimination of the investment banking function in the distribution of securities, is the fact that insurance companies can give a "firm commitment" while proceedings for approval of the regulatory authorities are pending whereas investment bankers are unable to make a firm commitment until immediately before public offering. Another factor has been the fact that direct sales to insurance companies do not require registration under the Securities Act, since they do not involve a "public offering." These competitive advantages of the insurance company over the investment banker are eliminated under competitive bidding, since there is a preliminary approval by the regulatory authorities prior to the invitation for competitive bids and since registration under the Securities Act is necessarily involved. One further competitive advantage of the insurance companies is that they are buying for their own investment and not for resale. This advantage remains unaffected whether or not competitive bidding is resorted to.

Since Rule U-50 became effective there has been active competition between investment bankers, both in the formation of groups to bid on new issues (frequently without relation to past affiliations) and in the tendering of bids. The insistence upon competition in the sale of this particular kind of merchandise follows the traditional American pattern of the Sherman Act, the Clayton Act, and the Federal Trade Commission Act, all of which aim to preserve competition and to keep that competition fair. These laws, backed by both major political parties, are among the foundation stones of our democratic system of capitalism. Rule U-50 is not merely a matter of business procedure. Ours is a system of free enterprise and when practices are allowed to develop which eliminate or suppress competition, the very fundamentals of that system are endangered. The liberating influence of this competitive bidding rule will foster free enterprise and competition in a field which has long been characterized by concentration of the management and underwriting of new securities in the hands of a few firms.

## PROTECTION OF THE FINANCIAL INTEGRITY OF UTILITY COMPANIES

Since impairment of the financial integrity of utility companies inevitably leads to poor public service and to falling security values, measures designed to protect the financial strength of utility companies are of the utmost importance to consumers as well as to in-

vestors. Therefore, Section 12 (c) of the Act prohibits the payment of any dividend in contravention of a regulation or order of the Commission deemed necessary or appropriate to protect the financial integrity of companies subject to the Act; to safeguard their working capital; to prevent the payment of dividends out of capital or unearned surplus; or to prevent circumvention of such rules or orders. To implement the statute, rules have been promulgated which prohibit the declaration of dividends out of capital or unearned surplus without approval of the Commission.

On account of the large fixed investment in the utility industry in relation to its operating revenues, depreciation accruals constitute an important part of total operating costs. If the amount of depreciation is underestimated and an inadequate allowance therefor is charged as expense, there results an overstatement of net income available for fixed charges and for the payment of dividends. Not alone does it result in a distorted income statement, which may be misleading to investors, but if the overstated earnings are paid out as dividends and that policy is continued, it may cause an impairment of the capital of the company and jeopardize its financial integrity. The failure to charge adequate depreciation expense also results in a deficient depreciation reserve and, as a consequence, the net book value of the company's assets is correspondingly overstated. This, likewise, is misleading and may cause investors to believe that the company's capital structure as related to net property values is sounder than it actually is.

To date, the Commission's supervision over the dividend and depreciation policies of utility companies to prevent impairment of working capital and maintain financial integrity has been limited chiefly to the individual cases which come before it in connection with security issues. In passing on proposed security issues, the Commission has not infrequently imposed conditions restricting the payment of common stock dividends where such action was necessary to protect the interest of investors or the financial integrity of the company.

It has been the Commission's practice in difficult cases involving the adequacy of depreciation to supplement its analysis of financial statements by engineering field investigations. The results of these investigations indicated the desirability of undertaking a general survey of the dividend and depreciation policies of the utility companies subject to the Act. Such a survey was made on the basis of figures supplied by the companies and the results were published in August 1940, in a report entitled "Financial Statistics for Electric and Gas Subsidiaries of Registered Public Utility Holding Companies, 1930–1939." [49]

[49] A later edition of this report, covering the period 1930-1940, was issued in August 1941.

These reports showed that there was a marked discrepancy between the depreciation charges which companies were allowed to deduct for the purpose of computing their Federal income tax returns and the depreciation expense which they actually recorded on their books. Thus, for the 10-year period 1930–1939, 168 operating companies, with aggregate assets of nearly $8,000,000,000, were allowed depreciation deductions for Federal income tax purposes in the amount of $1,772,904,000, although the depreciation expense charged against income on their books aggregated only $1,153,960,000. After their income accounts were adjusted by the amount of the excess of depreciation allowed for income tax purposes, it was found that 113 of these 168 companies had paid out as dividends $348,777,000 more than they actually earned during the 10-year period.

In the last few years there has been considerable improvement in the depreciation policies of the utility companies, particularly since 1937 when the Federal Power Commission and most of the State utility commissions prescribed depreciation accounting for electric utilities in place of retirement accounting, which had been in general use prior to that time. But the Commission's studies indicate that the depreciation charges of a large number of companies continue to be inadequate.

Early in July 1941, the *Philadelphia Electric Company*, a subsidiary of The United Gas Improvement Company and The United Corporation, agreed to make substantial revisions in its depreciation practices.[50] The company has tentatively agreed, pending completion of its property studies, not to use $10,000,000 of its earned surplus existing December 31, 1940, for dividend distributions; to increase its annual accruals from current earnings for depreciation purposes to not less than $7,000,000 beginning January 1, 1941 (accruals for 1940 amounted to $5,870,000); and to diligently pursue its present studies on the cost and probable useful lives of its utility assets. Representatives of the Pennsylvania Public Utilities Commission contributed materially to the resulting cooperative adjustment of the company's depreciation and dividend practices. Close cooperation with State commissions on such matters is an established policy of this Commission.

Closely related to the problem of dividend payments is that of payments on what purport to be debt claims of parent holding companies. In prior years it had been the practice of many holding companies to force their subsidiaries to declare dividends on the basis of the entire book earnings (which may or may not have represented actual earnings), regardless of the availability of cash to pay such dividends. The dividends so declared were not in fact paid—except as a matter of bookkeeping entries or formal payments. The sums

[50] Holding Company Act Release No. 2891.

involved were loaned back to the subsidiaries, frequently at high rates of interest. Open accounts between the parent holding company and its subsidiaries involved a great number of such "advances" in respect to dividends, as well as numerous other questionable intercompany transactions not conducted at arm's-length. Sometimes the balance remained an open account, sometimes part of it was the consideration for the issuance of additional common stock to the parent holding company, and sometimes for the issuance of senior securities. In some instances there was a time lag but an essentially similar relationship between the "milking" of the subsidiary and the creation of a debt claim in favor of the parent holding company. Having launched the subsidiary with an unbalanced security structure or drained it of cash, it became necessary for the parent company to come to its rescue with financial aid in the form of a loan or the purchase of senior securities.

An intercompany claim of this character came before the Supreme Court in 1939. *Taylor* v. *Standard Gas & Electric Company*,[51] involved a reorganization plan under Section 77B of the Bankruptcy Act for Deep Rock Oil Company, one of the non-utility subsidiaries of Standard Gas & Electric Company. The parent holding company had filed a claim arising out of an open account against Deep Rock, in the amount of $9,000,000, which was subsequently allowed in the compromised amount of $5,000,000. It was assumed that the $5,000,000 figure represented a valid consideration received by Deep Rock from Standard. Nevertheless, the Supreme Court held that the equities of the situation required complete subordination of this debt claim to the claims of the publicly-held preferred stock of Deep Rock, and for that reason disapproved "lower court decisions approving as 'fair and equitable' a reorganization plan" which did not provide for such subordination. Among the factors stressed was the domination of the management of Deep Rock by Standard; the responsibility of Standard for a capitalization, top-heavy with debt; cash advances to permit dividends not warranted by earnings; misrepresentations in connection with the sale of securities; charging 7 percent interest, compounded monthly, on the open account; management fees; and miscellaneous other abuses, as to which the Court stated:

"It is impossible within the scope of this opinion, to tell the numerous other transactions evidenced by the books of the two companies, many of which were to the benefit of Standard and to the detriment of Deep Rock. All of them were accomplished through the complete control and domination of Standard and without the participation of the preferred stockholders who had no voice or vote in the management of Deep Rock's affairs. * * * It is impossible to recast Deep Rock's history and experience so as even to approximate what would be its financial condition at this day had it been adequately capitalized and independently managed and had its fiscal affairs been conducted with an eye single to its own interests."

[51] 306 U. S. 308.

The decision in the Deep Rock case is merely an illustration of the traditional equitable principle that directors and controlling stockholders are held to a strict fiduciary standard in dealing with their corporation. This was pointed out by the Court in the subsequent case of *Pepper* v. *Litton*,[52] in which the Court stated that, in scrutinizing such dealings, "the essence of the test is whether or not under all the circumstances the transaction carries the earmarks of an arm's-length bargain. If it does not, equity will set it aside." This arm's-length bargaining test closely parallels the standards applicable under the Public Utility Holding Company Act of 1935 to intercompany transactions and to other transactions between affiliates.[53] Accordingly, the effect of these recent decisions of the Supreme Court has been to emphasize the importance of Commission scrutiny under the Act of the many debt claims of the registered holding companies against their subsidiaries.

The problem may arise in connection with the Commission's approval of a reorganization plan under Section 11 (e) or Section 11 (f) of the Act. Mountain States Power Company,[54] referred to in the Commission's annual report for the year ended June 30, 1939,[55] was a case involving a plan of reorganization for a company which was the subject of reorganization proceedings under Section 77B of the Bankruptcy Act. The plan was approved by the Commission under Section 11 (f). The equities in favor of subordination did not appear to be as strong as those involved in the Deep Rock case and the Commission approved a compromise settlement which gave the preferred stockholders partial priority over the parent company's debt claim.

Shortly after the close of the past fiscal year,[56] the Commission approved, under Section 11 (e) of the Act, a plan of corporate simplification for *Derby Gas & Electric Corporation*, a subsidiary holding company in the Ogden Corporation holding company system.[57] Derby had outstanding a $5,000,000 open account claim held by Ogden, preferred stock, of which 14.7 percent was held by Ogden and the balance by the public, and common stock all held by Ogden. The preferred stock held by Ogden had been purchased at a substantial discount by a wholly-owned subsidiary of the parent holding company at a time when reorganization proceedings were pending before

[52] 308 U S. 295 See also *Consolidated Rock Products Company* v. *Du Bois*, 61 Sup. Ct. 675, 85 L Ed. 603 (1941).

[53] "Absence of arm's-length bargaining" and "restraint of free and independent competition" are linked together in Section 1 (b) of the Act, as among the evils in the holding company field which the Act was expressly designed to eliminate. Section 2 (a) (11) (D) makes the possibility of "absence of arm's-length bargaining" a basis for imposing affiliate obligations, and Section 12 (f), among others, provides for the regulation of transactions between companies in the same holding company system and between other affiliates with a view to the "maintenance of competitive conditions."

[54] 5 SEC 1.

[55] Page 73.

[56] July 12, 1941.

[57] Holding Company Act Release No. 2875.

the Commission. The subsidiary company had called for retirement in advance of maturity its outstanding funded debt. This was done in contemplation of a refunding operation but without making definitive arrangements, including securing Commission authorization, for the new issue. Later, the refunding was abandoned, and the funded debt paid off out of the proceeds of a demand advance from the parent which carried interest at the same rate as that on the retired funded debt. The plan provided for a cash payment to the parent out of the proceeds of a new issue of debentures in the amount of $2,750,000 on account of its $5,000,000 claim. The plan also provided for a single class of stock which was divided between the parent holding company and the public holders of Derby's preferred stock. The basis of division recognized that the open account claim might be, to a certain extent, vulnerable under the strict standards applicable to intercorporate dealings. The Commission approved this aspect of the plan as fair and equitable on the ground that the circumstances did not appear to require subordination of the parent company's claim within the so-called Deep Rock doctrine and that, in any event, the plan might be justified as a fair compromise of the issues involved.[58]

Problems as to the status of debt claims of parent holding companies against their subsidiaries are also involved in a number of pending Section 11 proceedings. Thus, plans of reorganization filed under Section 11 (e) of the Act by Interstate Power Company and North Shore Gas Company proposed settlements of such issues. The Commission itself has raised the issue as to the status of parent holding company debt claims in a number of proceedings instituted pursuant to Section 11 (b) (2) of the Act, notably those involving United Gas Corporation, Florida Power & Light Company, and Pennsylvania Power & Light Company in the Electric Bond and Share system.

Occasionally such questions come before the Commission as an incident to passing on proposals to issue new securities to refund outstanding debt of a subsidiary company where part of the issue is held by the parent. An example is the refunding program of *Georgia Power Company*, a subsidiary of The Commonwealth & Southern Corporation, which was carried out early in 1941.[59] During the years from 1930 to 1938, Georgia Power Company paid very substantial dividends to its parent company. Much of this money was needed, however, for construction purposes, and the parent company, therefore, made open account advances to its subsidiary company. These advances carried interest rates of 5 and 6 percent. From time to

[58] The Supreme Court decisions recognize the fact that a reorganization plan may embody fair and appropriate compromises of disputed contentions. Cf. *Case* v. *Los Angeles Lumber Products Co., Ltd.*, 308 U. S. 106 (1939): *Consolidated Rock Products Co.*, v. *Du Bois*, 85 Law Ed. 603, 610 (1941). The Commission disapproved the plan insofar as it contemplated realization of a profit on the preferred stock of Derby purchased by a wholly-owned subsidiary of the parent holding company at a time when reorganization proceedings were pending. Subsequently the plan was approved after the filing of an amendment designed to meet this objection.

[59] Holding Company Act Release No. 2586.

time the parent company caused Georgia Power Company to issue additional first mortgage bonds which would then be transferred by Georgia Power Company to its parent company in payment of the open account. By the end of 1938 The Commonwealth & Southern Corporation had accumulated in this manner approximately $34,000,000 of first mortgage bonds of Georgia Power Company. The remainder of such bonds, aggregating an amount of approximately $90,000,000, were outstanding in the hands of the public.

In connection with the refunding program of Georgia Power Company, which has been discussed in a previous section of this report,[60] The Commonwealth & Southern Corporation was induced to convert into common stock a substantial portion of its investment in Georgia Power Company represented by these bonds. Similar conversion was made with respect to certain preferred stock of the operating company owned by the parent holding company. The parent company was permitted, however, to withdraw in cash a portion of its investment by use of money obtained from the sale of the new refunding bonds.

Passing on any particular intercompany claim, whether in connection with a refunding issue or as incident to the approval of a plan of reorganization or recapitalization, frequently requires not merely the scrutiny of a single transaction, but the review of a course of dealings over a period of years which involves a multitude of separate transactions. This is necessarily a time consuming process and may give rise to substantial difference of opinion as to a great many issues of law and fact. It is not feasible to deal with more than a limited number of such cases at any one time and the problem is, therefore, to select the most pressing cases for immediate attention.

On April 16, 1941, there was submitted to the industry for comment a proposed rule which would suspend payments to the parent holding company on all debt claims owed by subsidiaries who are in arrears as to their publicly-held preferred stock until the Commission should have an opportunity to consider the status of the debt and to enter an appropriate order under the applicable provisions of the Act. Later, a public conference was held with respect to the proposed rule.

In support of the proposed rule, it was urged by Commission counsel that the rule was designed to bring before the Commission for determination issues of considerable importance to the various classes of security holders affected; that the Commission would have jurisdiction to pass upon the propriety of making payments on any such claims under Sections 12 (c) and 12 (f) of the Act; and that debt claims of the parent holding company are most likely to require careful scrutiny in those instances where the subsidiary against whom the claim is pressed is in arrears as to its preferred dividends. Counsel for preferred stock-

[60] Page 93, *supra*.

holders of one of the subsidiary companies which would be affected by the rule also urged its adoption.

On the other hand, vigorous opposition was expressed on behalf of counsel for one or two holding-company systems. Those opposed argued that the Commission had no jurisdiction to pass on such intercompany claims, and also urged that the rule was not adapted to singling out the type of cases in which the Commission would be justified in requiring the suspension of payments pending scrutiny of particular claims. The adoption of a rule dealing with this subject was still under consideration at the close of the fiscal year. However, the discussions with respect to the rule had served to focus attention upon many of the most critical situations involving such intercompany claims and, in the meantime, the Commission has instituted proceedings by order to inquire into a number of these intercompany claims.[60a]

Tables 46 and 47 of Appendix II, page 309, indicate the number of applications under Section 12 (c) and Rules U-12C-2 and U-12C-3, relating to the payment of dividends out of capital or unearned surplus, and applications under Section 12 (c) and Rule U-12C-1, relating to the acquisition of securities by the issuer, received and disposed of during the past fiscal year.

## PROGRESS IN SERVICE COMPANY REGULATION

Distinct progress in the administration of service, sales, and construction contracts pursuant to Section 13 of the Act was recorded during the past fiscal year. Section 13 was enacted primarily to prevent holding companies or their dominated service companies or allied interests from mulcting their controlled utility companies through the guise of service fees or other unearned charges. Consequently, registered holding companies are prohibited by Section 13 (a) from servicing for a charge their associate public-utility or service companies except under special or unusual circumstances. Equally important are the provisions of Section 13 that such contracts as may be performed by system companies for their associates shall be performed efficiently and economically and for the benefit of the serviced

[60a] On January 21, 1942, the Commission announced that in the light of its experience in dealing with such problems by order, it is presently of the opinion that it is undesirable to have a general rule covering payments of both principal and interest and of the broad scope proposed, although further study may lead to the conclusion that there is some room for the exercise of the rule-making function within this field. The method of proceeding by order permits a greater flexibility in selecting the most pressing problems for immediate attention, and in many instances permits the problems of the intercompany claims to be dealt with, as an incident to proceedings under Section 11 (b) (2) of the Act, more economically than in the type of proceedings which might be precipitated by such a rule. The failure of the Commission to adopt the proposed rule should not be construed as accepting any of the legal arguments urged in opposition to the rule. In fact, the determination of the Commission to proceed by order necessarily assumes that the Commission regards the matter of taking action with reference to such intercompany claims as within its statutory powers under the Act, the choice between proceeding by rule or by order being dictated largely by considerations of an administrative character. See Holding Company Act Release No. 3221.

company and the cost fairly and equitably allocated. The Commission has enforced these provisions by rules and regulations and by proceedings pursuant to the Act.

Intrasystem service, sales, and construction contracts are performed primarily by either actual or subsidiary service companies, but so-called cross-servicing between operating companies in the same system is permitted to a certain limited extent. While there are certain technical differences in regard to the qualification of these two types of service companies, the basic requirements as to the standards and methods of operations by such companies are, for all practical purposes, similar. Regulation of intrasystem service arrangements involves, first, the qualification of the mutual and subsidiary service companies, and second, the more important function of continuing supervision of the actual operation of the servicing relationships. The first phase of this regulation, which has been discussed in prior annual reports of the Commission, is now largely completed, except for a small number of new filings during the fiscal period and certain other cases which had presented unusual difficulties. There has accordingly been a shift in emphasis to the matter of supervising the actual operations of the arrangements previously passed on by the Commission.

One of the statutory requirements is that the servicing activities must be for the benefit of the companies receiving the services. This excludes service activities which are primarily in the interests of the holding company, that is, activities designed to protect its investment and which enable it to control the operations of its subsidiaries. Apparently, there has been a tendency to shift holding company expenses to the operating companies through the vehicle of common officers and employees. Thus, part of the salary cost and related expenses of running the holding company and exercising control over its subsidiaries, appears either as an operating expense of the service company, which is in turn charged to the operating subsidiaries in the system, or is directly charged to the operating companies, depending upon whether these common executives are on the pay roll of the service company or on the pay roll of the operating companies. In either event the ultimate charge may be borne in part by the consumer and in part by the public holders of securities of the operating companies, while the holding company escapes its fair share of the burden.

Some indication of the sums involved in certain of these situations is presented in the tabulation below. While total service company fees are used, salaries on the average comprise 60 percent to 70 percent of these fees. A considerable portion of such salaries is paid to high salaried executives and supervising personnel. The holding companies referred to had limited staffs, if any, of their own. In practically all instances where such staffs did exist, a portion of their salaries was paid by the service company and charged to the operating

companies. In contrast, most operating companies in the systems illustrated have well-paid, full time operating personnel resident on the properties.

As will be observed, the bulk of the service company fees are charged to the operating companies, while the holding companies themselves pay an insignificant amount for the cost of determining policies and administering and protecting investments, in many instances aggregating hundreds of millions of dollars and producing tens of millions of dollars in gross revenues.

*Service company fees—Sums involved in certain situations*

| | Fees paid by all system units | Fees paid by holding companies | Gross operating revenues of system | Fees in percent of gross | Holding company fees in percent of total |
|---|---|---|---|---|---|
| American Gas and Electric Service Co | $2,477,631 | $209,821 | $86,348,350 | 2.87 | 8.47 |
| Columbia Engineering Corporation | 1,664,278 | 363,571 | 109,817,602 | 1.52 | 21.84 |
| Commonwealth & Southern Corporation | 2,313,447 | 361,450 | 155,225,767 | 1.62 | 14.37 |
| Ebasco Services, Inc | 3,275,572 | 100,634 | 300,258,322 | 1.09 | 3.07 |
| Engineers Public Service Co., Inc | 361,414 | 65,389 | 57,196,379 | .63 | 18.09 |
| Middle West Service Co | 600,482 | 99,643 | 88,860,361 | .68 | 16.59 |
| New England Power Service Co | 3,796,342 | 212,855 | 65,413,591 | 5.80 | 5.61 |
| Atlantic Utility Service Corporation | 1,994,358 | 401,638 | 154,715,554 | 1.29 | 20.14 |
| Total | 16,685,524 | 1,815,001 | 1,017,835,926 | 1.63 | 10.88 |

The personnel, involved in the situations described above, holding interlocking positions, supervise, if indeed they do not direct, the day to day operations of the system operating companies. Obviously, the question is where do their duties and responsibilities to the holding company end, and where do their duties and responsibilities to the operating companies begin. Needless to say, these problems require careful consideration and case studies in each instance, since operating conditions and service requirements vary in each system.

In a series of proceedings initiated in the past fiscal year, as well as in connection with the consideration of a case which had been pending for some time, the Commission dealt with this apparent shifting of holding company expenses to the operating companies. In essence the condition confronting the Commission in these cases, in greater or lesser degree and in one form or another, was the use by the holding company of common officers and employees between it and the service company to supervise in its own interest daily operations of the operating companies and the passing on to those companies of the major portion of the cost of such supervision. The questions at issue were whether or not it was possible to allocate such expenses between the holding company and operating companies "fairly and equitably" pursuant to the requirements of Section 13 (b), and whether, in effect, the holding company was not in reality rendering services for a charge to its operating subsidiaries in contravention of Section 13 (a).

In its opinions with respect to these cases, the Commission laid down the broad principle that compensation and collateral expenses of all holding company officers, directors, and employees must be borne directly by such holding companies and could not be shared with their controlled service companies and thus passed on to the operating companies. In other words, the Commission has taken the position that operating companies should not be asked to pay the cost of the control activities of the holding company.

Since these three cases constituted a landmark in the administration of Section 13, it may be desirable to refer to them briefly.

In the case of Ebasco Services, Incorporated,[61] the system service company of Electric Bond and Share Company, it appeared that six of Bond and Share's directors and principal executive officers held identical positions in the service company and received portions of their compensation from both of these companies. In this case the Commission decided that the functions of the principal executives as officers of Ebasco were commingled with their functions as officers of Bond and Share and that it was an "almost impossible and wasteful task" to ascertain what segments of the services of each of the common officers were for Ebasco and hence properly included in the cost to the service company, and what part was for Bond and Share and therefore chargeable only to it.

Because of the importance of this case and the general principles it laid down, it seems appropriate to quote from the Commission's decision in part:

"Each of the officers in question occupies at least two positions: He is an officer of Bond and Share and an officer of Ebasco. Where his duties as an officer of Ebasco, in a particular transaction, begin, and his duties as an officer of Bond and Share end, cannot be determined. That difficulty is inherent in the situation. Bond and Share, as the parent of each of the companies serviced by Ebasco, has an abiding interest in matters pertaining to those companies. In every transaction by Ebasco, in which Bond and Share is somehow interested, the officers will be acting in dual capacities—as officers of Bond and Share and as officers of Ebasco. It is unreal to assume that the value of their services to each company can be determined with any degree of accuracy. The same is equally true of the services of any employees whose work entails a commingling of holding company and service company functions."

After the Ebasco decision, numerous service companies voluntarily adjusted their practices to conform to the opinion of the Commission. An illustration of the changes resulting is offered by The United Light and Power Service Company, the service company in the United Light and Power Company System.[62] This service company had on its pay roll practically all the officers of the system's holding companies. These salaries, paid in the first instance by the service company,

[61] *In the Matter of Ebasco Services, Incorporated,* Holding Company Act Release No. 2255.

[62] *In the Matter of The United Light and Power Service Company,* Holding Company Act Release No. 2608.

were then recharged to the various operating and holding companies on the basis of time allocation. In form, this was slightly different from the Ebasco case where the holding company officials were paid partially by the holding company and partially by the operating company through the service company. The Commission, however, found that the substance was the same in both cases. Officers and employees of the holding company who owed their primary loyalty to that company were rendering service for a charge to the operating companies. In this case, the Commission reemphasized the principle laid down in the Ebasco opinion and indicated clearly that the statutory prohibition of Section 13(a) against the performance of services for a charge by a holding company, to make sense, must also include prohibition of the performance of services for a charge by holding company officials and their staffs.

In the Middle West Service Company case,[63] the principles laid down in Ebasco and United Light and Power cases were reaffirmed.

One of the important cases pending at the end of the year was *In the Matters of Columbia Engineering Corporation, Columbia Gas & Electric Corporation.*[64] In the Ebasco opinion the Commission had stated that interlocking personnel could not be permitted and that those involved must resign either from the holding company or the service company. In the Columbia case the issue has been raised that the *functions*, rather than the position held or situs on any particular payroll, is the determinant as to whether or not a particular individual is in reality an official or employee of the holding company.

Two cases pending at the close of the fiscal year which deserve comment, involve determining, under Section 13, the proper scope of services for any one system, as well as the services that appropriately can be rendered to various classes of companies within a given system.

One of these cases is that of the Atlantic Utility Service Corporation [65] (formerly the Utility Management Corporation), the mutual service company in the Associated Gas and Electric Company System. Because of the complexities involved in this case, of the changes incident to the replacement of the Hopson management by court trustees, and of contemplated additional changes, this company has not yet been qualified. It continues to operate under temporary exemption provided for in the rules and regulations of the Commission. Substantial progress has already been made in conforming the company to the statutory standards. For instance, when this company first filed for approval it reported service fees of $4,863,191. Subsequent revisions of its operations have reduced these fees to $1,940,805, and even this amount remained in issue at the close of the fiscal year.

[63] *In the Matters of Middle West Service Company, The Middle West Corporation,* Holding Company Act Release No. 2696.

[64] Commission File No. 37-22.

[65] Commission File No. 37-28.

The major issue before the Commission in this case is whether services to be performed by this company should not be limited to engineering and purchasing in order to satisfy the standards of Section 13.

The second proceeding involving the proper scope of services permissible to a service company was also noteworthy for various other reasons.

During the course of the past fiscal year, the Commission was called upon by the Vermont Public Service Commission to investigate the servicing arrangements between the New England Power Service Company, a subsidiary service company in the system of the New England Power Association, and its associate operating companies, Bellows Falls Hydro-Electric Corporation and Green Mountain Power Corporation. This was done pursuant to Section 13 (d) of the Act, which provides that the Commission "at the request of * * * a State commission, may, after notice and opportunity for hearing, by order require a reallocation or reapportionment of costs among member companies of a mutual service company if it finds the existing allocation inequitable * * *." This was the first occasion that a State commission had availed itself of the facilities of the Commission to investigate dealings between companies operating within the State commission's jurisdiction and a service company outside its jurisdiction because organized beyond the boundary of the State.

A hearing was held at Montpelier, Vt., at which representatives of the Vermont Commission were present and participated, as well as Commissioner Healy of this Commission. As a result of the Montpelier proceedings, the Securities and Exchange Commission issued an order requiring the service company to show cause why the prior order, conditionally approving its organization and conduct of business, should not be revoked if certain changes in its organization and conduct of business were not effected. Among the issues involved were the problems of interlocking officers discussed above, the proper scope of activities of the service company, and the economy and efficiency of its operations. While a final order in this case had not been issued at the close of the fiscal year, changes already agreed to by the company have brought about substantial savings to the two Vermont companies and the proceeding promises to be productive of substantial results in further reducing servicing costs, not only to the Vermont companies but to other operating companies of the New England Power Association System.

In addition to its responsibilities as to servicing activities of companies in the registered holding company systems, Sections 13 (e) and 13 (f) authorize the Commission to regulate to some extent servicing activities of the so-called independent service companies of the utility field. These sections relate to the servicing activities rendered to any public-utility company engaged in interstate com-

merce or any registered holding company or subsidiary thereof, and to any person whose principal business is the performance of such contracts. Thus far the Commission has exercised this jurisdiction to the extent of requiring by rule the filing of reports by such persons disclosing certain significant corporate and financial data, including a list of utility companies serviced by such persons and the corporate affiliations of such utility companies.

During the course of the past fiscal year the Commission had occasion to investigate the activities of the Edison Electric Institute, an organization which acts in the nature of a trade association for the electric utility industry. As a result of this investigation counsel for the Edison Electric Institute concluded that the activities of the Institute were within the scope of Section 13, as a consequence of which, and after discussion with the staff of the Commission, this organization filed a report pursuant to Rule U-13E–1. In this connection, the question was raised as to whether membership in the Institute might be the basis for the exercise of regulatory jurisdiction over its members who were not otherwise subject to the provisions of the Act. The Institute was advised by the Director of the Public Utilities Division that membership in the Institute would not, in and of itself, result in subjecting member companies to the jurisdiction of the Commission.

The Act, in its definition of service, sales, and construction contracts and other pertinent provisions, places broad statutory obligations upon the Commission. In its discharge of these obligations, the Commission is making continuous studies, not only of intrasystem servicing arrangements, but of all types of servicing affecting the registered holding companies and their public-utility subsidiaries under its jurisdiction. The investigation of the Edison Electric Institute, referred to above, was one of such studies. The Commission, of course, must be alert to determine not only that arrangements in common practice prior to the passage of the Act are not used to contravene the provisions of Section 13, but that new arrangements and devices are not evolved to circumvent the intent and declarations of Congress as defined in the Act.

Table 48 of Appendix II, page 310, indicates the number of applications and declarations under Section 13 relating to mutual and subsidiary service companies, received and disposed of during the past fiscal year.

## RULES AND REGULATIONS

During the past fiscal year the Commission reexamined the relationship of its rules and regulations to the administration of the Public Utility Holding Company Act of 1935, simplified its procedure for passing upon applications and declarations, and completely revised

the text of the rules. In considering the changes in the rules, it may be helpful to review the scope and function of rule making under the Public Utility Holding Company Act of 1935, which differs substantially in that respect from other Acts administered by the Commission.

Section 20 (a) empowers the Commission to "make, issue, amend, and rescind such rules and regulations and orders as it may deem necessary or appropriate to carry out the provisions of" the Act. More specific authority to make rules, as well as to act by order, is conferred by the various sections of the statute which deal with the regulation or exemption of persons and transactions. Most of these provisions leave to the discretion of the Commission the alternative of dealing with problems in a generalized way by rule, or of acting specifically by order in the light of the particular facts. Because of the extreme complexity of the holding company industry, each company and transaction within the regulatory jurisdiction of the Commission presents its own problems. For that reason, regulation by order rather than by rule has proved, generally speaking, the more satisfactory method of administration.

The various types of rules which have been adopted by the Commission fall within the following general classifications: (1) procedural rules prescribing the form and contents of applications and reports; (2) rules granting a broad exemption to particular classes of persons from provisions of the Act (such as intrastate holding companies, holding companies which are primarily operating companies, and banks which are temporarily holding companies because of the acquisition of securities for liquidation in connection with a debt);[66] (3) rules exempting companies otherwise subject to regulation, as to a limited class of transactions; (4) rules requiring advance notice to the Commission of the intention to consummate certain types of transactions, in order to enable the Commission to issue such orders with reference to the proposed transactions as may be appropriate under applicable standards of the Act; and (5) substantive rules, i. e., rules prescribing the standards by which particular transactions should be governed, such as rules prescribing the uniform system of accounts for holding companies and for mutual service companies.

Except in the accounting field and to a certain extent in respect to service companies, substantive rules have not played an important part in the administration of the Act to date.[67] Substantive regulation

[66] All these general exemptions by rule are subject to termination upon 30 days' notice, as provided in Rule U-6, if the Commission has reason to believe there is a substantial question as to the propriety of the exemption, but without prejudice to the right to apply for exemption by order.

[67] Somewhat difficult to classify are rules under Section 17 (c) with respect to the disqualification of directors by reason of financial connections with commercial banks and investment bankers. Section 17 (c) prohibits such interlocking relationships except as the Commission shall by rule prescribe exceptions and, unlike many other sections of the Act authorizing the Commission to grant exemption from particular provisions, does not empower the Commission to grant exemption by order. Possibly these should be regarded as substantive rules.

has been primarily by order after opportunity for hearing and in the light of the facts of a particular case. To that extent, the Act is essentially what has been described as a "licensing" statute, i. e., one which requires advance authorization or advance scrutiny by the regulatory agency before it is lawful to consummate certain types of transactions.[68]

Rules of the third and fourth categories enumerated above have constituted an important field of rule making under the Act. These are closely related functionally and involve the problem of prescribing, without reference to specific proposals by companies subject to regulation, the extent to which the potential statutory jurisdiction of the Commission will be exercised. Certain provisions of the Act (such as Sections 7 and 10, applicable, respectively, to security issues and acquisitions) require advance authorization from the Commission as to certain classes of transactions, except as exemption may be granted by rule or by order. Other provisions, notably those in Section 12 relating to intercompany transactions, require implementation by rule or order before they become operative. The principal effect of the Commission's rules pursuant to these provisions has been to require the filing with the Commission of declarations of proposed transactions, thereby enabling it to deal with them by order.

To the extent that the Commission's rules leave unregulated transactions which are within its statutory jurisdiction, there is always the danger that there will be loopholes for abuses of the character which the Act was intended to prevent. On the other hand, it has been necessary to take into account the desirability of concentrating the regulatory efforts of the Commission upon what have appeared to be the most serious and pressing problems and, also, the desirability of minimizing the expense to the industry incident to proceedings before the Commission. The attempt to preserve a balance between these conflicting considerations had led to frequent changes in the rules, as experience indicated that a rule drafted with the intention of fitting certain types of transactions, to which the attention of the Commission had been called, had the unintended result of excepting from regulation certain types of transactions which call for close scrutiny or failed to exempt others which did not appear to require such attention. Frequent changes of this character proved inconvenient, and also resulted in great textual complexity in the rules. The elimination of this difficulty through a general revision of the rules has been closely related to the adoption by the Commission of a new procedure for disposing of applications and declarations without hearing, except in cases where substantial difficulties are presented.

[68] The integration and corporate simplification provisions of Section 11 are also enforced by order after opportunity for hearing, but in this instance the burden is on the Commission to initiate the proceeding and compliance with these particular provisions is required only as they are implemented by order.

This new procedure, effective July 9, 1940, was referred to in the Sixth Annual Report of the Commission.[69] As pointed out in that Report, Commissioner Healy dissented from the adoption of the new procedure, stating his belief that the procedure was invalid wherever the Act requires a finding by the Commission as a condition precedent to granting an order permitting contemplated action. He suggested an alternative procedure which he believed could be equally effective in saving time.[70] Despite this difference of opinion among the Commissioners, there was agreement that unimportant cases could be disposed of by order without substantial expense or trouble to the company concerned, and that the exercise of appropriate discretion in dealing with particular applications afforded a more flexible method of sifting out important and unimportant transactions than could be accomplished in the exercise of the rule-making powers of the Commission. By reason of the availability of this procedure, and by relating more closely the content of the application and the scope of the review given to it to the importance and difficulties of the problems presented by a particular transaction, it has been possible to dispense with many automatic exemptions by rule as to classes of transactions. Generally speaking, the effect of the revision of the rules is to require advance notice to the Commission with respect to a larger proportion of the transactions which are within its potential statutory jurisdiction. The elimination of numerous exemptions of infrequent use and of elaborate exceptions and qualifications to such exemptions, has made possible a considerable simplification in the text of the rules.

A number of more important substantive changes in the rules were adopted in connection with the general revision of the rules or otherwise in the course of the year. One important change was a substantial narrowing of the automatic exemption previously granted to non-utility subsidiaries of registered holding companies. Generally speaking, the administrative difficulties of the regulating non-utility subsidiaries are greater than those involved in the regulation of utility subsidiaries. For that reason the Commission had concluded, in the early days of its administration of the Act, to limit its activities for the time being primarily to the regulation of the registered holding companies and their utility subsidiaries. However, the Commission was required by Section 11 to consider the problem of the retainability of non-utility interest, dependent upon whether or not they are "reasonably incidental, or economically necessary or appropriate to

[69] Page 49

[70] The Report of the Committee on Administrative Procedure appointed by the Attorney General commented favorably on the adoption of this new procedure, but did not refer to the dispute as to the validity of the procedure. (See Sen. Doc. No. 8, 77th Cong., 1st Sess., p. 182.) The Report of the Commission for the fiscal year ended June 30, 1940, referred to the public memoranda of the Commission and of Commissioner Healy, setting forth their respective views as to the legal and other questions involved.

the operations of" integrated public-utility systems. In the course of its studies in that connection, the Commission reached the conclusion that it was both necessary and feasible to substantially narrow the scope of the exemption heretofore granted to non-utility subsidiaries.

The revised rules also included two new accounting rules under Section 15 of the Act. Rule U-27 requires operating gas and electric utility companies, which are not otherwise required by either the Federal Power Commission or a State Commission to conform to a classification of accounts, to follow the Federal Power Commission classification in the case of electric utility companies and to follow the classification prescribed by the National Association of Railroad and Utilities Commissioners (which is substantially similar) in the case of gas utility companies.[71] Rule U-28 prohibits registered holding companies or their subsidiaries from distributing to security holders, or publishing, financial statements which are inconsistent with the book accounts of the company or with the financial statements filed with this Commission by or on behalf of such companies. Rule U-50, requiring competitive bidding and which became effective on May 7, 1941, is discussed elsewhere in this report.[72]

The revised rules were distributed in draft form to the industry and comments were invited. A number of constructive comments were received and incorporated in the rules. The Commission has continued its policy of consulting the industry before enacting or revising rules. For instance, the difficult problem of requiring competitive bidding for the purchase of public-utility and holding-company securities was presented to the industry early in March 1940, and a copy of a staff report on this question was distributed in December 1940. After conferences and public hearing had been held and briefs were filed, the rule was adopted on April 7, 1941, and made effective May 7, 1941.[73]

In considering the feasibility of advance discussion of rules with the industry or of delaying the period between promulgation and the effective date of a rule, it is necessary to take into account the char-

[71] The Commission had previously prescribed Uniform System of Accounts for holding companies and service companies, the accounting problems of which are peculiarly subject to its jurisdiction. As to operating companies, however, Section 20 (b) prescribes that the accounting requirements of this Commisson shall not be inconsistent with requirements imposed by other Federal regulatory authorities or by State commissions. While this limitation is not strictly applicable to the companies which are not subject to such accounting regulation, the Commission, nevertheless, concluded that it was desirable, in the interest of uniformity, to follow the uniform systems which had been adopted after considerable study by the Federal Power Commission and the National Association of Railroad and Utilities Commissioners.

[72] Page 98, *supra*.

[73] See Holding Company Act Release Numbers 2525 and 2676. The Commission also held a public conference on a proposed Rule U-51, relating to payments on indebtedness held by parent holding companies by subsidiary companies which are in arrears as to dividends on their publicly-held preferred stock. A draft of this proposed rule was distributed to the industry on April 16, 1941, and a public conference was held on June 10, 1941. The proposed rule was still under consideration at the close of the fiscal year.

acter of the rule-making function involved. It is recognized that advance notice and opportunity for comment are both feasible and desirable in the case of a rule which requires substantial changes in the practices of the industry, such, for example, as the competitive bidding rule. On the other hand, where the rule-making function involves selection of the types of cases which are to be scrutinized by the Commission, the public interest demands that the Commission be free to act promptly as situations requiring investigation are brought to its attention and that it be able to preserve the *status quo* pending investigation. Otherwise, it can only lock doors after horses are stolen. Moreover, rules of this character contemplate that the essential regulatory decisions, relating to the merits of the transactions involved, will be determined by order after opportunity for hearing. It would seem that such an opportunity for hearing is adequate protection to the industry, although it will occur after the promulgation of the rule.

An illustration of the occasional necessity to adopt a rule, effective forthwith and without advance discussion, is Rule U-65 prohibiting the expenditure of corporate funds in connection with solicitation of proxies unless (subject to certain exceptions) a declaration is filed notifying the Commission of the proposed transaction, and such a declaration has become effective—thereby giving the Commission an opportunity to take appropriate action by order. In connection with the promulgation of the rule, the Commission stated that "the immediate effectiveness of the rule does not change its general policy of submitting utility rules to the industry for comment prior to adoption," and that "immediate effectiveness was necessary to prevent substantial expenditures of corporate funds by the management of a registered holding company to employ solicitors to aid them in obtaining proxies in a contested election before the Commission had an opportunity to pass upon the propriety of such expenditures under the provisions of Section 12 (e) of the Act".[74]

One possible reason for allowing a lapse of time between the publication and the effective date of a rule is to give those affected an opportunity to become familiar with the rule. The importance of this consideration is dependent upon the content of the particular rule involved. As to rules adopted under the Public Utility Holding Company Act of 1935, its importance is minimized because of the highly centralized organization of the industry and the comparatively small number of individuals who, as counsel or as officers of the companies concerned, direct the activities within the scope of the Act and subject to such rules; also, because it is part of the business of these individuals to closely follow all developments in the administration of the Act. Moreover, it is sometimes feasible to give specific notice of the

[74] Holding Company Act Release No. 2681.

promulgation of a new rule to those whom the Commission has reason to believe are contemplating transactions within its scope, as was the case in connection with Rule U-65 referred to above. Another factor which may be relevant in determining the appropriate time lag between the promulgation and the effective date of a rule is the extent of the notice which may have been given prior to its promulgation that the Commission had under consideration the adoption of such a rule.

## EXEMPTION OF COMPANIES FROM THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

Sections 2 and 3 of the Act contain definitions and exemption provisions which determine the status of companies as subject to or excluded from the regulatory provisions of the Act. The definitions are not entirely self-operative, but their applicability depends in part upon the exercise of the rule-making power by the Commission and in part upon its making certain specified findings after opportunity for hearing. Thus "electric utility company" and "gas utility company" mean, respectively, companies owning or operating facilities for the generation, transmission, or distribution of electric energy or for the retail distribution of natural or manufactured gas. The Commission is authorized to exclude from these categories companies primarily engaged in non-utility business and having only a small amount of utility business.[75]

A "holding company" under the Act is a company which has one or more utility subsidiaries. The holding-company subsidiary relationship depends *prima facie* upon ownership of 10 percent or more of the voting securities, but the Commission on application may declare that the relationship does not exist where it is found that neither control nor "controlling influence" is exercised, and may upon its own motion declare the relationship to exist irrespective of stock ownership where it finds that controlling influence is exercised. Section 3 (a) specifies certain categories of holding companies which are entitled to exemption unless and except insofar as the Commission may find the exemption detrimental to the public interest, etc.

These definition and exemption provisions have been of considerable importance as applied to the determination of the status of companies and relationships in existence at the time the Act became effective. Problems will continue to arise from time to time as to their application to new situations. The initial volume of exemption applications was very large. While many of these applications presented relatively simple questions, many others presented very difficult issues and, because of the great variety of problems presented, it seemed desirable for the Commission to proceed cautiously in the

[75]Rule U-7; *South Penn Oil Company, et. al.*, Holding Company Act Release No. 2625.

application of the statutory standards. It was important to avoid creating interpretative precedents which might prove embarrassing as applied to superficially similar, but essentially different, facts. Some of the cases also involved very difficult issues of fact as to the exercise of control or controlling influence. Where an issue of this kind arises, all of the company officers involved who are most familiar with the facts are, of course, interested in establishing absence of control. Accordingly, it is necessary for the Commission to undertake extensive field investigations in order to develop the relevant evidence, which is largely circumstantial in character. These cases involve long hearings, voluminous records, and careful study before the Commission is in a position to decide them.

Most of the exemption provisions grant a temporary exemption pending action by the Commission where an application has been filed in good faith. This made it possible for the Commission, without hardship to the applicants, to postpone action upon some of the more difficult applications, in order to give them the most careful consideration and also, in some instances, to give the right-of-way to what seemed more pressing business. This, of course, has involved the disadvantage of delaying the application of the regulatory provisions of the Act to certain important companies which have ultimately been denied exemption.

During the past year the Commission has decided a number of important cases arising under Section 2 (a) (8) of the Act, involving applications by *prima facie* subsidiary companies (10 percent or more of the voting securities of which were owned by other companies) to be declared not to be subsidiary companies.

The Detroit Edison Company filed an application under Section 2 (a) (8) to be declared not to be a subsidiary of The North American Company, the owner of 19.28 percent of its voting securities, of American Light & Traction Company, the owner of 20.27 percent of its voting securities, or of The United Light and Power Company and The United Light and Railways Company, parents of American Light & Traction Company.[76] The record in that case established that The North American Company had caused the incorporation of the applicant; that thereafter that company had "maintained a position of importance and influence in Edison's affairs based on stock ownership or historical association or both"; and that the relationship between the two companies was such as to preclude the findings requisite to the granting of the requested order with respect to The North American Company. The application was granted with respect to American Light & Traction Company.

On an appeal taken by The Detroit Edison Company, the Circuit Court of Appeals for the Sixth Circuit affirmed the order of the Com-

[76] Holding Company Act Release No. 2208.

mission denying such application.[77] With respect to the issue as to the existence of a "controlling influence" by North American over Detroit Edison, the court said, in part:

"The present Act undertakes to bring within its ambit all subsidiaries subject to 'controlling influences' of a parent. This phrase should be construed in the light of the purpose of the Act of which it is a part, and when understood in this setting and in the light of its ordinary signification, it means the act or process, or power of producing an effect which may be without apparent force or direct authority and is effective in checking or directing action, or exercising restraint or preventing free action. The phrase as here used, does not necessarily mean that those exercising controlling influence must be able to carry their point. A controlling influence may be effective without accomplishing its purpose fully.

* * * * * * *

"The fact that the North American Company had abandoned some of the characteristics of 'controlling influence' over the petitioner at the time of the hearing, did not require the Commission to disregard prior interrelated activities. There is no showing that its latent power to resume such control has been extinguished. The relationship is such that they may enter into similar activities in the immediate future. *United States* v. *Trans-Missouri Freight Association*, 166 U. S. 290, 308; *Labor Board* v. *Newport News Company*, 241 U. S. 251."

The court also held that, in considering whether the "controlling influence" was such "as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that * * *" Detroit Edison be subject to the obligations imposed by the Act upon subsidiaries of holding companies, it was not necessary for the Commission to show a history of abuses of the type specified in Section 1 of the Act. As to this, the court said:

"The phrase 'public interest' as used means that the public has some pecuniary interest or an interest by which legal rights or liabilities of its individual members are affected by the operation of the utility. The phrase is not to be construed as requiring the Commission to find that the conduct of the applicant's business has or will affect the public adversely. The statute contemplates action prospectively. It is a preventive measure intended to regulate action before the interests of those concerned are adversely affected. The prime factors in determining statutory exemption are the size and extent of the company involved, the inter-company relationship, the distribution of its securities and the opportunity presented because of the relationship between the parent and subsidiary for excessive charges for services, construction work, equipment and materials, and the transactions entered into in which evil may result, because of the absence of arms-length bargaining or restraint of free and independent competition. Giving due weight to the past transactions of petitioner with the North American and the continuing opportunity for the resumption of such activities and the extent of the petitioner's business and the widely scattered ownership of its stock, the Commission committed no error in denying petitioner exemption from the present Act."

The American Gas and Electric Company, a registered holding company, filed an application pursuant to Section 2 (a) (8) for an order declaring it not to be a subsidiary of Electric Bond and Share Company, likewise a registered holding company and the owner of 17.51

[77] *The Detroit Edison Company* v. *The Securities and Exchange Commission*, 119 F. (2d) 730.

percent of its voting securities. The findings and opinion of the Commission, based upon the record made at the hearing on that application, reviewed at some length the organization of the applicant, the contacts between its management and the executives of Electric Bond and Share Company, and the participation of the latter in applicant's affairs both from a financing and an operating standpoint, and concluded by stating:

"Upon consideration of all the circumstances of this case, we cannot find, as requested by applicant, that its 'management or policies * * * are not subject to a controlling influence, directly or indirectly * * * so as to make it necessary or appropriate in the public interest or for the protection of investors or consumers that the applicant be subject to the obligations, duties, and liabilities imposed' by the Act upon subsidiary companies of holding companies."

The requested order was therefore denied.[78]

Similar conclusions were reached in the applications of The Hartford Gas Company with respect to The United Gas Improvement Company and Connecticut Gas and Coke Company; [79] Panhandle Eastern Pipe Line Company with respect to Columbia Gas & Electric Corporation and Columbia Oil & Gasoline Corporation,[80] and Columbia Oil & Gasoline Corporation with respect to Columbia Gas & Electric Corporation; [81] and Paul Smith's Electric Light and Power and Railroad Company with respect to Associated Gas and Electric Company and its subsidiary holding companies.[82]

Not all the applications under this section, however, have resulted in denials, for during the past year the Commission granted applications pursuant to Section 2 (a) (8) with respect to the relationship of Reading Gas Company to Consumers Gas Company and The United Gas Improvement Company;[83] and with respect to the relationship of Wisconsin Valley Improvement Company to Wisconsin Public Service Company and the Wisconsin Power and Light Company.

Section 3 (a) of the Act provides in substance that the Commission shall exempt any holding company "and every subsidiary company thereof as such" from the provisions of the Act if such holding company fits the description set forth in any one of the five subsections of that section unless and except insofar as it finds the exemption detrimental to the public interest or the interest of investors or consumers. Of these, subsections 3(a) (1) and 3(a) (2) are applicable with certain qualifications to companies "predominantly intrastate" or which are "predominantly" public-utility companies.

[78] Holding Company Act Release No. 2749. (Appeal pending.)
[79] Holding Company Act Release No. 2613. (Appeal pending.)
[80] Holding Company Act Release No. 2778.
[81] Holding Company Act Release No. 2778.
[82] Holding Company Act Release No. 2854.
[83] Holding Company Act Release No. 2175.

In September 1940, the Commission denied the application of Public Service Company of Oklahoma, filed pursuant to Sections 3(a) (1) and 3(a) (2), for an exemption as a holding company with respect to Southwestern Light & Power Company. In discussing the standards of subsection (2) of Section 3(a), the Commission stated that "the most important consideration in determining whether a holding company is 'predominantly a public-utility company' is the relative size of the sudsidiaries and their business as compared with that of a parent company" and then held that since it appeared that the fixed gross utility assets, the gross operating revenues, and the net operating revenues of the subsidiary each exceeded 38 percent of those of the applicant, the conditions precedent to the granting of an application under said subsection had not been complied with.[84] It was concluded that the applicant received a material part of its income from its subsidiary "the loss of which would be something more than *de minimis* to the company."

The Commission granted the Section 3 (a) (1) application of Pennsylvania Gas & Electric company for an exemption as a holding company with respect to its three wholly-owned subsidiaries, namely, Interborough Gas Company, Conewago Gas Company, and Peoples Light Company of Pittston, upon a showing that such applicant and each of its subsidiaries were Pennsylvania corporations carrying on their business as gas utility companies solely within that State.[85]

Subsection (3) of Section 3 (a) applies to a holding company which is "only incidentally a holding company, being primarily engaged or interested in one or more businesses" other than that of a public-utility company and either (A) does not derive any material part of its income from its public-utility subsidiaries, or (B) does derive a material part of its income from such subsidiaries but the latter are substantially wholly-owned.

From many standpoints the most important decision rendered by the Commission under Section 3 (a) (3) was the one involving the application of Cities Service Company. That applicant had 110 gas and electric utility and non-utility subsidiaries which were doing business in many States and foreign countries. Its utility subsidiaries included Cities Service Power & Light Company, a registered holding company with 50 subsidiaries, most of which were electric utility companies serving over 500,000 customers in 16 States. Investments in these utility subsidiaries represented, as of December 31, 1938, approximately 16 percent of the applicant's total investments, the aggregate fixed assets of its consolidated utility subsidiaries represented 47.3 percent of the fixed assets of all consolidated

[84] Holding Company Act Release No. 2277. Applicant appealed from the order of the Commission and its appeal is now pending in the Circuit Court of Appeals for the Tenth Circuit.

[85] Holding Company Act Release No. 2726.

subsidiaries, and 38.0 percent of the fixed assets of all subsidiaries. For the year ending on said date, the aggregate gross revenues of the applicant's consolidated utility subsidiaries, exclusive of the 3 gas utility companies serving Kansas City and various towns in Kansas, Nebraska, and Oklahoma, amounted to $70,257,800, or 32.6 percent of the aggregate gross revenues of the applicant and all of its consolidated subsidiaries, including said gas utility companies.

The Commission stated that it was of the opinion that the question whether a holding company was only incidentally a holding company

"must be determined in each case upon consideration of a variety of circumstances; such as the relationship between the gas and electric operations of the company's utility subsidiaries and the other business or businesses in which it is engaged or interested—i. e., whether the business of the utility subsidiaries is incidental or accessory to the non-utility business or is wholly unrelated to it—the size of the company's utility subsidiaries and the scope of their operations, and, where the utility business is small, the company's stake in the utility business as compared with its interest in other lines of business."

The application for exemption pursuant to subsection (3) of Section 3 (a) was denied because the Commission was unable to find that the applicant was "only incidentally a holding company, being primarily engaged or interested in one or more businesses other than the business of a public-utility company." [86]

Pending the determination of the above described application of Cities Service Company, that company pledged all of the voting securities of Cities Service Power & Light Company, which it owned, with the Harris Trust and Savings Bank as additional security for its own debentures and gave that bank the voting rights with respect thereto. A similar arrangement was made pertaining to all of the applicant's holdings in certain other utility subsidiaries. The contention was then made that the phrase "power to vote" contained in Section 2 (a) (8) (A) modified the word "owned" and that since the applicant had no power to vote the pledged securities it was not a "holding company" within the definition of the Act. On the basis of the previous decision in H. M. Byllesby & Company,[87] to the effect that such phrase qualifies only the word "held" and not the words "owned" or "controlled," the Commission refused to adopt such an interpretation. It also denied the applicant's contention that "owned" must be construed to exclude ownership which is not accompanied by voting power and held that a pledgor of voting securities is the owner thereof within the meaning of Section 2 (a) (8) (A) although the voting rights thereon had been transferred to the pledgee. The Cities Service Company did not appeal from this decision but subsequently registered.

[86] Holding Company Act Release No. 2444.
[87] 6 S. E. C. 649, See Sixth Annual Report, p. 42.

Subsection (4) of Section 3 (a) provides an exemption for a company which is *temporarily* a holding company solely by reason of the acquisition of securities for purposes of liquidation of a bona fide debt or in connection with a bona fide arrangement to underwrite securities. Pursuant to this subsection the Massachusetts Mutual Life Insurance Company [88] was granted an exemption for six months, while the exemption of the Manufacturers Trust Company was extended for 9 months [89] with respect to securities of utility companies which they owned. In this connection, the Commission pointed out that a holding company receiving an exemption under subsection (4) of Section 3 (a) must within a reasonable time dispose of its utility holdings because the word "temporarily" used therein negatived any intention that such company should receive a continuous exemption.

Subsection (5) of Section 3 (a) relates to the exemption of a holding company which is not itself a public-utility company and which derives no material part of its income from utility subsidiaries operating in the United States. The application of Cities Service Company also requested an exemption under subsection (5) of Section 3 (a), that applicant contending that such subsection was applicable to domestic as well as to foreign systems. After reviewing the legislative history of this subsection, the Commission concluded that the exemption provided thereby "is available only to essentially foreign holding company systems, and that the applicant cannot qualify under this section since the great bulk of its utility subsidiaries are within the United States."

In its findings and opinion in the Cities Service Company case, the Commission also interpreted the "unless and except" clause in the first sentence of Section 3 (a) as being designed "to prevent the exemption of any holding company which, although it might meet the formal conditions under Section 3 (a), is essentially the type of company 'at which the purposes of the legislation are directed'," and found it would be detrimental to the public interest and to the interest of investors and consumers in the United States to grant the application of that company.

The request for an extension of the exemption of Dominion Gas and Electric Company, both as a holding company owning securities of companies operating in Canada and as a subsidiary of International Utilities Corporation, a registered holding company, was denied, except with respect to Section 13. The Commission found that, although the applicant satisfied the factual requirements of both Section 3 (a) (5) and Section 3 (b), the granting of the exemptions would be detrimental to the public interest and to the interests of United States investors, who owned a substantial percentage of the

[88] Holding Company Act Release No. 2852.
[89] Holding Company Act Release No. 2755.

securities, since the record revealed many instances where its officers and directors had acted in "wanton disregard of the fiduciary duties owed to stockholders." [90]

Section 3 (b) provides that the Commission may exempt any subsidiary from any provision of the Act if it finds that such subsidiary derives no material part of its income from sources within the United States and neither it nor any of its subsidiary companies is a public-utility company operating in the United States and that the application of such provisions to such subsidiary is not necessary in the public interest or for the protection of investors.

With respect to the foreign subsidiaries the Commission has generally found, with specified exceptions, that it was not necessary in the public interest or for the protection of investors that they be subject to the duties and obligations imposed upon them as subsidiaries of registered holding companies by Sections 6, 9, 11 (g), 12 (b), 12 (c), 12 (f) and (g), 12 (h) (2), 13, 15, and 17 (c). Such qualified exemption was, however, granted only until June 30, 1943.[91] It has been the policy of the Commission in granting exemptions under Section 3 (b) to retain jurisdiction with respect to further investment of funds in these companies by investors in the United States and over other matters which may affect United States citizens.

During the year the Commission extended the Section 3 (b) exemptions of the following companies: Southern Utilities Company, Limited,[92] Great Northern Gas Company, Limited,[93] New Brunswick Power Company,[94] and Consolidated Electric and Gas Company.[95]

Table 49 of Appendix II, page 310, indicates the number of applications under Sections 2 and 3, relating to exemption from the provisions of the Act, received and disposed of during the past fiscal year.

### PETITIONS FOR JUDICIAL REVIEW OF THE COMMISSION'S ORDERS ENTERED PURSUANT TO THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

During the past fiscal year, petitions for the review of Commission orders issued under the Public Utility Holding Company Act of 1935 were filed by The Hartford Gas Company, American Gas & Electric Company, Morgan Stanley & Co., Incorporated, Public Service Company of Oklahoma, The Detroit Edison Company, and Lewis H. Morris. The issues involved in most of these cases have been discussed in previous sections of the report.

The Hartford Gas Company seeks a review of an order of the Commission denying its application to be declared not to be a sub-

[90] Holding Company Act Release No. 2810.
[91] Holding Company Act Release No. 2810.
[92] Holding Company Act Release No. 2479.
[93] Holding Company Act Release No. 2480.
[94] Holding Company Act Release Nos. 2481 and 2593.
[95] Holding Company Act Release No 2724.

sidiary company of The United Gas Improvement Company, The United Corporation, or Connecticut Gas & Coke Securities Company. The Hartford Gas Company's petition is now pending before the United States Circuit Court of Appeals for the Second Circuit.

American Gas & Electric Company seeks a review of an order of the Commission denying its application to be declared not to be a subsidiary of Electric Bond and Share Company. Its petition for review is now pending before the United States Court of Appeals for the District of Columbia.

Morgan Stanley & Co., Incorporated, has filed a petition to review an order of the Commission in effect prohibiting The Dayton Light and Power Company from paying fees to Morgan Stanley & Co., Incorporated, in connection with the underwriting of an issue of the former's securities, on the ground that Morgan Stanley & Co., Incorporated, and The Dayton Light and Power Company stand in such relation that there is liable to have been an absence of arm's-length bargaining with respect to the transaction. This petition is now pending before the Circuit Court of Appeals for the Second Circuit.

Public Service Company of Oklahoma seeks the review of an order of the Commission denying its application for exemption of itself as a holding company and of Southwestern Light & Power Company as its subsidiary company. This petition is now pending before the United States Circuit Court of Appeals for the Tenth Circuit.

The Detroit Edison Company sought a review of an order of the Commission denying its application to be declared not to be a subsidiary company of The North American Company. On May 12, 1941, the Circuit Court of Appeals for the Sixth Circuit denied the Detroit Edison Company's petition and upheld the Commission's determination.

Lewis H. Morris, a stockholder of International Paper & Power Company, filed a petition to review an order of the Commission dismissing an application of International Paper & Power Company with respect to a proposed change in its capitalization. The Commission had previously passed upon this proposal [96] and at the suit of a stockholder the Circuit Court of Appeals for the First Circuit had held that the Commission was without jurisdiction in the premises because International Paper & Power Company, having an application for exemption pending, was not a registered holding company.[97] Thereafter, the Commission granted the application for exemption of International Paper & Power Company and dismissed the proceeding relating to that company's proposed change in capitalization. Morris thereupon appealed and the Circuit Court of Appeals for the Second Circuit upheld this action by the Commission and dismissed Morris' petition.

[96] See 2 S. E. C. 274 for majority, concurring and dissenting opinions.

[97] *Lawless v. Securities and Exchange Commission*, 105 F. (2d) 574.

## Part V

# ADMINISTRATION OF THE SECURITIES EXCHANGE ACT OF 1934

The Securities Exchange Act of 1934 is designed to eliminate manipulation and other abuses in the trading of securities both on the organized exchanges and in the over-the-counter markets which together constitute the Nation's facilities for trading in securities; to make available to the public information regarding the condition of corporations whose securities are traded on any national securities exchange; and to control the flow of the Nation's credit resources into its securities markets.

### CONFERENCES ON PROPOSALS FOR AMENDMENTS TO THE SECURITIES ACT OF 1933 AND THE SECURITIES EXCHANGE ACT OF 1934

In May of 1940 certain bills were pending before both houses of Congress to amend the Securities Act of 1933 in certain respects.[1] The Commission was then aware that representatives of certain stock exchanges, as well as representatives of over-the-counter brokers and dealers, also were advancing additional proposals for various amendments to the Securities Exchange Act of 1934. The pending bills were referred by the Committee on Interstate and Foreign Commerce of the House of Representatives to this Commission for its consideration and comment. Because of the close relationship between the Securities Act of 1933 and the Securities Exchange Act of 1934, the Commission suggested the advisability of its consultation with the investment banking and dealer associations and with representatives of exchanges on all aspects of proposed amendments to each of the Acts prior to the submission by the Commission of its views on this legislation. With the approval of the Chairman of the House Committee on Interstate and Foreign Commerce and the Chairman of the Committee on Banking and Currency of the Senate, the Commission undertook a study, with representatives of the securities industry and others, of the advisability of various suggested amendments to the Securities Exchange Act of 1934, as well as the Securities Act of 1933. The conferences on the general program, at which all of the proposals for amendment of both Acts were exhaustively discussed, commenced in the fall of 1940 and continued at intervals during the past fiscal year. Throughout the year the Com-

[1] S. 3985, H. R. 9807, and H. R. 10013, 76th Cong. 3d Sess

mission has endeavored, on the basis of these conferences, to work out as many areas of agreement as possible.[2]

## PROCEEDINGS UNDER SECTION 19 (b) WITH RESPECT TO THE MULTIPLE TRADING [3] RULE OF THE NEW YORK STOCK EXCHANGE

On January 2, 1941, the Commission instituted its first proceeding under Section 19 (b) of the Securities Exchange Act of 1934, which section empowers the Commission under certain conditions to alter or supplement the rules of an exchange in respect of certain matters, if the exchange itself refuses to make such changes. On that date, the Commission served notice upon the New York Stock Exchange of a hearing on the so-called "multiple trading rule" of that exchange. The notice of hearing was the culmination of an extended series of staff investigations on the consequences of the rule, which were followed by informal requests by the Commission that the New York Stock Exchange rescind the rule. Upon the repeated refusal of that exchange to comply with these requests, and upon its refusal to comply with a subsequent formal request made pursuant to the statute, this proceeding was instituted.

The recent history of the New York Stock Exchange's multiple trading rule dates from September 28, 1939, when a "Special Committee on Multiple Exchange Trading" was appointed by that exchange to study dealings on other exchanges in securities listed on that exchange. On February 28, 1940, pursuant to the recommendation of this committee, the Board of Governors of the New York Stock Exchange directed its Committee on Member Firms to proceed to enforce Section 8 of Article XVI of its Constitution. This section provides:

"Whenever the Board of Governors, by the affirmative vote of seventeen Governors, shall determine that a member or allied member is connected, either through a partner or otherwise, with another exchange or similar organization in the City of New York which permits dealings in any securities dealt in on the Exchange, or deals directly or indirectly upon such other exchange or organization, or deals publicly outside the Exchange in securities dealt in on the Exchange such member or allied member may be suspended or expelled as the Board may determine."

Accordingly, the Committee on Member Firms, on July 12, 1940, adopted the multiple trading rule, holding that:

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[2] On August 7, 1941, the Commission rendered its report to the two houses of Congress upon the various proposals for amendment which had been canvassed during these conferences.

[3] For a description of multiple trading and its history, refer to "Report to the Commission by the Trading and Exchange Division on the Problem of Multiple Trading on Securities Exchanges" published by the Commission in November 1940. The interest of the New York Stock Exchange in multiple trading lies in the trading on other exchanges in issues listed on the New York Stock Exchange and also listed or admitted to unlisted trading privileges on other exchanges. The New York Stock Exchange maintains that it has not as yet taken any position with respect to multiple trading in its general aspects, but that the rule referred to in the accompanying discussion relates only to the prevention of its own members from acting as odd-lot dealers or specialists and from publicly dealing for their own account on another exchange in securities listed on the New York Stock Exchange.

"* * * after September 1, 1940, any member, allied member or member firm acting as an odd-lot dealer or specialist or otherwise publicly dealing for his or its own account (directly or indirectly through a joint account or other arrangement) on another exchange in securities listed on the New York Stock Exchange shall be subject to proceedings under Section 8 of Article XVI."

The Commission's staff, which was already engaged in a study of the problems of the regional exchanges, immediately accelerated its efforts and concentrated its study on the effects of the multiple trading rule upon such exchanges. Basing its conclusions in part upon the staff's field investigations in Boston, Cleveland, Chicago, Cincinnati, and Pittsburgh, the Commission on August 22, 1940, through Acting Chairman Sumner T. Pike, requested the New York Stock Exchange to postpone the effective date of the ruling. In part, his letter said:

"* * * having regard * * * to the fact that the Commission's preliminary study indicates that the public interest may be involved, the Commission feels that an extension of the effective date of the ruling for at least sixty days would be advisable."

The New York Stock Exchange replied on August 28 that its "Committee on Member Firms was specifically authorized to grant any extensions of time necessary to prevent undue hardship to any member firm affected. This Committee has already granted a number of extensions of from 30 to 60 days and will be glad to receive applications from any others that have a legitimate reason for postponing action." However, the exchange refused to accede to a blanket extension of the effective date.

On October 24, 1940, the Commission, having at hand a summary of its staff's findings and having in mind the impending termination of the 60-day extensions granted by the New York Stock Exchange, released a "Summary of Findings and Conclusions to be Contained in Report to the Commission by the Trading and Exchange Division on the Problem of Multiple Exchange Trading." Simultaneously, Commissioner Pike, in a letter to the New York Stock Exchange, requested rescission of the multiple trading rule. His letter said in part:

"You have assured us that you have no desire to do any injury to the national system of regional securities markets. Because the findings of its staff investigation show that enforcement of your ruling will, in fact, have this result with consequent injury to the investing public in the regions affected, the Commission requests that your Board of Governors rescind its resolution pursuant to which the Committee on Member Firms issued its ruling of July 12, 1940."

The New York Stock Exchange, replying on October 30, refused to comply with the Commission's request but instead it acceded to an alternative suggestion by the Commission and extended existing

exemptions to December 1, 1940, pending the full report on multiple trading which was then being prepared for publication.

The full report was made public on November 22, 1940, under the title "Report to the Commission by the Trading and Exchange Division on the Problem of Multiple Trading on Securities Exchanges." The report dealt in detail with the historical developments of multiple trading and the mechanics of such trading and described the magnitude of multiple trading and recent trends in its volume. The report then discussed the effects of multiple trading upon the distribution of business among exchanges and among various groups of brokers and dealers, terminating with an analysis of the effects of the multiple trading rule upon brokers and dealers, upon exchanges, and upon the public. The report concludes:

"* * * the consequences of the New York Stock Exchange's action will be undesirable and may prove to be extremely serious for individual investors in some localities and for the public at large. Local industry, as well as local investors, look to their local financial centers to afford, as they should, a capital market as well as a market in which outstanding securities may be traded under the safeguards which normally attend the functioning of an organized exchange. The regional exchanges have played, and should continue to play, an integral and an essential role in developing and serving industry, the financial community and the investing public within their regions. Therefore, the action of the New York Stock Exchange, even though apparently directed solely to its own members, materially affects inter-exchange competition in a manner harmful to local industry, the general public, and to individual investors."

On December 11, 1940, after having extended existing exemptions to January 1, 1941, the New York Stock Exchange expressed disagreement with the findings in the staff's report and stated in a letter to the Commission that it "must respectfully decline to accede to the request contained in your letter of October 24." On December 20, 1940, the Commission, acting pursuant to the provisions of Section 19 (b) of the Securities Exchange Act of 1934, formally requested the New York Stock Exchange to

"effect such changes in its rules, as that term is defined by Section 6 (a) (3) of the Act, as may be necessary to make it clear that the rules of the exchange, or their enforcement, shall not prevent any member from acting as an odd-lot dealer or specialist or otherwise dealing upon any other exchange outside the City of New York of which he is a member."

By letter dated December 27, 1940, the president of the New York Stock Exchange advised the Commission that the exchange refused to comply with the above-mentioned request. Thereupon, on January 2, 1941, the Commission instituted a proceeding to determine whether the Commission should, pursuant to Section 19 (b) of the Securities Exchange Act of 1934, by rule or regulation or by order alter or supplement the rules of such exchange insofar as necessary or appropriate to effect the changes requested by the Commission on

December 20, 1940. Pending a final determination of the question, the New York Stock Exchange extended exemption from the rule's provisions to those of its members who would have been directly affected by its provisions at the time of its promulgation.

Hearings pursuant to the January 2 order were held from January 21 to January 30, 1941, at which time witnesses called by the Commission offered testimony on the history, methods, and extent of multiple trading and on the consequences of the multiple trading rule. At the same time, the New York Stock Exchange availed itself of the opportunity to challenge the testimony of the Commission's witnesses and to present its own case in full. On March 17, 1941, the trial examiner's report was filed and on May 8 oral argument was held before the Commission. The decision of the Commission in the matter was pending at the close of the fiscal year.[4]

## PROTECTION OF CUSTOMERS' SECURITIES

On November 15, 1940, the Commission promulgated two substantially identical rules known as Rules X-8C–1 and X-15C2–1 under the Securities Exchange Act of 1934 to carry out the principles of Section 8 (c) of the Act governing the pledging of customers' securities. Generally speaking, the rules prohibit brokers and dealers from risking their customers' securities as collateral to finance their own trading, speculating, or underwriting ventures. Accordingly, the rules, subject to certain exceptions, put into operation the three basic standards of desirable brokerage practice which are embodied in Section 8 (c). The first is that brokers or dealers must not commingle the securities of different customers as collateral for loans without the consent of each customer. Second, a broker or dealer must not commingle his customers' securities with his own under the same pledge. Finally, and of the greatest practical importance, a broker or dealer must not pledge customers' securities for more than the total amount which his customers owe him.

The rules were adopted under both Section 15 (c) and Section 8 (c) of the Act in order that uniformity of regulation would be achieved with respect to all branches of the brokerage industry, regardless of whether those subject to the rules are members of exchanges, brokers, or dealers doing business through the medium of members, or over-the-counter brokers or dealers who do not handle any stock exchange business. Because of the complexity of the credit mechanisms affected by these so-called "hypothecation rules" and because of the possibility that compliance with the rules would entail certain readjustments in the business methods of brokers and dealers, they were not

[4] The Commission's decision was published on October 6, 1941. (See Securities Exchange Act Release No. 3033). The Commission altered the exchange rule. The exchange subsequently indicated its acquiescence.

made effective until February 24, 1941. This deferred effective date allowed a lapse of over 3 months during which the industry could adapt itself to their requirements.

The processes of conference and discussion which preceded the Commission's adoption of the rules, as well as its efforts to assist the approximately six thousand members, brokers, and dealers who are subject to the rules in complying with their provisions, may be briefly summarized. After extended study of the problems involved in the pledging and repledging of customers' securities by brokers and dealers, and following the customary practice of the Commission, a tentative draft of the rules was submitted, under date of November 24, 1939, to representatives of brokerage and banking interests for their study and comment. In addition to obtaining the written comment of the national securities exchanges, the American Institute of Accountants, and certain accounting firms specializing in brokerage problems, intensive conferences were undertaken with representatives of the Board of Governors of the Federal Reserve System, the New York Stock Exchange, the New York Curb Exchange, the National Association of Securities Dealers, Inc., and the clearing house banks of the City of New York, which handle the major portion of the Nation's brokerage loans. These conferences extended well into 1940. As a result, the rules, in the form in which they were promulgated, contained numerous provisions and exemptions based upon suggestions emanating from these sources.

## EXCHANGES REGISTERED AND EXEMPTED FROM REGISTRATION

During the past fiscal year there has been one change in the number of exchanges registered with the Commission as national securities exchanges. No change has occurred in the number of exchanges exempted from such registration.

Pursuant to the provisions of Section 6 (f) of the Securities Exchange Act of 1934, the New York Real Estate Securities Exchange, Inc., made application to the Commission on May 26, 1941, for the withdrawal of its registration as a national securities exchange. This application was granted by the Commission in its order of June 4, 1941, and the withdrawal became effective June 16, 1941. In its application, the exchange stated:

"The undersigned hereby requests withdrawal of said registration for the reason that the Board of Governors, after all possible efforts to improve and increase its activities, has found it impracticable to overcome certain difficulties and obstacles which stand in the way of making it the useful instrument for public service which its founders and members envisaged."

The 19 registered exchanges and the 6 exchanges exempted from registration as of June 30, 1941, are as follows:

REGISTERED

*Baltimore Stock Exchange
*Board of Trade of the City of Chicago
*Boston Stock Exchange
†Chicago Stock Exchange
*Cincinnati Stock Exchange
*Cleveland Stock Exchange
*Detroit Stock Exchange
*Los Angeles Stock Exchange
*New Orleans Stock Exchange
*New York Curb Exchange
New York Stock Exchange
*Philadelphia Stock Exchange
*Pittsburgh Stock Exchange
St. Louis Stock Exchange
*Salt Lake Stock Exchange
San Francisco Mining Exchange
*San Francisco Stock Exchange
*Standard Stock Exchange of Spokane
Washington (D. C.) Stock Exchange

EXEMPTED

Colorado Springs Stock Exchange
*Honolulu Stock Exchange
*Minneapolis-St. Paul Stock Exchange
Richmond Stock Exchange
*Seattle Stock Exchange
*Wheeling Stock Exchange

* Unlisted trading privileges with respect to certain issues of securities exist on these exchanges.

†On May 26, 1941, the Chicago Stock Exchange applied for unlisted trading privileges in twenty stocks pursuant to Section 12 (f) (2) of the Securities Exchange Act of 1934, which applications were pending at the close of the fiscal year, and were granted thereafter on July 30, 1941.

Some changes have been made in the rules, practices, and organization of the registered and exempted exchanges as reflected in their applications for registration or exemption. Consequently, during the past fiscal year, the national securities exchanges filed 157 amendments to their applications, and 26 amendments were received from exempted exchanges. Each of these amendments was studied and analyzed, not only that the Commission might determine compliance with relevant legislation and regulations, but also to the end that appropriate comments and suggestions could be addressed to the exchanges concerned in order to facilitate the performance of their public obligations.

During the past fiscal year, national securities exchanges have been reporting monthly to the Commission all cases of disciplinary action taken against their members or member firms. These cases have

been recorded and studied with a view toward strengthening or improving those rules which indicate a possible weakness in the disciplinary machinery of the exchanges.

### COOPERATIVE UNDERTAKINGS CONSEQUENT UPON WAR CONDITIONS ABROAD

During the year the Commission cooperated with the Treasury Department in the regulation of such securities transactions in domestic markets originating in occupied countries as came under the so-called "freezing order." [5] It conducted investigations to ascertain the effectiveness of the controls over such transactions and prior to the adoption of the amendment to the "freezing order" on June 14, 1941, extending this order to include all transactions originating in continental Europe, investigated and reported on the feasibility of such action. Upon request of the Treasury Department, it has considered and made suggestions with respect to proposed amendments to the regulations and licenses issued under the "freezing order," and has reviewed and given opinions on the desirability of granting specific applications for licenses. The Commission rendered assistance in developing a program for taking a census of the holdings of securities of foreigners in domestic enterprises and has prepared and submitted analyses and studies of the values of many of the British owned securities and direct investments in the United States, including a special study of British ownership of insurance companies. It has also conferred with the Treasury Department with respect to a program for the orderly liquidation of British investments in American enterprises.

In addition the Commission, from time to time, has cooperated with other governmental agencies in connection with problems arising out of domestic transactions in the securities of aggressor nations and transactions in domestic securities originating in foreign countries or for foreign accounts.

### SURVEILLANCE OF COMMODITY MARKETS

The Commission has recently undertaken surveillance of certain aspects of the commodity markets, as a result of a request under date of June 5, 1941, from Leon Henderson, Administrator of the Office of Price Administration and Civilian Supply. Mr. Henderson's request reads as follows:

"As you are aware, members of this Office in recent weeks have been giving attention to the presently unregulated commodity exchanges. We have been disturbed by the volume of speculative activity in essential foodstuffs on certain of these exchanges and, in cooperation with exchange officials, have taken steps to increase margin requirements and tighten various trading practices. It is my

[5] Executive Order No. 8389.

feeling that in this emergency period there is need for a close watch of the trading in these markets to the end that the public is not victimized by undue speculative activity.

"The Securities and Exchange Commission has had detailed experience in protecting the public from similar manipulation on the securities exchanges. I should like to call upon your organization to undertake on a voluntary basis to keep us informed as to developments on these commodity exchanges. Such cooperative activity would make it unnecessary for us to build up a staff for this purpose and in any case give us the advice of a much more experienced personnel than we could expect to assemble ourselves. It is understood, of course, that the extent of your undertaking would be only to keep this office informed of developments requiring our scrutiny.

"May I hear from you in the near future as to whether you can assist us in this matter."

On June 17, 1941, Chairman Eicher replied as follows:

"We have your letter of June 5, 1941, requesting us to employ our facilities for scrutiny of the unregulated commodities.

"In response to your request, we have reviewed our facilities for market observation and believe that they are substantially adaptable to the additional scrutiny of the unregulated commodities markets. We shall therefore be glad to undertake this work for you, sending you daily (and where necessary, hourly) reports of activity and calling to your special attention any unusual developments which appear to have a bearing upon the problems under your jurisdiction.

"You understand, of course, that we do not have statutory power to proceed against persons who manipulate the prices of these commodities, or who speculate excessively to the detriment of the public. We shall, however, use our facilities to detect such occurrences and call them immediately to your attention."

The results of this surveillance and analyses thereof are being submitted in the form of a frequent letters and reports to the Price Division of the Office of Price Administration and Civilian Supply.

The securities exchanges have been requested to cooperate by requiring margins in commodities transactions equivalent to those required by rules of the commodity exchanges, and have responded favorably to this request.

### MARKET SURVEILLANCE AND TRADING INVESTIGATIONS

The Commission's aim in its administration of the statutory prohibitions of the Securities Exchange Act of 1934 against stock market manipulation is a sufficient policing of the markets in order to accomplish the extinction of manipulation without interfering with the legitimate functioning of those markets. Its methods of market surveillance and its investigatory procedure are set forth at pages 91 *et seq.* of the Sixth Annual Report of this Commission.

A tabular summary with respect to the Commission's trading investigations follows:

*Trading investigations*

| | Flying quizzes [a] | Preliminary investigations | Formal investigations |
|---|---|---|---|
| Pending June 30, 1940 | 34 | 7 | 14 |
| Initiated July 1, 1940, to June 30, 1941 | 70 | 7 | 10 |
| Total to be accounted for | 104 | 14 | 24 |
| Changed to preliminary or formal | 12 | 3 | |
| Closed or completed | 74 | [b] 8 | [b] 15 |
| Total disposed of | 86 | 11 | 15 |
| Pending June 30, 1941 | 18 | 3 | 9 |

[a] A flying quiz is a quick informal survey of the trading in a security to determine if additional investigation is warranted.
[b] Includes reference of cases to various national securities exchanges.

## RECORD OF PUBLIC ACTION TAKEN AS A RESULT OF TRADING INVESTIGATIONS

On February 7, 1941, Joseph L. Merrill, a special partner of Merrill Lynch, E. A. Pierce & Cassatt, was suspended for 6 months as a member of the New York Stock Exchange, the New York Curb Exchange, and nine other national securities exchanges for violating Section 9 (a) (2) of the Securities Exchange Act of 1934. This action resulted from an investigation of his transactions during August 1940, in Diamond Shoe Corporation common stock listed on the New York Curb Exchange. No evidence was obtained which indicated that any other partner of the above firm knew of, consented to, or concurred in the violation.

On May 2, 1941, the United States District Court for the Northern District of Illinois indicted David A. Smart, Alfred Smart, Arthur Green, A. D. Elden, Jeannette Kilmnick, and Alfred R. Pastel, all of Chicago, Walter Lyon and Walter Stein of Walter Lyon & Co., David Van Alstyne, J. J. Hindon Hyde, and Walter Winfield of Van Alstyne & Co., and Leo G. Seisfeld, all of New York City. The indictment charged these defendants with conspiracy to violate Section 9 (a) (2) of the Securities Exchange Act of 1934. This case was referred to the Department of Justice on June 23, 1939, and resulted from an investigation of transactions by the above named persons during 1938 in Esquire-Coronet, Inc., common stock listed on the New York Curb Exchange.

## MARGIN REGULATIONS

The Securities and Exchange Commission is charged with the duty of enforcing Regulation T promulgated by the Board of Governors of the Federal Reserve System. This regulation limits the extension and maintenance of credit by brokers, dealers, and members of national securities exchanges and was promulgated pursuant to Sections

7 and 8 (a) of the Securities Exchange Act of 1934. As in previous years, the Commission has continued to conduct inspections of brokerage firms for the purpose of determining compliance with Regulation T [6], as well as all other rules and regulations applicable to such firms, and has made the results thereof available to the Board of Governors of the Federal Reserve System whenever appropriate. During the past fiscal year the Commission continued to receive the cooperation of the national securities exchanges with respect to the enforcement of this regulation, the New York Stock Exchange having taken action in nine instances, the Los Angeles Stock Exchange in one instance, and the San Francisco Stock Exchange in one instance, for violation of Regulation T by member firms.

## PEGGING, FIXING, AND STABILIZING OF SECURITIES PRICES

During the fiscal year ended June 30, 1941, the Commission continued the administration of (*a*) Rule X-17A–2, which requires the filing of detailed reports of all transactions incident to offerings in respect of which a registration statement has been filed under the Securities Act of 1933 where any stabilizing operation is undertaken to facilitate the offering; and (*b*) Regulation X-9A6–1, governing stabilizing transactions in securities registered on national securities exchanges effected to facilitate offerings of securities so registered in which the offering prices are represented to be "at the market" or at prices related to the market prices.

Out of a total of 335 registration statements filed under the Securities Act of 1933 during the past fiscal year, 199 contained a statement of intention to stabilize to facilitate the offerings covered by such registration statements. Because of the fact that a registration statement in some cases covers more than one offering, there were a total of 227 offerings of securities in respect of which the statement required by Rule 827 of the Rules and Regulations under the Securities Act of 1933 was made to the effect that a stabilizing operation was intended to be undertaken. Stabilizing operations were actually conducted to facilitate 89 of these offerings. In the case of bonds, public offerings of $799,500,000 principal amount were stabilized. Offerings of stock issues aggregating 12,886,782½ shares and having an aggregate estimated public offering price of $317,402,354 were also stabilized. Of the 89 stabilizing operations commenced during the past fiscal year, 75 had been completed and notices of termination of stabilization filed with the Commission and the remaining 14 were still in progress as of the close of the fiscal year.

Also during the past fiscal year, 21 notices of intention to stabilize were filed with the Commission on Form X-9A6–1 pursuant to the

[6] Refer to "Supervision of Over-the-Counter Brokers and Dealers" for further mention of this subject, page 154, *infra*.

provisions of Rule X-9A6–3. The offerings described in these notices, to facilitate which stabilizing operations were conducted, involved stock issues aggregating 1,736,808 shares and having an aggregate initial public offering price of $52,670,419.

With a view toward simplifying the procedure for the reporting of transactions effected by persons engaged in stabilizing activities, a proposed new Form X-17A–1, with instructions therefor, was drafted during the past year. This proposed form was designed to be "self-proving" and to replace the three forms required to be filed by those persons subject to the provisions of Rule X-17A–2 or Regulation X-9A6–1. A draft of Rule X-17A–2, as it would be amended in the event this proposed form were adopted, was also prepared. Following its usual practice, the Commission submitted, on May 20, 1941, these tentative drafts to 67 representative underwriting firms in various parts of the country and to the National Association of Securities Dealers, Inc., for consideration and comment. They were requested, in particular, to state whether they would prefer to continue to use the 3 forms or to use 1 simple short form corresponding substantially to the proposed form. Of the 51 responses received prior to June 30, 1941, all favored the adoption of the proposed new form or one similar thereto.[7]

On information derived in the first instance from reports filed with the Commission pursuant to Rule X-17A–2 or Rule X-9A6–6, the Commission referred two cases of apparent infractions of the statutes or rules thereunder to national securities exchanges and one case of such apparent infractions to the National Association of Securities Dealers, Inc., for consideration and appropriate disciplinary action by those bodies. In another case, on information so derived, a formal investigation was directed, and on the basis of the information developed therefrom the Commission ordered the suspension of the respondent from membership in the National Association of Securities Dealers, Inc. These cases are summarized below:

On January 22, 1941, the Commission referred to the New York Curb Exchange, for consideration and such disciplinary action as it might deem to be appropriate under the circumstances, several apparent infractions of Regulation X-9A6–1 committed by a member firm during the distribution, in the over-the-counter market, of a stock registered on that exchange. On February 7, 1941, the New York Curb Exchange imposed a fine of $250 on this member firm and reprimanded its member partner.

On February 8, 1941, the Commission referred to the New York Stock Exchange, for consideration and such disciplinary action as it might deem to be appropriate under the circumstances, several appar-

[7] The new Form X-17A–1 and the revised Rule X-17A–2 were adopted by the Commission on July 29, 1941, effective September 10, 1941

ent infractions of Regulation X-9A6–1 committed by a member firm during the distribution, in the over-the-counter market, of a stock registered on that exchange. In a letter to the Commission dated April 25, 1941, the New York Stock Exchange stated that it had censured this member firm.

On April 28, 1941, the Commission submitted certain information to the Washington office of the National Association of Securities Dealers, Inc., with respect to apparent violations of the association's Rules of Fair Practice by a member of that association during the firm's stabilization and distribution of a stock registered on the New York Curb Exchange and the Los Angeles Stock Exchange. In a letter dated June 16, 1941, the National Association of Securities Dealers, Inc. advised the Commission that the association's District Business Conduct Committee for District No. 2 had imposed a fine of $200 on this member and had censured the firm.

On May 26, 1941, the Commission, having found that Masland, Fernon & Anderson of Philadelphia, Pa., had violated Section 15 (c) (1) of the Securities Exchange Act of 1934 and Rule X-15C1–2 promulgated thereunder, and having found that it was necessary and appropriate in the public interest and for the protection of investors and to carry out the purposes of Section 15 of the Act to suspend that firm from membership in the National Association of Securities Dealers, Inc., a registered securities association, for a period of three weeks, ordered, pursuant to Section 15A (1) (2), the suspension of that firm from that association from May 27, 1941, to June 16, 1941, both inclusive.[8]

## REGISTRATION OF SECURITIES ON EXCHANGES [9]

**Termination of Registration under Section 19 (a) (2).**

The Commission is empowered by Section 19 (a) (2) of the Securities Exchange Act of 1934, after appropriate notice and opportunity for hearing, to deny, to suspend the effective date of, to suspend for a period not exceeding 12 months, or to withdraw, the registration of a security on a national securities exchange, if it finds that the issuer of such security has failed to comply with any provision of the Act or the rules and regulations thereunder. In those cases where after notice of hearing the Commission finds the applications for registration or the annual reports deficient or misleading, the practice to date has invariably been, to order the security delisted unless the registrant corrected the defect. This procedure has been followed in all cases to date—so that in practice the delisting power has become

[8] Securities Exchange Act Release No. 2905.

[9] For information regarding the purpose and nature of registration of securities on exchanges and the Commission's procedure in examining applications and reports, see Sixth Annual Report of the Commission, pp. 100–102, incl., as well as previous annual reports.

an administrative device for procuring accurate and adequate disclosures, although it is possible that the Commission may encounter a case of such flagrance as to necessitate delisting, despite subsequent efforts to amend. Proceedings instituted by the Commission pursuant to this section have resulted in most cases from the failure of the registrant to file the annual report required under Section 13, although in some instances such proceedings were instituted on the basis of misleading or inaccurate statements of material fact which, upon examination, appeared to exist in applications or reports filed under the Act. Out of a total of 7 cases disposed of during the past fiscal year, 6 were based upon the failure to file the required annual reports and the remaining 1 resulted from the inclusion in an annual report of information which appeared to be misleading or inaccurate. In 5 of these cases, the annual report was subsequently filed or an amendment was filed correcting indicated deficiencies and the proceedings were thereupon dismissed. The Commission ordered withdrawn the registration of securities of the other 2 issuers—which were also involved in bankruptcy proceedings—in view of their continued failure to file the required annual report.

*Disposition of proceedings under Section 19 (a) (2) during the year ended June 30, 1941*

| Number pending July 1, 1940 | Proceedings instituted July 1, 1940, to June 30, 1941 | Disposition of proceedings | | |
|---|---|---|---|---|
| | | Dismissed | Registration withdrawn | Number pending June 30, 1941 |
| 4 | 6 | 5 | 2 | 3 |

The following table indicates, on a cumulative basis, the number of issuers involved in proceedings under Section 19 (a) (2) from July 1, 1935, when permanent registration of securities under the Act first became effective, to the close of the fiscal year ended June 30, 1941:

*Cumulative disposition of proceedings under Section 19 (a) (2) from July 1, 1935, to June 30, 1941, inclusive*

| Proceedings instituted | Disposition of proceedings | | |
|---|---|---|---|
| | Dismissed | Registration withdrawn | Number pending June 30, 1941 |
| 50 | 21 | 26 | 3 |

**New Rules and Regulations under the Securities Exchange Act.**

During the past fiscal year the Commission adopted certain new rules relating to the registration of securities on exchanges, pursuant

to the Securities Exchange Act of 1934. One of these, Rule X-12B–9, is a companion to Rule 523 under the Securities Act of 1933 and simplifies the problem of filing information required of a company subject to both the Investment Company Act of 1940 and the Securities Exchange Act of 1934. Thus, pursuant to this rule, an application for registration of securities on an exchange which is filed by a closed-end investment company may consist essentially of copies of its registration statement filed pursuant to the Investment Company Act of 1940, accompanied by any additional information and documents required by the form which would otherwise be appropriate and are not included in that registration statement, provided such application is filed within 60 days after the date of filing of the registration statement under the Investment Company Act of 1940. The Commission also adopted a technical amendment to Rules X-13A–7 and X-15D–4 to permit investment companies which are required to file annual reports on Form 10-K, 15-K, 17-K, 1-MD, or 2-MD, pursuant to Sections 13 or 15 (d) of the Securities Exchange Act of 1934, as the case may be, to file in lieu thereof (under certain conditions) copies of their registration statement filed under the Investment Company Act of 1940. Certain other changes, of a relatively minor nature, were also made in the rules and regulations governing the registration of securities on exchanges.

**Statistics of Securities Registered or Temporarily Exempted from Registration on Exchanges.**

Up to and including June 30, 1941, 2,929 issuers had filed a total of 5,375 applications for registration of securities under Section 12 of the Securities Exchange Act of 1934 and a total of 24,143 annual and current reports under Section 13 of that Act. As of June 30, 1941, the registration of securities of 2,350 of these issuers was in effect, and the registration of the securities of the remaining 579 issuers had ceased to be effective for a variety of reasons; e. g., withdrawal from registration, etc.

The number of applications, reports, and amendments filed with the Commission during the past year relating to the listing and registration of securities on national securities exchanges and to the listing of securities on exempted exchanges are as follows:

*Number of applications, reports, and amendments relating to the listing and registration of securities on exchanges—Fiscal year 1941*

| | |
|---|---|
| Applications for registration | 213 |
| Applications for "when issued" trading | 10 |
| Exemption statements for issued warrants | 18 |
| Annual and current reports | 4,685 |
| Amendments to applications and annual and current reports | 1,742 |
| Annual reports of issuers having securities listed on exempted exchanges | 125 |

Tables 29 to 35 of Appendix II, pages 301 to 305, contain more detailed statistics of securities registered on exchanges.

**Withdrawal or Striking of Securities from Listing and Registration on Exchanges.**

During the fiscal year ended June 30, 1941, applications involving 58 issues were filed with the Commission for the withdrawal or striking of such issues from listing and registration on national securities exchanges. These applications were filed in accordance with the provisions of Section 12 (d) of the Securities Exchange Act of 1934 and the rules and regulations promulgated thereunder. As of June 30, 1940, applications involving 21 issues were pending, and decision upon 1 application had been suspended by the Commission. During the past fiscal year, the Commission granted applications involving 63 issues; denied applications involving 3 issues; dismissed 1 application pertaining to 1 issue; applications involving 4 issues were withdrawn by the applicants; and applications involving 8 issues were pending as of June 30, 1941. The Commission was not called upon, during the fiscal year, to dispose of the application upon which decision had been suspended during the preceding fiscal year.

A considerable portion of these applications resulted from continuation of the New York Stock Exchange's practice of seeking to remove from listing and registration thereon issues deemed no longer to have adequate public distribution, activity, or market value for trading on that exchange. Applications from that source involving 22 issues were filed during the past year. As of June 30, 1940, applications involving 12 issues were pending. During the fiscal year, the Commission granted applications involving 33 issues and 1 application involving 1 issue was pending on June 30, 1941.

During the past fiscal year, the Commission received from national securities exchanges certifications of removal involving 252 issues stricken from listing and registration because of payment, redemption, or retirement. A number of the new applications for listing and registration on national securities exchanges filed during the past year were with respect to issues resulting from refundings and changes in capital structure in connection with these 252 issues.

**Applications for the Granting, Extension, and Termination of Unlisted Trading Privileges on Exchanges.**

*National Securities Exchanges.*—Clause (1) of Section 12 (f) of the Securities Exchange Act of 1934 provides that any national securities exchange, upon application to, and approval by, the Commission, may continue unlisted trading privileges to which a security had been admitted on such exchange prior to March 1, 1934. On June 30, 1941, unlisted trading privileges under clause (1) continued in 1,373 stock and 221 bond issues. This is a reduction of 1,312 stock and 1,067 bond issues from the original total continued by the Commission under

clause (1) on October 1, 1934, and a reduction of 132 stock and 100 bond issues from the total as of June 30, 1940.[10] Outstanding causes of this reduction under clause (1) lie in refundings, recapitalizations, mergers, and reorganizations involving substantial changes in characteristics of issues or substitutions or exchanges therefor. During the past fiscal year, 17 applications were filed with the Commission by exchanges seeking a determination that an altered or substituted security was substantially equivalent to a security theretofore admitted to unlisted trading privileges. Of these applications, 11 were granted, 5 were withdrawn and 1 was denied.

Clause (2) and clause (3) of Section 12 (f) provide that the Commission, upon application by a national securities exchange, may extend unlisted trading privileges thereon to any security duly listed and registered on another national securities exchange, or in respect of which prescribed information is available, provided certain conditions as to public distribution and public trading activity in the vicinity of the exchange and other matters are satisfied. On June 30, 1941, unlisted trading privileges under clauses (2) and (3) existed with respect to 160 stock and 31 bond issues, trading in odd lots only being authorized with respect to 14 of the stock issues. Except for 11 issues subsequently removed, these issues represent the total extension by the Commission of unlisted trading privileges under these two clauses since May 27, 1936, when they became effective upon the amendment of Section 12 (f).

Tables 36 and 37 of Appendix II, page 306, summarize the disposition of all applications under clauses (2) and (3) of Section 12 (f) of the Securities Exchange Act of 1934.

Since unlisted trading privileges in various issues have been applied for and granted to more than one exchange, the figures mentioned therein include substantial duplication of the net number of issues involved. This is particularly true with respect to stock issues under clause (1). The duplication involved can be measured by comparing the aggregate 1,533 stock and 252 bond trading authorizations under clauses (1), (2), and (3) as of June 30, 1941, with the unduplicated totals of 1,077 stock and 252 bond issues admitted to unlisted trading privileges on national securities exchanges as of that date. These unduplicated totals include 525 stock and 222 bond issues which are admitted to unlisted trading privileges only; the remaining issues are fully listed and registered (or, in a few cases, temporarily exempted from registration) on national securities exchanges other than those having unlisted trading privileges therein.

Where an application has been filed for permission to extend unlisted trading privileges to a security, the Act permits any broker

[10] Including the removal of 73 stock and 82 bond issues from the New York Real Estate Securities Exchange, whose registration as a national securities exchange was withdrawn. See p. 136, *supra*.

or dealer who makes or creates a market in such security, and any other person having a bona fide interest in such proceeding to be heard upon application to the Commission. During the past fiscal year, there was one instance in which an issuer opposed the granting of such an application—the application of the New York Curb Exchange for the extension of unlisted trading privileges to the First Mortgage Bonds, series A, 4 percent, due September 1, 1969 of Public Service Company of Indiana. In that proceeding, the president of the company addressed a letter to the applicant exchange in which he stated that until the bond had become seasoned, it was his opinion that it would not be in the interest of the holders of the bond or of the company to have it admitted to unlisted trading privileges. The Commission did not sustain the objection raised by the president of that company.

During the past fiscal year, the Commission instituted a proceeding to determine whether unlisted trading privileges should be terminated in the $1 Cumulative Participating Stock of Crown Cork International Corporation on the New York Curb Exchange. This security was formerly listed and registered on the Boston Stock Exchange. Subsequent to the Commission's granting of the issuer's application to withdraw such stock from listing and registration on the Boston Stock Exchange, this proceeding was instituted to determine whether such delisting had been effected for the purpose of evading the purposes of the Securities Exchange Act of 1934. Being satisfied that such was not the intention of the issuer, the Commission dismissed the proceeding before it.

The Act provides that the Commission may terminate unlisted trading privileges in a security upon application by an issuer of such security, or upon application by any broker or dealer who makes or creates a market in such security or by any other person having a bona fide interest in the question of such termination. During the year, Chicago Rivet and Machine Company filed with the Commission an application for the termination of unlisted trading privileges in its Common Stock, $4 Par Value, on the New York Curb Exchange. This application was filed on all three of the statutory grounds: inadequate public distribution of such security in the vicinity of the exchange, inadequate public trading activity, and character of trading in such security on the exchange. The application had not been disposed of by the Commission as of June 30, 1941.

The Chicago Stock Exchange filed applications during the year for the extension of unlisted trading privileges to twenty securities. This action reversed a policy of long standing and left the New York Stock Exchange the only major market without unlisted trading. The hearing in connection with these applications was held on June 13,

1941, and the decision in connection therewith was pending as of June 30, 1941.[11]

**Exempted Exchanges.**

On June 30, 1940, the Seattle Stock Exchange had pending before the Commission applications for the extension of unlisted trading privileges to seven stock and three bond issues. On March 5, 1941, the Commission denied 4 applications involving one stock and three bond issues on the ground that such securities were ineligible for admittance to unlisted trading privileges pursuant to the terms of the order issued by the Commission granting this exchange exemption from registration as a national securities exchange. The remaining applications involving six stock issues were denied, the Commission concluding that no application of this exchange for unlisted trading privileges should be approved unless and until its rules are amended so as to require all trades effected by its members in listed securities and in securities admitted to unlisted trading privileges thereon, whether on or off the floor of the exchange, to be currently reported to the exchange and to be considered exchange transactions subject, so far as physically possible, to all the rules and regulations of the exchange pertaining to transactions actually effected on the floor of the exchange. As another prerequisite, the Commission stated that the exchange should require the current reporting to the secretary or other appropriate officer of the exchange of all bids and offers made by its members in securities traded on the exchange.

## OVER-THE-COUNTER MARKETS

**Activities of National Securities Association.**

Cooperative regulation of the over-the-counter markets has developed in many different ways during the past fiscal year. The National Association of Securities Dealers, Inc., remains the only association registered under Section 15A of the Securities Exchange Act of 1934. Its membership (2,973) comprises those sole proprietors, partnerships, and corporations which transact the bulk of the Nation's business in over-the-counter securities, other than exempted issues, such as municipal bonds. The N. A. S. D., as it is popularly known, has been active, under the cooperative supervision of the Commission, in seeking to raise the standards of business practice in the over-the-counter field through disciplinary proceedings handled by its many local business conduct committees, through the promulgation of certain new rules and the compilation of a Uniform Practice Code, and through educational work carried on both independently by its various committees and jointly with the Commission.

[11] These applications were granted July 30, 1941. Securities Exchange Act Release No. 2970.

**Disciplinary Proceedings.**

*Commission cases.*—Under the provisions of Section 15A of the Securities Exchange Act of 1934 the Commission may invoke the penalty of suspension or expulsion from a registered securities association. Such action represents an economic sanction since the firm thus disciplined cannot enjoy the trade preferences which members of such associations may grant to each other pursuant to the statute. This penalty, however, is less severe than the revocation of broker-dealer registration, which bars the affected firm from use of the mails and instrumentalities of interstate commerce.

In two proceedings during the past year the Commission suspended four firms from N. A. S. D. for engaging in manipulative activities in over-the-counter securities. In one case three firms jointly raised the price of a stock prior to the contemplated distribution,[12] and in the other a house, through its trading and quoting activities, raised prices during the period of distribution.[13] The periods of suspension were rather brief, running from 2 to 6 weeks. While expressly warning that the penalties inflicted would not be regarded as a precedent, the Commission considered such leniency appropriate because of the novelty of the questions presented. During the latter part of the fiscal year, the Commission instituted five other proceedings contemplating suspension or expulsion from N. A. S. D. among the remedies to be considered, but these had not been concluded as of June 30, 1941.

*Cases referred to N. A. S. D. by the Commission.*—Two manipulation cases were referred to the N. A. S. D. by the Commission for the reason that the malpractices involved again constituted matters of first impression. In one of these, the association fined its member $200 and in the other, where the violation was found unintentional, it issued an informal warning. The facts of the latter case, involving manipulation under the guise of stabilization, were reported for the benefit of the general membership in the association's publication [14] which from time to time has set forth in detail practices condemned by the association as contrary to law or business ethics.

The Commission has referred a large number of additional cases to the N. A. S. D. in pursuance of its policy of submitting to the association information indicating nonobservance of high standards of commercial honor not involving transactions which would justify institution of proceedings by the Commission.

Ten cases which had been referred by the Commission were open at the end of the previous fiscal year. Since July 1, 1940, these cases have been disposed of by the association as follows: one member was

[12] *In the Matter of Barrett & Company (Providence, R. I.), Satterfield & Lohrke, and Bond & Goodwin, Inc.*, Securities Exchange Act Release No. 2901.

[13] *In the Matter of Masland, Fernon & Anderson*, Securities Exchange Act Release No. 2905.

[14] See N. A. S. D. NEWS, Vol. 1, No. 8, p. 1 (May 8, 1941).

expelled, another was fined $150, and seven were censured and warned that a repetition of the offense might subject them to severe disciplinary action. In the remaining case, the association took no action since its representatives concluded that the profits charged by the member were not excessive. In connection with five of these cases, the association conducted supplementary inspections in the course of which it found that three of the members had changed their methods of doing business and were observing rules of fair dealing; another member was induced to refund part of the profit taken on one trade; and with regard to the fifth member it was resolved to conduct another recheck in the future since the course of business being followed by this firm was deemed not wholly satisfactory. The association also advised the Commission of its intention to exercise continued surveillance in three more of these ten cases.

During the past fiscal year, in addition to the manipulation cases already mentioned, 36 cases were referred by the Commission to the association, of which the following disposition was made: 2 members were expelled and 1 was suspended for 6 months; 1 member was induced to refund part of the profits he had taken and another to rescind a transaction which showed a rather excessive profit; 9 members were censured or warned; 1 member, whose violations were deemed due to ignorance, was instructed as to the difference between a principal and agency relationship. Another member discharged a salesman whose practices seemed to have been questionable. In 5 cases no action was taken since the prices charged to customers were deemed not unreasonable because of the nature of the securities involved or of other peculiar circumstances. With regard to 1 case the association felt that it did not have jurisdiction because the transactions occurred before the dealer became a member, and with regard to 3 further cases the memberships had been terminated before the association could take action. Eleven cases remained open at the close of the fiscal year; the association had filed complaints against 6 of the firms involved therein and was still investigating the others.

*Cases originated by N. A. S. D.*—The association also handled a large number of cases which originated either in complaints filed by customers or in proceedings brought by various of the association's local business conduct committees on information and belief of probable violation of N. A. S. D. rules. Some of these cases were handled in accordance with the formal procedure set forth in the N. A. S. D. rules which are on file with the Commission as part of the association's registration statement; but many, which involved merely minor instances of poor business practice, were settled in an informal manner.

Ten cases pending on July 1, 1940, were disposed of as follows: two memberships were cancelled; one member was fined $2,000; and

another, as the result of an arbitration, refunded over $10,000 to the complaining customer. Three members were censured and warned, one of these having first made a settlement with the complainant. In three cases no action was taken.

During the past fiscal year the association handled 63 cases, of which 21 involved customer complaints and 42 were originated by the association. Five memberships were cancelled and 1 was suspended for 6 months. In 8 instances the customers withdrew their complaints and in 4 settlements were effected in amounts running up to in excess of $1,000. Eight members were fined in varying amounts running up to $1,000. Letters of censure or caution were directed to 18 firms. In 1 case the association felt that it lacked jurisdiction and in 5 the respondent firms were exonerated. Thirteen cases were pending on June 30, 1941. With respect to several cases, the N. A. S. D. advised the Commission of its intention to conduct future supplemental inspections.

During the fiscal year ended June 30, 1941, the association also filed 90 complaints against members for violation of the selling agreement used in connection with a distribution of Public Service Company of Indiana bonds. In 59 of these cases fines were imposed and 8 members were censured. These penalties imposed by various local committees were at the close of the fiscal year still under review by the association's National Business Conduct Committee. Its decisions are appealable to or reviewable by the Commission on its own motion. The final disposition of all of the so-called P. S. I. cases is, therefore, still pending.[15]

*Developments in N. A. S. D.'s policing methods.*—In connection with the disposition of complaints (excluding P. S. I. complaints) the association conducted 18 investigations, employing its own field representatives in 7 and certified public accountants in 11. In the remaining cases interviews with the parties concerned were relied upon to develop the facts. In the future, the N. A. S. D. will presumably be in a position to conduct its own investigations in a greater number of instances, since it increased its paid staff materially during the past fiscal year.

After the meeting of N. A. S. D.'s Board of Governors in April 1941, the chairman of the board sent out a circular letter to all district committees advising them that

"* * * from this point on our major emphasis must be placed upon regulating the business conduct of our members if we are to achieve the primary purpose for which the Association was formed * * *. In line with this policy, it was decided, therefore, that all District and Local Business Conduct Committees should be ever watchful to discover violations of the Association's Rules and that violators should be vigorously prosecuted and punished."

[15] After the close of the fiscal year the Commission called up 6 of these cases for review. The 6 cases present all the typical instances involved.

Some time subsequent thereto, all of the district secretaries were called to Washington for a course of instruction in the investigation of complaints which was followed by practical field work in the form of an inspection of all members located in St. Paul, Minneapolis, Duluth, and other adjacent cities. A general inspection of this nature represents a distinct step forward compared to the association's original policy of taking action only upon specific complaints. The new policy, if carried through with thoroughness, should prove of real assistance to the Commission in meeting its problem of policing the 6,000-odd over-the-counter houses scattered throughout the land.

**Additional N. A. S. D. Rules and Uniform Practice Code.**

On March 14, 1941, the association filed with the Commission a proposed amendment to its Rules of Fair Practice concerning the activities of its members in connection with the distribution and redemption of securities issued by open-end management investment companies. These rules were adopted by the association pursuant to authority conferred by Sections 22 (a) and 22 (b) of the Investment Company Act of 1940 which authorize registered securities associations to formulate rules designed to minimize dilution caused by defective pricing methods and to eliminate excessive sales loads. Since the Commission had been advised that certain interested members of N. A. S. D. objected to several provisions of the proposed rules, a public conference was held on March 28, 1941, before the full Commission. After considering the various points of view advanced, the Commission concluded that the proposed rules were within the scope of the Investment Company Act of 1940 and did not run counter to the standards prescribed by Section 15A of the Securities Exchange Act of 1934. Therefore, the Commission held that it need not exercise its statutory power of disapproving the rules and they automatically became effective 30 days after filing. The Commission in its opinion[16] emphasized that it was neither approving those portions of the rules dealing with dilution nor intimating that they were adequate to solve the problem. It felt, however, that since the Investment Company Act of 1940 clearly contemplated that the association should be given reasonable latitude in attempting to work out a practical solution of the dilution problem, until the Commission's power to promulgate rules with regard thereto becomes effective, it would hardly be justified in rejecting the proposed rule because it did not go far enough. Under the Investment Company Act of 1940 the Commission may promulgate rules covering dilution and excessive sales loads 1 year after the effective date of the Act; meanwhile, the association is given the first opportunity to tackle the problem. If the association is unwilling or unable to do so, the Commission has

[16] *In the Matter of a Proposed Amendment to the Rules of Fair Practice of N. A. S. D.*, Securities Exchange Act Release No. 2866; Investment Company Act Release No. 118.

residual power to assume the task. The statutory scheme thus furnishes another instance of the cooperative regulatory process.

On June 25, 1941, N. A. S. D. filed with the Commission another amendment to its rules consisting of a Uniform Practice Code and the relevant bylaw authorizing its adoption. A draft of the code had been sent to all N. A. S. D. members at the time they were asked to vote on the bylaw. Numerous objections directed particularly at the terms of the provisions governing "buy-ins" caused the association to modify the code before filing it. The Commission decided that the code, as thus revised, should be submitted to the membership and that it would permit the new amendment to the rules to become effective unless, by July 12, 1941, it received a substantial number of demands for a public hearing based on serious criticism of the code.

**Supervision of Over-the-Counter Brokers and Dealers.**

During the past fiscal year the Commission continued its program of inspection of over-the-counter brokers and dealers on a more extensive scale than in any previous period. The primary purpose of this program is, of course, protection of investors by ascertaining compliance with the statutes administered by the Commission and the rules and regulations thereunder. But of substantial importance, too, is the secondary purpose of aiding brokers and dealers themselves to a better understanding of legal requirements imposed upon them. Measured by either objective there is abundant evidence that these inspections have had salutary effects.

The scope of the problem of supervision of over-the-counter brokers and dealers is to some extent reflected in the fact that, as of the close of the fiscal year, there were 6,065 such brokers and dealers registered with the Commission. Approximately 1,200 of these are also members of various national securities exchanges and about 900 others are engaged chiefly in the distribution of oil royalties or other similar interests in oil, gas, or mineral rights.

During the year the Commission received reports from its various regional offices on 1,082 inspections. Although the Commission's rules prescribing the books and records to be maintained and preserved by brokers and dealers had been in effect since January 1940, failure of compliance with these rules frequently made inspection difficult and, in some instances, it was found necessary to defer inspections until the proper books and records could be established or brought up to date. In the course of these inspections numerous questions relating to these rules have been raised requiring interpretative consideration, but experience has shown that these rules are fundamentally sound. The requirements involve records which a well-organized firm with a substantial business would reasonably be expected to maintain; yet the rules are sufficiently flexible so that even

to a firm with a very limited volume of business they need not be onerous.

In about one-fourth of the total inspections made during the year, questions of compliance with provisions of the statute required consideration. In 66 inspections, for instance, the question of extension of credit in possible noncompliance with Regulation T presented itself and in all such cases the firms promptly took steps to bring accounts into full compliance. In a large number of inspections in this 25 percent segment, conditions and practices were discovered which, to say the least, appeared in varying degrees to be inimical to the interests of customers and in numerous instances, as will be noted from the analysis which follows, actual violations of law were involved.

There were 24 inspections in which evidence of dangerous practices relating to hypothecation and commingling of customers' securities in the possession of the firm was discovered but where no evidence of insolvency or of violation of minimum capital requirements under Section 8 (b) of the Securities Exchange Act of 1934 was found. Eighteen of these cases antedated the Commission's rules under Section 8 (c) of the Act relating to commingling and hypothecation, which became effective February 24, 1941. These firms, however, acknowledged that the practice of subjecting customers' securities to risks of which customers were unaware was not in conformity with good business practice and took prompt corrective measures. Since the effective date of the hypothecation and commingling rules only six inspections have reported practices in nonconformity with the rules and appropriate action was taken in each.

A far more serious situation was found in connection with 69 other firms, the financial condition of which was found to be either precarious or definitely unsound. Some of these firms were insolvent. Others, though solvent, had aggregate indebtedness in excess of 2,000 percent of their net capital, contrary to Section 8 (b) of the Securities Exchange Act of 1934. Some of the firms in question had borrowed against customers' securities more than customers owed the firm on such securities. When such conditions and practices are discovered, the firm is generally given a reasonable time within which to remedy the situation; inability or failure to do so, however, results in prompt action by the Commission. Twenty-six of the 69 in this category have discontinued business.

The action to be taken is determined largely by considerations of public interest. Besides other courses, the Commission may move to enjoin further violations or to revoke or suspend registration, or it may seek to invoke both such remedies. It may also refer the facts to the Department of Justice for consideration of criminal prosecution, or to an agency of the State, if violation of State law appears to be

involved, for such action as such agency may deem appropriate. Obviously, the Commission's primary aim when it appears that the interests of customers may be in jeopardy is to secure, with the greatest speed possible, action to correct the situation or to freeze it so that no further harm is done. On numerous occasions, helpful cooperation has been extended by various State agencies and the following are but a few of the cases which could be cited as evidence of effective cooperation:

In the case of William E. Atwood & Co., Inc. (Maine), inspection disclosed liabilities in excess of $22,000 with assets of only $1,000. Customers' fully paid securities had been pledged to secure bank loans for the firm's own use, without the knowledge or consent of the customers. A bill in equity was filed 2 days after the inspection was begun and a decree, to which the firm consented, was obtained, which effectively prevented the firm from continuing its business while insolvent. On the facts disclosed by the inspection, prosecution under State law was instituted by the State of Maine and Atwood, president of the company, was convicted.

In the case of Joseph W. Burden, New York, it appeared from the inspection that the firm was insolvent by a sum in excess of $320,000. Customers' funds and securities had, it appeared, been misappropriated. The facts were referred to the Attorney General of the State of New York who moved promptly to enjoin and later brought criminal proceedings resulting in the conviction of Burden.

In July 1940, on a plea of *nollo contendere*, George McGhie, Jr., a partner in the firm of George McGhie & Co., who had been a registered broker and dealer, was found guilty by the Federal court in the Western District of Wisconsin of mail fraud, conspiracy, and violation of the fraud provisions of the Securities Act of 1933. The criminal proceedings in this instance grew out of an investigation made upon information furnished by the Wisconsin Department of Securities.

Following an investigation conducted in November 1940, in cooperation with the Pennsylvania Securities Commission, Robert J. Boltz of Philadelphia was indicted in both State and Federal courts on charges of fraud growing out of the operation of an "investment counsel" scheme. Boltz pleaded guilty to both indictments.

No problem arises more frequently in reports on broker-dealer inspections than the problem involving the sale of securities at prices greatly in excess of the prevailing market prices.[17] During the past year studies were made of the schedules of transactions of 108 dealers inspected, with a view to determining whether any rules can or should be urged. The problem has been discussed with representatives of the National Association of Securities Dealers, Inc., and the association and the Commission are engaged in further study of the problem.

[17] This is a situation of which the Commission took initial cognizance in an aggravated case in 1939 (Duker and Duker). See Sixth Annual Report of the Commission, p. 110.

In its Sixth Annual Report,[18] the Commission commented on a type of fraudulent conduct by which a broker obtains secret profits through the device of misrepresenting the price at which a customer's order is executed. For instance, a broker may confirm a purchase of a security for a customer for $1,000 plus a commission for his services, when in fact the order was executed for the total sum of $900. Such practices not only fall short of the standards of conduct recognized by national securities exchanges and the National Association of Securities Dealers, Inc., but may also be in violation of the fraud provisions of the securities Acts. Instances of such practices were found in seventeen inspections during the year. An example in which such practices were found involved Hope & Co., St. Louis, Mo. The Commission instituted proceedings to revoke its registration, charging that by misrepresenting to customers the price at which the firm, as agent, had effected transactions for such customers and by violating its fiduciary duty in certain other transactions, the firm had fraudulently obtained secret profits aggregating more than $9,000. The firm admitted the facts and consented to revocation of its registration.

The preceding case is one of a series of cases involving revocation of registration ordered by the Commission during the year in which fraud, arising out of an abuse of a fiduciary duty, has been alleged. Other cases were: *In the Matter of Commonwealth Securities, Inc.; In the Matter of Securities Distributors Corporation; In the Matter of Equitable Securities Company of Illinois;* and *In the Matter of Geo. W. Byron & Co.* In some of these cases, including *Commonwealth Securities, Inc.* and *Securities Distributors Corporation*, the registered broker or dealer had attempted to avoid fiduciary responsibility by use of words on the confirmation intended to indicate that in the particular transaction it had not acted in a fiduciary capacity, but, in such cases, the Commission held that the form of confirmation could not alter the fiduciary character of the relationship where this was clearly established from the other facts and circumstances surrounding the transaction. The case of *Geo. W. Byron & Co.* involved transactions in which the firm acted as agent for both parties to the transaction and accepted commissions from each without the other's knowledge and consent, which constituted an abuse of the fiduciary responsibility to which an agent is subject. *In the Matter of Securities Distributors Corporation* involved failure of a securities firm, while acting as a fiduciary, to disclose information in its possession which the customer would wish to have in deciding whether to enter into the transaction. *In the Matter of Equitable Securities Company of Illinois* involved a fiduciary obligation arising from a relation of trust and confidence between the customer and the securities company. In the decision in *In the Matter of Hope & Company* the Commission held:

[18] Page 111.

"A broker-dealer exercising supervision over a discretionary account is, of course, an agent and under the principles already discussed these transactions constitute a violation of the statutory provisions cited."

and further held:

"A broker is an agent and it is, of course, a general principle of law that an agent may not, in the absence of consent of the person whom he purports to represent, deal with such person as a principal. This is so irrespective of any injury or loss to the principal. It follows that when a broker-dealer represents to a customer that he is effecting a transaction as broker, and, without the knowledge or consent of the customer buys from or sells to the customer as a principal, he is making a misrepresentation of a material fact and is engaging in a fraudulent practice which violates Section 17(a) of the Securities Act, Section 15(c) of the Securities Exchange Act and Rule X-15C1-2 thereunder."

In this opinion the Commission quoted the following statement of the law by the Supreme Judicial Court of Massachusetts in *Hall* v. *Paine:*[19]

"A broker's obligation to his principal requires him to secure the highest price obtainable, while his self-interest prompts him to buy at the lowest possible price. The law does not trust human nature to be exposed to the temptations likely to arise out of such antagonistic duty and influence. This rule applies even though the sale may be at auction and in fact free from any actual attempts to overreach or secure personal advantage, and where the full market price has been paid and no harm resulted * * *"

If the transaction is in reality an arm's-length transaction between the securities house and its customer, then the securities house is not subject to fiduciary duty. However, the necessity for a transaction to be really at arm's-length in order to escape fiduciary obligations has been well stated by the United States Court of Appeals for the District of Columbia in a recently decided case:[20]

"* * * the old line should be held fast which marks off the obligation of confidence and conscience from the temptation induced by self-interest. He who would deal at arm's length must stand at arm's length. And he must do so openly as an adversary, not disguised as confidant and protector. He cannot commingle his trusteeship with merchandizing on his own account * * *"

Statistics with respect to applications for registration as broker-dealer and effective registrations and with respect to proceedings on questions of denial and revocation of registration are shown in the following tables:

[19] 224 Mass. 62, 112 N. E. 153.

[20] *Earll* v. *Picken* (1940) 113 F. 2d 150.

TABLE 1.—*Registration of brokers and dealers under Section 15 (b) of the Securities Exchange Act of 1934, for the year ending June 30, 1941.*

| | |
|---|---|
| Effective registrations at beginning of year | 6,555 |
| Applications pending at beginning of year | 46 |
| Applications filed during year | 668 |
| Total | 7,269 |
| Applications withdrawn during year | 13 |
| Registrations withdrawn during year | 1,000 |
| Registrations cancelled during year | 111 |
| Registrations denied during year | 1 |
| Registrations suspended during year | 1 |
| Registrations revoked during year | 20 |
| Registrations made inactive during year | 21 |
| Registrations active at end of year | 6,065 |
| Applications pending at end of year | 37 |
| Total | 7,269 |

TABLE 2.—*Statistics on proceedings during the year ending June 30, 1941, on question of revocation, suspension, and denial of registration as brokers and dealers pursuant to Section 15 (b) of the Securities Exchange Act of 1934.*

| | |
|---|---|
| Revocation proceedings pending as of July 1, 1940 | 10 |
| Denial proceedings pending as of July 1, 1940 | 0 |
| Revocation proceedings ordered during year | 28 |
| Denial proceedings ordered during year | 7 |
| Total | 45 |
| Revocation proceedings dismissed upon withdrawal of registration | 3 |
| Revocation proceedings dismissed and registration not revoked | 1 |
| Revocation proceedings dismissed and registration cancelled | 2 |
| Denial proceedings dismissed upon withdrawal of application | 2 |
| Denial proceedings dismissed and registration permitted | 1 |
| Registrations denied | 1 |
| Registrations revoked | 20 |
| Registrations suspended | 1 |
| Revocation proceedings pending June 30, 1941 | 11 |
| Denial proceedings pending June 30, 1941 | 3 |
| Total | 45 |

**Study of Over-the-Counter Markets in Exchange Stocks.**

A broad study of the nature and magnitude of transactions in the over-the-counter markets in stocks listed or having unlisted trading privileges on national securities exchanges was commenced during the past fiscal year. As a basis of this study the Commission has obtained a record of virtually all transactions in such stocks in the over-the-counter markets for a period of 6 months ending February 28, 1941. This study has been undertaken pursuant to the Commission's policy

of obtaining an adequate factual background for appraising the necessity and desirability of various proposed changes in exchange policies and procedure which have lately been under discussion. In conducting this study the Commission has received the cooperation of the various national securities exchanges and of the National Association of Securities Dealers, Inc.

## Part VI

## ADMINISTRATION OF THE SECURITIES ACT OF 1933 [1]

The Securities Act of 1933 is designed to compel full and fair disclosure to investors of material facts regarding securities offered or sold in interstate commerce and through the mails, and to prevent fraud in such sales. Issuers of securities subject to the registration requirements of the Act must file registration statements with the Commission. These registration statements are required to contain specified information about the issuer and the proposed offering and are available for public inspection. Issuers are also required to furnish to prospective investors a prospectus showing the more essential information contained in the registration statement.

### STATUTORY AMENDMENT

Prior to August 22, 1940, Section 8 (a) of the Securities Act of 1933 provided that except in certain specified cases the effective date of the registration statement should be the twentieth day after its filing with the Commission.[2] However, Section 8 (a) was amended on that date to give the Commission discretionary authority to accelerate the effective date of the registration statement under certain circumstances. Specifically, the amended section now provides that the effective date of the registration statement shall be the twentieth day after the filing thereof or such earlier date as the Commission may determine, but requires the Commission to give due regard to the adequacy of information concerning the issuer which has previously been made available to the general public, the ease with which the nature of the securities to be registered, their relationship to the capital structure of the issuer, and the rights of the holders thereof can be understood, and to the public interest and the protection of investors. Coincident with this significant amendment of the statute, the Commission announced that, pursuant to such discretionary authority, it will be its general policy to accelerate the effective date of registration statements filed under the Securities Act of 1933 in accordance with the following procedure:

> In determining the date on which a registration statement shall become effective, the Commission will consider, having due regard to the public interest and the protection of investors,

[1] For information regarding the general scope of the Act, registration and examination procedures, see Sixth Annual Report of the Commission, pp. 117–119, inclusive, as well as previous annual reports.

[2] The filing of an amendment to a registration statement prior to the effective date has the effect of establishing a new filing date and starting a new 20-day period running. However, the Commission is given the power under the Act to relate the filing of such an amendment back to the original filing date when such action is not detrimental to the public interest. An amendment filed after the effective date of the registration statement becomes effective on such date as the Commission may determine, with due regard to the public interest and the protection of the investor.

(a) The adequacy of the disclosure and compliance with the requirements of the Act, and compliance with the applicable form and instruction book and rules pertaining thereto at the time the registration statement is initially filed;

(b) The advisability of permitting the acceleration of material amendments filed after the initial filing date; and

(c) The character and date of information previously or concurrently filed under any Act administered by the Commission or by any other Federal agency or which is generally available to the public.

In connection with the above-mentioned amendment, the Commission also announced that its examination of registration statements and amendments which have been prepared with due regard to the matters set forth in (a) above, will ordinarily be completed within a few days after the filing date. Accordingly, as soon as an appropriate amendment correcting the deficiencies, if any, and an amendment setting forth the price (if the price and terms of offering were not originally included in the registration statement) are filed, the Commission will, subject to its statement of general policy and the requirements of the Act, consent to the filing of the amendments and declare the statement effective as soon as practicable.

At the same time, the Commission pointed out that the requirements of the Trust Indenture Act of 1939 have materially increased the examination work of its Registration Division with respect to registration statements for securities to be issued under indentures which must be qualified under that Act. Accordingly it was suggested that it will further the effectuation of the Commission's announced general policy if drafts of such indentures are submitted in reasonably final form for consideration and discussion with the staff as far as possible in advance of the actual filing of the registration statement. The Commission stated further that it will be its policy to cooperate with registrants in order that the effectiveness of registration statements filed under the Securities Act of 1933 may be expedited as much as possible consistent with the public interest and the protection of investors.

## EXPERIMENTAL DECENTRALIZATION OF REGISTRATION FACILITIES

As stated in its Sixth Annual Report [3] the Commission, on June 12 1940, announced the establishment of an experimental unit in the San Francisco Regional Office for the purpose of assisting and advising prospective issuers of securities and their representatives on any problems arising in connection with their registration statements filed under the Securities Act of 1933. This experiment convinced the

[3] Page 183.

Commission that much time can be saved and a good deal of difficulty avoided in this way. It was found that smaller issuers in particular availed themselves of this assistance. Because of the success of the experiment, the Commission extended this experimental registration service to its other regional offices and assigned experts trained in registration technique to those offices. The extension of this service became effective on February 1, 1941.

The Commission also undertook another experiment which, if proved successful, will constitute one of the most far reaching administrative changes ever undertaken by the Commission. Since February 1, 1941, it has been conducting an experiment in order to determine the feasibility and advisability of decentralization, to the extent practicable under the statute, of the administration of the registration provisions of the Securities Act of 1933. Registration units have been established in the regional offices at San Francisco and Cleveland and the rules and regulations have been amended to permit the filing of certain registration statements in those offices.[4]

These experiments will continue until later in the year, when the Commission will consider whether they should be continued, expanded, or abandoned.

Of the registration statements filed with the Commission during the period from February 1 to June 30, 1941, 26 registrants were eligible to file their statements in the San Francisco Regional Office, 13 by virtue of the location of their own principal executive offices and 13 because of that of a principal underwriter. Of these 26, 13 took advantage of the rules to file in that office. Only 1 of these was eligible solely on the basis of the location of the underwriter's offices.

During the same period, 26 registrants were eligible to file in the Cleveland Regional Office, 20 qualifying because of the location of their own offices and 6 because of that of one of their principal underwriters. Ten of these elected to file in Cleveland, all of them being eligible because of the location of their own offices. Two of the 10 withdrew their registration statements before they became effective.

## NEW RULES, REGULATIONS, AND FORMS FOR REGISTRATION UNDER THE SECURITIES ACT

*Rules implementing decentralized registration facilities.*—During the past fiscal year the Commission made necessary amendments of its rules relating to registration procedure under the Securities Act of 1933 to provide complete facilities for the registration of securities under that Act in the San Francisco and Cleveland Regional Offices. Under the new procedure, which is more fully discussed elsewhere in this report, if the principal executive offices of the registrant or of a principal underwriter of the securities being registered are located in

[4] Securities Act Release No. 2457.

the States of Ohio, Michigan, Indiana, or Kentucky, the registration statement may be filed with the Cleveland Regional Office; and if such executive offices are located in the States of California, Nevada, Arizona, Oregon, Washington, Idaho, or Montana, or the Territory of Hawaii, the registration statement may be filed with the San Francisco Regional Office.

This new procedure, which is experimental, went into effect February 1, 1941, and will be continued until October 1, 1941, at which time it will be reviewed by the Commission to determine in the light of its demonstrated practicability whether it should be extended to other regional offices or abandoned. Various appropriate amendments of existing rules were made to provide for the use of these regional registration facilities.[5] In addition, the Commission adopted a new rule (Rule 923) which provides that registration statements which are to be filed with the principal office of the Commission in Washington, D. C., or any amendment to statements so filed, may be delivered, for forwarding to Washington, to the regional office of the Commission for the region in which the principal executive offices of the registrant, or of a principal underwriter of the securities being registered, are located.

*Rule providing that foreign governments are not subject to liabilities of an underwriter under certain circumstances.*—As a result of the transaction whereby the British Government, acting under its war powers, acquired from Courtauldts, Ltd., a block of securities of American Viscose Corporation and disposed of them to a banking group in the United States, the Commission was asked whether, in the event the banking group should in turn dispose of the securities by means of a public distribution in the United States, such distribution would make the British Government liable as an underwriter within the meaning of the Securities Act of 1933. The Commission concluded that under the circumstances the British Government will not be subject to the liabilities of an underwriter under the Act and, in order to give its conclusion the status of a rule, the Commission adopted Rule 143, effective as of April 18, 1941.[6] The rule provides that the terms "has purchased," "sells for," "participates," and "participation," in Section 2 (11) of the Act, shall not be deemed to apply to any action of a foreign government in acquiring for war purposes securities of an American issuer from any person subject to its jurisdiction or in disposing of such securities for distribution by American underwriters.

*Rules exempting from prospectus requirements of Securities Act certain competitive bids required under Public Utility Holding Company Act.*—In connection with the adoption under the Public Utility

[5] Securities Act Release No. 2457.
[6] Securities Act Release No. 2532.

Holding Company Act of 1935 of Rule U-50, which requires, with certain exceptions, competitive bidding in the issuance and sale of securities of registered gas and electric public-utility holding companies and their subsidiaries, the Commission adopted Rule 881 under the Securities Act of 1933. This rule exempts from the prospectus requirements of the Securities Act of 1933 and the rules relating thereto any public invitation for bids which is required by Rule U-50, provided the invitation is an invitation for bids only and sets forth that, prior to the acceptance of any bid, the bidder will be furnished with a copy of the official prospectus.

*Additional rule simplifies compliance with similar requirements arising under different statutes.*—The Commission is constantly endeavoring to simplify the problem facing a person who is subject to the provisions of two or more of the Acts which are administered by the Commission and call for the filing of substantially identical information. In this connection, Rule 523 was adopted to provide a simplified procedure for registering under the Securities Act of 1933 securities of closed-end management investment companies which have filed registration statements under the Investment Company Act of 1940. By virtue of this new rule, closed-end management investment companies may file copies of their registration statements under the Investment Company Act of 1940 as a registration statement under the Securities Act of 1933, provided that no registration statement may be filed pursuant to this rule more than 30 days after the date on which the company filed its registration statement under the Investment Company Act of 1940. For this purpose, such registration statement must be accompanied by any additional information and documents required by the form which would otherwise be appropriate for registration under the Securities Act of 1933 and which are not included in the registration statement filed under the Investment Company Act of 1940.

Other changes of a minor nature were also made in the rules and regulations under the Securities Act of 1933 during the year.

*Progress made on proposed further simplification of forms.*—Substantial progress was made during the year in the projected revision of forms for registration of securities under the Securities Act of 1933. Tentative drafts of two special forms (Forms S-2 and S-3) were submitted to a number of lawyers, accountants, investment bankers, and other interested persons for criticism and suggestions. Form S-2 is designed to provide a simple vehicle for registration of securities of commercial and industrial companies which have not been in insolvency proceedings or had a succession during the past 3 fiscal years and which do not have any subsidiaries other than inactive or insignificant subsidiaries.

Form S-3 is likewise designed to simplify the registration of securities of promotional mining companies which have not had a succession during the past 3 fiscal years and which do not have any subsidiaries. A novel feature of both forms would permit registrants to file registration statements consisting primarily of the prospectus and the usual exhibits. This procedure would eliminate the necessity of preparing two separate documents, namely, the registration statement and the prospectus, containing largely the same information. These proposed forms were being re-examined at the end of the fiscal year in the light of the many suggestions received from representatives of the industry and it is expected that as finally revised they will be promulgated by the Commission in the near future.[7]

Substantial progress was also made during the year in the drafting of a proposed general form for registration under the Securities Act of 1933 of securities of issuers which have previously registered securities under the Act, or which have securities listed and registered on a national securities exchange pursuant to the Securities Exchange Act of 1934, or which are public-utility holding companies registered under the Public Utility Holding Company Act of 1935. This form also would permit registrants to file registration statements consisting chiefly of a prospectus and exhibits.

## DISCLOSURES RESULTING FROM EXAMINATION

The cases which are briefly summarized below will illustrate some of the results of the Commission's examination procedure in securing fair and accurate disclosure of material information required in registration statements.[8]

(1) *Failure to provide for depreciation in company's investments.*—A registrant filed a registration statement in connection with an offering of first mortgage bonds and notes. Before filing its registration statement it submitted to the Commission for review the financial statements which it proposed to include therein. An examination of these financial statements disclosed that the registrant's investments in affiliated companies and in certain listed and unlisted securities were stated at $66,802,233 on its balance sheet. This amount was approximately $45,000,000 in excess of the market or appraised value of the investments at the balance sheet date. Most of these investments were to be pledged as a part of the security for the first mortgage bonds which the registrant proposed to offer. At the suggestion of the Commission the registrant, prior to filing its registration statement, revised its balance sheet to include an additional column giving effect to an adjustment in respect of the sub-

[7] Form S-3 promulgated September 29, 1941, (Securities Exchange Act Release No. 2672).

[8] Similar illustrations are shown in the previous annual reports of the Commission.

stantial depreciation of its investments. The amounts at which the assets and liabilities were stated on the two bases were shown in comparative columnar form. The revised consolidated balance sheet makes it clear that, after providing for the shrinkage of $45,000,000 in investments, the company's total assets were $67,211,805 instead of $112,165,521, and that instead of an earned surplus of $7,953,408 it had an operating deficit of $34,211,056. The registrant in this case is a listed company and its securities are widely held by the public.

(2) *Inadequate disclosure of the character of long term investment contracts.*—The parent company of the registrant in this case had been engaged previously in a Nation-wide sale of face-amount investment contracts under which the investor made a specified number of monthly payments over a period of years and upon completion of such payments was entitled to receive from the company a certain sum, payable in full at that time or in installments over a subsequent period. Apparently finding itself unable to comply with the requirements of the Investment Company Act of 1940 and in order to continue the sale of its contracts, it organized a new company. A registration statement was filed by this newly organized company to continue the business in which its parent heretofore had been engaged. The registration statement and prospectus included statements emphasizing that the registrant would acquire its securities from independent underwriters, brokers, and dealers and would make no payments to its parent company other than a commission of a specified amount for each contract sold; that the contracts were a vital necessity, affording a medium for accumulating an estate, attaining financial stability, and providing substantial income.

Information was obtained shortly after the filing of the registration statement that the registrant intended to acquire securities through its parent, to pay its parent a premium for such securities and a fee each year thereafter, based on a percentage of the securities held in the registrant's portfolio; that the parent would also allocate some of its operating expenses to the registrant; and that the continuation of the registrant's business largely depended upon certificate holders becoming delinquent or permitting their contracts to lapse. The registration statement and prospectus were revised to state clearly the nature of all payments which would be made by the registrant to its parent company. Furthermore, in order to disclose with clarity the character of the security being offered, a table was included on the first page of the prospectus indicating, among other things, that a certificate holder who made his monthly payments regularly over a period of 15 years would receive a yield of 1.64 percent per annum on a compound interest basis. It was also disclosed that this yield would be decreased in the event the certificate holder became delinquent at any time during the 15-year period.

(3) *Failure to disclose decline in company's production and misleading description of contract for sale of registrant's product.*—A registrant engaged in the business of processing moving picture films and making prints thereof filed a registration statement in connection with an offering of its common stock. This registration statement was the second one filed, a previous offering having been made of its stock under an earlier effective registration statement. Certain correcting amendments had been filed and the registration statement had been presented to the Commission for disposition of the registrant's request that the effective date be accelerated because of the urgent need for financing. Subsequent to consideration by the Commission and 2 days before the registration statement would have become effective, the registrant filed an amendment. The principal information disclosed in the amendment was a statement to the effect that the registrant had entered into a contract with a certain motion picture producing company for supplying a minimum amount of 10,000,000 feet of film per year for a term of 5 years. In this connection it was noted that an increase of 10,000,000 feet of printing film would have substantially more than doubled the current production of the registrant on an annual basis.

Immediately the Commission endeavored to obtain from various sources in Washington, D. C., information concerning the moving picture producing company with which the registrant had entered into a contract. Neither Government sources of information nor representatives of the moving picture industry in Washington had heard of this moving picture production company, although the Commission was advised that any company producing as much as 10,000,000 feet per year would probably be recognized in its field. Thereupon, the Commission requested one of its regional offices to investigate the matter and furnish whatever information was available concerning the production company. As a result of this investigation, it was discovered that the production company had only recently been incorporated; no stock had been issued nor had any application for issuance of stock been filed with the appropriate State regulatory authorities; it had produced no pictures nor did it have any commitments for the production or distribution of any pictures; and its promoters had previously filed voluntary petitions in bankruptcy. It was further learned that the production company did not anticipate, even if successful, that its printing requirements could possibly reach 10,000,000 feet of film per year during its early existence.

As a result of the Commission's investigation, the prospectus was amended to indicate the facts respecting the promotional nature of the production company; to disclose that the "contract" with the production company contained no provision for penalties upon cancellation of the "contract" by either of the parties thereto; and to

remove the implication theretofore existing that the registrant's business would be substantially more than doubled in the ensuing year.

Because of the registrant's delay in correcting its registration statement, it became necessary to file more recent financial statements, which disclosed that the registrant's average monthly production had decreased some 70 percent and, in the most recent 3 months, it had sustained a relatively substantial loss. These facts had not previously been disclosed even at the time the registrant amended its statement to include a description of the "contract" referred to above.

(4) *Issuance of stock for promotional purposes and its effect not disclosed.*—A company engaged in the manufacture and sale of armaments filed a registration statement covering an offering of approximately 100,000 shares of common stock, at $6.25 per share. About half this stock was to be sold for the account of the company and the balance for the accounts of certain large stockholders. The company was recently organized as the successor, through a series of reorganizations, to certain predecessor companies which had, since 1938, been engaged in the development of the registrant's products.

In the course of the examination of this registration statement, it was discovered that 260,000 shares (approximately two-thirds of the company's outstanding common capital stock) were in effect promotional shares which had been issued in exchange for junior stock of the predecessor companies. These latter shares had in turn been issued, for a purely nominal total cash consideration of approximately $162, to certain persons interested in the original development of the enterprise. This situation was nowhere disclosed in the registration statement or prospectus as originally filed but was elicited as a result of questions raised by the Commission's staff in connection with certain material in the original filing. The circumstances thus discovered with respect to the issuance of these promotional shares were, of course, required to be set forth fully by appropriate amendments to the registration statement and prospectus. It is to be noted in this connection that the public was asked to pay $6.25 per share for the same class of stock sold to promoters for approximately six one-hundredths of 1 cent per share.

## STATISTICS OF SECURITIES REGISTERED UNDER SECURITIES ACT OF 1933

At the beginning of the fiscal year, there were 4,453 registration statements on file, of which 3,529 were effective, 172 were under stop or refusal order, and 704 had been withdrawn, while 48 were in process of examination or awaiting amendment.

During the period July 1, 1940, to June 30, 1941, inclusive, 337 registration statements were filed, and there were 318 registration statements which became effective during the period; a total of 3,823

statements were effective at the end of the period, 24 of those effective at the beginning of the period or during the period having been either withdrawn or placed under stop order.

The net number of registration statements withdrawn increased by 50 to a total of 754 on June 30, 1941. The net number of stop and refusal orders increased during the period by 3, a total of 175 such orders being in effect on June 30, 1941. As of June 30, 1941, there were 38 registration statements in process of examination or awaiting amendment.

The following table indicates the disposition of registration statements filed under the Securities Act of 1933, as amended:

*Disposition of registration statements*

| | To June 30, 1940 | July 1, 1940 to June 30, 1941 | Total |
|---|---|---|---|
| Statements filed | 4,453 | [a] 337 | 4,790 |
| Statements effective | 3,529 | 294 | [b] 3,823 |
| Statements withdrawn—net | 704 | 50 | 754 |
| Stop or refusal orders issued—net | 172 | [c] 3 | 175 |
| In process of examination or awaiting amendments: | | | |
| At close of year ended June 30, 1940 | | | 48 |
| At close of year ended June 30, 1941 | | | 38 |

[a] Does not include 1 registration statement refiled during the year by a registrant who had withdrawn a statement previously filed.

[b] Does not include 24 registration statements effective at the beginning or during the period which were either withdrawn or placed under stop order.

[c] Eleven stop order proceedings were instituted during the fiscal year. Of these, four resulted in withdrawal of the registration statements and discontinuance of the proceedings; two resulted in stop orders and five were pending at the end of the fiscal year.

The following table indicates the number of Securities Act registration statements as to which stop orders, consent refusal orders, and withdrawal orders were issued July 1, 1940, to June 30, 1941:

*Withdrawals, Consent Refusal Orders, and Stop Orders*

| | | |
|---|---|---|
| Withdrawals: | | |
| Withdrawn and not refiled | 50 | |
| Total additions to withdrawals | | 50 |
| Withdrawn, refiled, and— | | |
| Pending amendment | 1 | |
| Effective | | |
| Refiled and withdrawn during period | | |
| Total | | 1 |
| Grand total of withdrawals during year | | 51 |
| Consent refusal orders: [a] | | |
| Orders issued and still in force | | |
| Statements subsequently effective | | |
| Total issued during year | | 0 |
| Stop orders: [b] | | |
| Orders issued and still in force | | 8 |
| Statements subsequently effective or re-effective | | 1 |
| Total issued during year | | 9 |

[a] One consent refusal order issued prior to period was lifted during period.

[b] Four additional stop orders were lifted during this year, two by withdrawal and two by becoming re-effective. These were in connection with stop orders issued prior to period.

A total of 1,025,[9] amendments to registration statements were also filed and examined during the past fiscal year, compared with a corresponding total of 1,027 during the preceding year.

Certain registrants under the Securities Act of 1933 also filed during the year, pursuant to Section 15 (d) of the Securities Exchange Act of 1934, a total of 255 annual reports and 63 amendments thereto, all of which required examination. This compares with figures for the previous fiscal year of 252 reports and 69 amendments.

In addition, the following supplemental prospectus material was filed during the past fiscal year under the Securities Act of 1933:

(1) 312 prospectuses were filed pursuant to Rule 800 (b) which requires the filing of such information within 5 days after the commencement of the public offering;

(2) 232 sets of supplemental prospectus material were filed by registrants to show material changes occurring after the commencement of the offering; and

(3) 322 sets of so-called 13-month prospectuses were filed pursuant to Section 10 (b) (1) of the Act.

Thus during the past fiscal year there were filed in the aggregate 866 additional prospectuses of these 3 classes.

At the same time, 300 supplementary statements of actual offering price were filed as required by Rule 970; and there were 22 instances where registrants voluntarily filed supplemental financial data.

*Securities effectively registered.*—During the fiscal year ended June 30, 1941, securities effectively registered under the Securities Act of 1933 aggregated $2,611,000,000. This compared with a total of $1,787,000,000 for the preceding fiscal year and $2,579,000,000 for the fiscal year ended June 30, 1939. Securities proposed for sale by issuers amounted to $2,081,000,000 in the fiscal year 1941, as against $1,433,000,000 in the preceding year and $2,020,000,000 in the year 1939.

Of the indicated net proceeds amounting to $2,018,000,000 new money uses accounted for $287,000,000, or 14.2 percent. Included in this total were $152,000,000 for plant and equipment, $118,000,000 for working capital, and $17,000,000 for other new money purposes. The greater part of net proceeds was to be applied to the repayment of indebtedness and retirement of stock in the aggregate amount of $1,485,000,000, or 73.6 percent of the total. This included 70.1 percent for repayment of indebtedness and 3.5 percent for retirement of preferred stock. Net proceeds to be used for the purchase of securities equaled $240,000,000, or 11.9 percent, with 11.8 percent of net proceeds being destined to the purchase of securities for investment.

[9] These amendments include 759 classed as "pre-effective" and 266 as "post-effective," and do not take into account 359 others of a purely formal nature classed as "delaying" amendments.

Fixed interest-bearing securities amounted to $1,566,000,000, equal to 75.3 percent of the total proposed for sale by issuers. Included in this total were secured bonds aggregating $1,180,000,000, or 56.7 percent, and unsecured bonds aggregating $386,000,000, or 18.6 percent. This left 24.7 percent for all equity issues combined, distributed as follows: certificates of participation, beneficial interest, face-amount installment certificates, etc., with $235,000,000, or 11.3 percent; preferred stock with $164,000,000, or 7.9 percent; and common stock with $116,000,000, or 5.5 percent.

Electric, gas, and water utilities constituted the most important industry group of issuers, showing a total of $1,022,000,000, or 49.1 percent of total securities proposed for sale by issuers. Next in importance were issues of manufacturing companies aggregating $611,000,000, or 29.4 percent, followed by issues of financial companies with $284,000,000, or 13.7 percent. These three leading industry groups accounted for all but 7.8 percent of the total.

Securities to be offered through underwriters totaled $1,570,000,000, or 75.4 percent of all securities proposed for sale by issuers. Securities to be offered through agents amounted to $293,000,000, or 14.1 percent, while securities to be offered directly by issuers amounted to $218,000,000, or 10.5 percent. A total of $1,836,000,000, or 88.2 percent, was to be offered to the general public, as compared with $165,000,000, or 7.9 percent, to others and $80,000,000, or 3.9 percent, to security holders.

A break-down of registration during the fiscal year ended June 30, 1941, indicates that the 313 statements covering 456 issues which became effective in the total amount of $2,611,000,000 included $28,000,000 of substitute securities, such as voting trust certificates and certificates of deposit, and $204,000,000 of securities registered for the account of others, of which $190,000,000 was proposed for sale. This left $2,378,000,000 of securities other than substitute securities registered for the account of issuers. However, securities totaling $297,000,000 were not to be offered for sale, the chief components being $226,000,000 of securities to be exchanged for other securities and $53,000,000 of securities reserved for conversion. The remainder of $2,081,000,000 constituted securities proposed for sale by issuers, of which only $197,000,000 represented the issues of newly organized companies.

Detailed statistics showing break-downs by types of securities, industry classification of issuers, purpose of registration, proposed use of net proceeds, and proposed methods of selling, for securities registered under the Securities Act of 1933 during the fiscal year ended June 30, 1941, are presented in tables 1 to 7 of Appendix II, pages 249 to 268. These statistics are kept current in regular monthly releases of the Commission. In interpreting the tables, as well as

the summary figures used in the text above, it should be kept in mind that these statistics are based solely on the registration statements which become effectively registered under the Securities Act of 1933. All data, therefore, refer to the registrants' intentions and estimates as reflected in registration statements on the effective date and consequently represent statistics of intentions to sell securities rather than statistics of actual sales of securities.[10]

*Security offerings.*—Securities registered under the Securities Act of 1933 constitute only part of all new issues offered for cash. On the other hand, the statistics of new offerings include only actual offerings, whereas the statistics of registrations reflect registrants' intentions to sell securities. Comprehensive statistics of new cash offerings of securities are presented in tables 8 and 9 of Appendix II, pages 269–75. Table 8, parts 1 and 2, show the estimated gross proceeds of all issues offered for sale, classified by type of offering, type of security, and type of issuer; in addition, table 9 presents data on the proposed use of proceeds of corporate issues.

In general, the data cover such issues over $100,000 in amount, and (for debt issues) of a maturity of 1 year or over at date of issuance as were reported as offered for cash in the financial press, in documents filed with the Commission, or in other available sources. The statistics include offerings irrespective of whether the issues were publicly or privately placed and regardless of whether they were registered under the Securities Act of 1933. The statistics of new offerings thus embrace certain corporate and noncorporate issuing groups exempt from registration under the Securities Act of 1933, by virtue either of the nature of the transaction or issuer, and include securities of common carriers, most issues placed privately, and Federal, State, and local governmental issues.[11]

New issues of securities offered for cash during the fiscal year ended June 30, 1941, amounted to $9,847,000,000, as compared with $5,512,000,000 during the preceding fiscal year. Of the total amount of issues offered during the 1941 fiscal period, $5,530,000,000 was issued by the United States Government and Agencies,[12] $2,991,000,000 by corporations, $1,295,000,000 by States and municipalities, $27,000,000 by eleemosynary institutions and $4,000,000 by foreign governments (sold in this country). Fixed interest-bearing securities aggregated

[10] The difference between the amount of securities registered and the amount of registered securities actually sold may be assumed to be largest—apart from registered issues of investment companies subject to continuous sale—for the issues of small and unseasoned corporations. A special study made by the Research and Statistics Section of the Trading and Exchange Division indicates that actual sales of unseasoned issues have averaged only about one-fourth of the amounts registered (see "Sales Record of Unseasoned Registered Securities 1933–1939," June 1941).

[11] The statistics include only Federal government issues sold to the public and exclude "Special Series" issues and other interagency sales. Also excluded from the corporate offerings statistics are issues which do not appear in the financial press (largely those sold through continuous offering, such as securities of open-end investment companies); and intercorporate transactions.

[12] Only agency issues guaranteed by the Government are included in these figures; agency issues not guaranteed by the Government are included with corporate issues.

$9,608,000,000, or 97.6 percent of total new issues, both corporate and noncorporate.

Among corporate securities, public-utility issues ranked first of the industry groups with $1,517,000,000, or 50.7 percent of total corporate offerings. Industrial issues amounted to $968,000,000, or 32.4 percent of the total, while rail and other issues amounted to $505,000,000, or 16.9 percent.

Corporate securities privately placed aggregated $980,452,000, equal to 32.8 percent of all corporate offerings.[13] This compared with $807,342,000, or 34.1 percent of all corporate issues in the 1940 fiscal year. Corporate private placements in the 1941 fiscal year included $586,805,000 of utility issues, $281,451,000 of industrial issues and $112,196,000 of rail and other issues.

The principal use of estimated net proceeds of $2,931,000,000 raised from total corporate issues during the fiscal year was for repayment of indebtedness and retirement of preferred stock, $2,132,000,000, or 72.7 percent of total net proceeds, being intended for that purpose. This included 65.3 percent for repayment of funded debt, 2.7 percent for payment of other debt, and 4.7 percent for retirement of preferred stock. New money purposes accounted for $768,000,000, or 26.2 percent of total net proceeds, consisting of $600,000,000 for plant and equipment and $168,000,000 for working capital. The remainder of $31,000,000, or 1.1 percent of net proceeds, was applied to miscellaneous other purposes.

*Underwriting participations.*—During the fiscal year ended June 30, 1941, the revised series of statistics of underwriting participations was continued on a quarterly and annual basis. The amount of participations in underwritten registered issues, classified by type of security, was shown for each of the 50 largest New York City firms and the 50 largest firms outside of New York City. The amount of issues managed, also classified by type of security, was shown for each of the 20 leading firms in and outside of New York City. These basic data make possible an analysis of the distribution of underwriting business, insofar as registered securities are concerned, among the various investment banking firms.[14]

*Cost of flotation.*—In March 1941 the Commission issued a report entitled "Cost of Flotation for Registered Securities 1938–1939," submitted to it by the Research and Statistics Section of the Trading and Exchange Division. This report, which included approximately 100 pages of text, tables and charts, presented detailed statistics regarding the cost of flotation for issues registered under the Securities

[13] Includes issues sold directly to ultimate investors by competitive bidding in the following amounts, by fiscal years: 1935, $2,906,000; 1936, $23,917,000; 1937, $87,935,000; 1938, $21,560,000; 1939, $39,268,000; 1940, $50,523,000; and 1941, $97,366,000.

[14] Statistics of underwriting participations for the three months ended September 30, 1940, were presented in Statistical Series Release No. 488; for the calendar year 1940 and for the 3 months ended December 31, 1940, in Statistical Series Release No. 536; for the 3 months ended March 31, 1941, in Statistical Series Release No. 558; and for the 3 months ended June 30, 1941, in Statistical Series Release No. 597.

Act during the calendar years 1938 and 1939. The analysis of cost of flotation was broken down according to type of proposed offering, type of security, major industrial group, size of issue, size of issuer and type of underwriting contract. All data were shown separately for the two cost components—compensation to distributors and expenses. Additional statistics were presented covering the various items included in expenses. In all of the statistical break-downs, figures were shown separately for bonds, preferred stock, and common stock. These detailed statistics were continued for the calendar year 1940 in Statistical Series Release No. 572.

*Security characteristics.*—A comprehensive report on the characteristics of issues effectively registered under the Securities Act of 1933 for the combined 4-year period 1937–40, as well as for each year, was published in May 1941 in Statistical Series Release No. 568. This report contained for the first time a detailed text analysis of security characteristics. Particular attention was called to provisions for periodic retirement in the case of bonds and preferred stocks and to voting rights in the case of preferred and common stocks. The availability of data for the 4-year period also made possible a study of changes in basic security provisions during a considerable part of the period in which the Securities Act was operative.

*Sales of unseasoned issues.*—In June 1941 the Commission issued a report entitled "Sales Record of Unseasoned Registered Securities 1933–1939," which was submitted to it by the Research and Statistics Section of the Trading and Exchange Division. Included in this report were approximately 30 pages of text, tables, and charts. The study covered only those issues registered under the Securities Act of 1933 which were deemed to be unseasoned in character. It was based on questionnaire returns from 757 companies covering 849 issues with registered amount of $409,204,000. Major emphasis was placed upon the ratio of the amount actually sold to the amount registered. Detailed break-downs of this sales ratio were made by type of concern (new venture or going concern), type of security, major industrial group, size of issue and size of issuer. Information also was presented on cost of flotation based on actual sales experience. The report was intended primarily to serve as a further contribution toward an understanding of the broad problem of small scale financing.

## EXEMPTION FROM REGISTRATION UNDER SECURITIES ACT

### Revision of Regulation A.

In a substantial revision of its procedures and rules in connection with the exemption from registration under the Securities Act of 1933 of offerings not in excess of $100,000, the Commission repealed its former Rules 200 to 210, inclusive, and, effective December 9, 1940, substituted a simplified Regulation A, consisting of a single integrated exemption, contained in Rules 220 to 224, which in many respects

substantially broadens the availability of the exemption with respect to all such issues other than those relating to oil and gas interests.

Section 3 (b) of the Securities Act of 1933 gives the Commission the power, under such rules and regulations as it may deem necessary in the public interest and for the protection of investors, to exempt from the registration requirements of the Act security issues up to and including $100,000. Heretofore, the Commission has given a total exemption on issues up to $30,000. As to other issues not in excess of $100,000, an exemption has been available only upon varying terms and conditions, such as the compliance with the laws of the States in which the securities were sold, or the use of a prospectus containing certain specified information. The former Rules 202 to 210 were rescinded effective January 1, 1941. During the 6 months from July 1, 1940, to December 31, 1940, proposed stock offerings (other than those of companies engaged in the oil and gas business) accounted for the filing of 46 prospectuses under the old Rule 202, representing a total offering price of $3,765,000, and 73 letters of notification under the old Rule 210, involving a total offering price of $4,818,000. At the same time stock offerings of oil and gas companies accounted for the filing of 3 additional prospectuses under the old Rule 202, representing an aggregate offering of $121,980, and 10 additional letters of notification under the old Rule 210, representing a total offering of $587,500.

The new simplified procedure does not require the use of a prospectus in any case. To avail itself of the exemption, a domestic issuer will need only to send to the nearest regional office of the Commission a letter notifying that office of its intention to sell, together with any selling literature it may plan to use. This letter of notification need contain only such information as the name of the company, the name of the underwriters, the title of the issue to be sold, and a brief summary of the intended use of the proceeds. The issuer can give this notice, at its option, either through an informal letter or through the use of a three-page form which has been adopted by the Commission for the issuer's convenience and which will be supplied on request. This optional form is designated as Form S-3b–1. Where the issuer nevertheless chooses to use a prospectus, the regulation indicates certain skeleton information to be included therein.

A broadened exemption is available in several important respects under the new regulation. For example, the Commission takes a new position as to future sales of the securities of the same issuer. Heretofore, the Commission's rules have been such that, if the offering was a part of a larger financial program, involving the future sale of additional securities of the same class, the exemption was not available. The new regulation specifically states that the exemption is available even if "it is contemplated that after the termination of the offering an offering of additional securities will be made." This will apply in instances, among others, where issuers wish to make annual offerings

of already outstanding securities for such purposes as employees' participation plans. In such instances, where the offering is not over $100,000, the exemption will be available.

Furthermore, the exemption is now available to issuers and their controlling stockholders even though each may wish to offer $100,000 under Regulation A within a single year. Heretofore, in such instances, a registration statement has been necessary.

The new regulation shifts the Commission's administrative emphasis from the disclosure requirements of the Act to the fraud prevention provisions. The examination procedure which has been followed in the past has been abandoned. While the use of a prospectus is no longer required, any selling literature which is employed must be forwarded to the appropriate regional office for its information. The new regulation is administered from the regional offices under the usual supervision from Washington. It is believed that the shifting of this activity to the regional offices will further simplify any problem of compliance with the Act by issuers needing relatively small amounts of capital.

**Regulations B and B-T.**

Regulations B and B-T, also adopted by the Commission pursuant to Section 3 (b) of the Securities Act of 1933, provide conditional exemptions from registration for fractional undivided interests in oil or gas rights and interests in an oil royalty trust or similar type of trust or unincorporated association, where the amount of the offering does not exceed $100,000. During the past fiscal year, 1,048 offering sheets, together with 673 amendments, were filed and examined, pursuant to Regulation B, representing an aggregate offering price of the securities covered thereby in the approximate amount of $23,642,637. In addition, one prospectus representing an aggregate offering price of $45,000 for securities proposed to be offered thereunder was filed pursuant to Regulation B-T. A temporary suspension order was entered under Rule 380 (a) with respect to the latter prospectus.

The following list indicates the number of actions of various kinds taken by the Commission with respect to these filings:

*Various actions on filings under Regulations B and B-T*

| | |
|---|---|
| Temporary Suspension Orders (Rule 340 (a)) | 171 |
| Orders Terminating Proceeding After Amendment | 132 |
| Orders Consenting to Withdrawal of Offering Sheet and Terminating Proceeding | 24 |
| Orders Terminating Effectiveness of Offering Sheet (No Proceeding Pending) | 43 |
| Orders Consenting to Amendment of Offering Sheet (No Proceeding Pending) | 423 |
| Orders Consenting to Withdrawal of Offering Sheet (No Proceeding Pending) | 61 |
| Temporary Suspension Orders (Rule 380 (a)) | 1 |

**Efforts to Protect Investors in Oil and Gas Leases.**

The Commission has for some time been confronted with problems arising out of the sale of oil and gas leases. Certain persons engaged in this business have maintained that a sale or assignment of an oil or gas lease on a specific property did not constitute under any circumstances the sale of a security. The Commission had an opportunity during the past year to state its position in this matter in connection with a registration statement filed in a specific case. Briefly, the Commission took the position in that case that assignments of 5-year term oil and gas leases, in parcels of not less than 5 acres, constitute investment contracts and therefore securities within the meaning of Section 2 (1) of the Securities Act of 1933, where it is contemplated that purchasers will buy the assignments in the expectation that they will increase in value as the result of drilling operations which have been started and are intended to be resumed; where the assignor is to pay for the drilling operations and is to be reimbursed for any sums thus expended from the proceeds of the sale of the assignments; and where the assignor has a reversionary interest in the central drilling block.

As a result of an investigation conducted by the Commission during the year in connection with an oil and gas lease promotion, several persons were convicted on charges arising out of violations of the fraud provisions of the Securities Act of 1933. In addition, conferences were held with officials of one of the principal oil producing States, and plans were made for closer cooperation between the Commission and such State authorities to facilitate consideration of problems arising in the sale of oil and gas leases. It is anticipated that this cooperation will offer a substantially greater degree of protection to those members of the investing public who may desire to invest in this type of security.

**Oil and Gas Investigations.**

During the past year investigations were conducted in a total of 284 cases involving oil and gas properties or proposed offerings of oil and gas securities. These investigations, which arose largely out of complaints received by the Commission, were primarily conducted to ascertain whether transactions in the oil and gas securities were effected in violation of Sections 5 or 17 of the Securities Act of 1933. However, in some of the cases, facts and circumstances were developed indicating violations of Section 15 of the Securities Exchange Act of 1934. Of the 284 investigations, 148 had been disposed of and 136 were pending at the close of the fiscal year. As a result of these investigations, the persons concerned in 6 cases were enjoined from violating the registration or fraud provisions of the Securities Act of 1933, and in 9 cases, involving approximately 25 persons, the facts were referred to the Department of Justice for criminal prosecution.

A tabular summary, with respect to the Commission's oil and gas investigations, follows:

*Oil and gas investigations*

| Status | Preliminary investigations | Informal investigations | Formal investigations |
|---|---|---|---|
| Pending June 30, 1940 | 69 | 60 | 7 |
| Initiated July 1, 1940–June 30, 1941 | 71 | 51 | 26 |
| Total to be accounted for | 140 | 111 | 33 |
| Changed to informal or formal | 19 | 11 | |
| Closed or completed | 67 | 42 | 9 |
| Total disposed of | 86 | 53 | 9 |
| Pending June 30, 1941 | 54 | 58 | 24 |

## Part VII

# ADMINISTRATION OF THE TRUST INDENTURE ACT OF 1939 [1]

The Trust Indenture Act of 1939 requires that bonds, notes, debentures, and similar securities publicly offered for sale, sold, or delivered after sale through the mails or in interstate commerce (except as specifically exempted by the Act) be issued under an indenture which meets the requirements of the Act and has been duly qualified with the Commission. The provisions of the Securities Act of 1933 and the Trust Indenture Act of 1939 are so integrated that registration of indenture securities, pursuant to the Securities Act of 1933, is not permitted to become effective unless the indenture under which such securities are to be issued conforms to the specific requirements contained in the Trust Indenture Act of 1939, and has been qualified under that statute.

## NEW RULES, REGULATIONS, AND FORMS UNDER TRUST INDENTURE ACT

At the same time that the Commission provided, as an experiment, complete facilities in its San Francisco and Cleveland Regional Offices for the registration of securities under the Securities Act of 1933, as discussed elsewhere in this report,[2] corresponding arrangements were made for the qualification of indentures under the Trust Indenture Act of 1939 in those regional offices. In order to carry out this further decentralization of registration facilities, various technical amendments to the general rules under the Trust Indenture Act of 1939 were adopted.[3] As a further step in this connection, the Commission also adopted a new rule (Rule T-7A–9) under which any application under the latter Act which is to be filed with the Commission's central office in Washington, or any amendment to an application so filed, may be delivered to the Commission's regional office in the same section as that in which the applicant is located, for forwarding to Washington.[4]

Also during the year, the Commission adopted one new form (Form T-4), as well as certain amendments to Forms T-1, T-2, and T-3 under the Trust Indenture Act of 1939. Form T-4 is to be used for applications for exemption filed pursuant to Section 304 (c) of the Act. That section authorizes the Commission to exempt from one or more provisions of the Act securities to be issued under an indenture under which other securities are already outstanding, if the consent of the existing security holders to compliance with such provisions

[1] For information regarding the general scope and requirements of the Act and the Commission's examination procedure, see Sixth Annual Report of the Commission, pp. 133-135, inc.

[2] Page 163, *supra*.

[3] Trust Indenture Act Release No 7.

[4] Page 164, *supra*.

would be required or if such compliance would impose an undue burden on the issuer. In this connection, the Commission also promulgated several new rules which are supplementary to the new form.

The Commission also promulgated during the past year two rules designated as Rules T-10B–2 and T-10B–3 pursuant to Section 310 (b) of the Act. Subparagraph (1) of that section provides that trusteeship under one or more indentures in addition to the indenture to be qualified shall not disqualify the trustee if the Commission determines that such additional trusteeship is not likely to involve a material conflict of interest. Rule T-10B–2 establishes a new procedure designed to expedite the disposition of certain applications filed under that section. It provides that where an application under this section is based upon the claim that no material conflict will arise because, prior to or concurrently with the delivery of the new indenture securities, the other indenture or indentures will be discharged or measures to assure the discharge will be provided, the application shall be deemed to have been granted unless, within seven days after it is filed, the Commission orders a hearing thereon. Rule T-10B–3 is also a procedural rule designed particularly to facilitate qualification of indentures. Specifically, it enables persons desiring to act as trustees to determine in advance of the filing of a registration statement or an application for qualification of an indenture whether or not the Commission would find them to be disqualified to act as such because of a control relationship with any particular person who might be named as underwriter for the obligor.

Certain other changes of a relatively minor nature were made in the rules and regulations during the year.

## STATISTICS OF INDENTURES QUALIFIED

The following tables show the number of indentures filed with the Commission for qualification under the Trust Indenture Act of 1939, together with the disposition thereof and the amounts of indenture securities involved.

*Indentures filed in connection with registration statements under the Securities Act of 1933*

| | February 4 to June 30, 1940, inclusive[a] | | July 1, 1940, to June 30, 1941, inclusive | | Total | |
|---|---|---|---|---|---|---|
| | Number | Amount of offering | Number | Amount of offering | Number | Amount of offering |
| Indentures filed | 38 | [b]$629,891,500 | 72 | [c]$1,995,369,900 | 110 | [d]$2,625,261,400 |
| Indentures qualified | 28 | 422,831,500 | 74 | 1,588,169,000 | 102 | 2,011,000,500 |
| Indentures withdrawn | 0 | 0 | 2 | [e]34,450,000 | 2 | [e]34,450,000 |
| Refusal orders issued | 0 | 0 | 0 | 0 | 0 | 0 |
| Indentures pending | 10 | 205,160,000 | 6 | [f]442,534,900 | 6 | [f]442,534,900 |

[a] Adjusted figures.
[b] Reduced to $627,991,500 by amendments.
[c] Reduced to $1,859,993,900 by amendments.
[d] Reduced to $2,456,235,400 by amendments.
[e] Reduced to $2,700,000 by amendments.
[f] Reduced amount.

*Applications filed for qualification of indentures covering securities not required to be registered under the Securities Act of 1933*

| | February 4 to June 30, 1940, inclusive | | July 1, 1940, to June 30, 1941, inclusive | | Total | |
|---|---|---|---|---|---|---|
| | Number | Amount of offering | Number | Amount of offering | Number | Amount of offering |
| Applications filed | 5 | [a] $25,698,000 | 21 | $105,499,350 | 26 | $131,197,350 |
| Applications effective | 2 | [a] 17,295,000 | 20 | 82,259,850 | 22 | 99,554,850 |
| Applications withdrawn | 2 | 6,392,500 | 1 | 250,000 | 3 | 6,642,500 |
| Refusal orders issued | 1 | [b] 2,010,500 | 0 | 0 | 1 | [b] 2,010,500 |
| Applications pending | 0 | 0 | 1 | 25,000,000 | 1 | 25,000,000 |

[a] Adjusted figures.
[b] Refusal order rescinded and qualification made effective on July 6, 1940.

During the period July 1, 1940, to June 30, 1941, there were also filed with the Commission a total of 121 trustee statements of eligibility and qualification under the Trust Indenture Act of 1939. Of these 121 trustee statements, 97 were for corporate trustees (Form T-1) and 24 for individual trustees (Form T-2). In addition, there were filed 67 Supplements S-T (special items to be answered if any of the securities being registered under the Securities Act of 1933 are to be issued under an indenture to be qualified under the Trust Indenture Act of 1939). During the period from February 4, 1940, to June 30, 1941, inclusive, an aggregate of 177 trustee statements, of which 142 were for corporate trustees and 35 were for individual trustees, and a total of 101 Supplements S-T had been filed.

## Part VIII

# OTHER ACTIVITIES OF THE COMMISSION UNDER THE VARIOUS STATUTES

### ACTIVITIES OF THE COMMISSION IN THE FIELD OF ACCOUNTING AND AUDITING

As has been emphasized in previous annual reports, much of the material filed with the Commission takes the form of financial statements. The utility of such statements is clearly and directly dependent upon the soundness of the accounting principles followed in their preparation, and in the quality and independence of the work of the public accountant whose certificate accompanies them. Improvement and clarification of auditing and accounting standards and insistence upon the independence of certifying accountants are, therefore, objectives of major importance to the Commission.

**Auditing.**

The Sixth Annual Report of the Commission [1] contained a brief resume of the principal facts disclosed by the investigation in *In the Matter of McKesson & Robbins, Inc.*, and of the conclusions set forth in the Commission's report thereon. It was indicated that, for the time being at least, the Commission would not seek to prescribe in detail the scope of and procedures to be followed in audits of the various types of registrants but instead would await the outcome of efforts of the accounting profession which had taken concrete form in the publication of several bulletins and resolutions embodying material extensions of auditing procedure. However, it was also indicated that the Commission's requirements as to the form and content of accountants' certificates would be revised to overcome certain shortcomings in such certificates as disclosed by its studies.

In furtherance of this program and after extended correspondence and discussion with committees of the several professional associations of accountants and a large group of other interested persons, the Commission promulgated amendments to its rules as to certification on February 5, 1941.[2] Both positive representations as to the scope and character of the work done and express indication of normal procedures omitted must now be included in the certificate in order to conform to the following requirements of paragraph (b) of Rule 2-02 of Regulation S-X, as amended:

[1] Page 164:
[2] Accounting Series Release No. 21.

"(b) *Representations as to the Audit.*—The accountant's certificate (i) shall contain a reasonably comprehensive statement as to the scope of the audit made including, if with respect to significant items in the financial statements any auditing procedures generally recognized as normal have been omitted, a specific designation of such procedures and of the reasons for their omission; (ii) shall state whether the audit was made in accordance with generally accepted auditing standards applicable in the circumstances; and (iii) shall state whether the audit made omitted any procedure deemed necessary by the accountant under the circumstances of the particular case.

"In determining the scope of the audit necessary, appropriate consideration shall be given to the adequacy of the system of internal check and control. Due weight may be given to an internal system of audit regularly maintained by means of auditors employed on the registrant's own staff. The accountant shall review the accounting procedures followed by the person or persons whose statements are certified and by appropriate measures shall satisfy himself that such accounting procedures are in fact being followed.

"Nothing in this rule shall be construed to imply authority for the omission of any procedure which independent accountants would ordinarily employ in the course of an audit made for the purpose of expressing the opinions required by paragraph (c) of this rule."

In announcing the adoption of the new rules, the Commission explained its views as to the application of these new requirements:

"Section (b) contains the requirements for the accountant's representations as to the nature of the audit which he has made. Under subdivision (i) the accountant must give a reasonably comprehensive description of the scope of the audit which he has performed. In accordance with the opinion of the Commission in the McKesson report, the subdivision also requires that, if any generally recognized normal auditing procedures have been omitted with respect to significant items in the financial statements, such omissions shall be stated with a clear explanation of the reasons for such omission. It is contemplated that designation of procedures omitted would be confined to the primary auditing requirements which have been recognized as normal auditing procedure, as for example, the circularization of receivables, and would not extend to detailed or mechanical steps. Since in particular circumstances such omissions may be proper, the specification of such omissions and the reasons therefor in connection with the description of the audit would not be considered as exceptions or qualifications unless specifically so noted in connection with subsection (ii) which requires that the accountant shall state whether the audit was made in accordance with generally accepted auditing standards applicable in the circumstances. In referring to generally recognized normal auditing procedures the Commission has in mind those ordinarily employed by skilled accountants and those prescribed by authoritative bodies dealing with this subject, as for example, the various accounting societies and governmental bodies having jurisdiction. In referring to generally accepted auditing standards the Commission has in mind, in addition to the employment of generally recognized normal auditing procedures, their application with professional competence by properly trained persons. The Commission further recognizes that the individual character of each auditing engagement and the facts disclosed through a vigilant, inquisitive, and analytical approach by the auditor may call for the extension of normal procedures or the employment of additional procedures. Therefore, subsection (iii) requires that the accountant also state whether he omitted any procedure deemed necessary by him under the circumstances of the particular case.

"Paragraphs two and three of section (b) incorporate provisions of previous rules and add the requirement that 'appropriate consideration shall be given to the adequacy of the system of internal check and control,' thus emphasizing the importance of this basic element."

The new requirements have not been in force for a period long enough to warrant definitive conclusions as to their effect. It may be expected, however, that limitations imposed by management or normal procedures omitted through personal preferences will not henceforth escape disclosure and consequent administrative review, so far as reports filed with this Commission are concerned. While the revised rule is applicable only to reports subject to the Commission's jurisdiction, yet the Committee on Auditing Procedure of the American Institute of Accountants has taken the position that "As a practical matter, however, practicing accountants may in course of time consider it advisable to apply the same standards of disclosure in reports for other purposes also, though the old form will doubtless continue to be used for an intermediate period." [3] It may be noted in this connection that Sections 30 and 32 of the Investment Company Act of 1940 incorporate requirements as to accountants' certificates, the scope of the underlying audit, and the selection of auditors that are substantially similar to the recommendations contained in the McKesson report and the revised Rule 2-02 of Regulation S-X. Section 30, however, is applicable not only to certificates required to be included in reports to this Commission but also to certificates required to be included in reports to stockholders. The section further introduces the significant requirement that reports to stockholders "shall not be misleading in any material respect in the light of the reports" required to be filed with the Commission.

Questions as to the adequacy of the audit made or as to the accuracy of statements contained in the accountant's certificate were raised in three stop order cases under the Securities Act of 1933, namely, *In the Matter of American Tung Grove Developments, Inc.*,[4] *In the Matter of National Electric Signal Company*,[5] and *In the Matter of Resources Corporation International*.[6] None of these cases, however, arose under the provisions of the revised rules as to certificates. In the *American Tung Grove* case, the Commission's opinion concluded:

"The materiality of the accountant's failure to express any opinion with respect to the registrant's accounting procedure is emphasized by the laxity and haphazardness of the procedure followed by the registrant. Registrant's predecessors kept no complete set of books. Registrant's own books were set up by H. E. Livermore, S. E. Stewart, their attorney, and a bookkeeper, and have been kept by Stewart and an assistant. None of these persons are accountants or are

[3] Statements on Auditing Procedure, Bulletin No. 6, March 1941.
[4] 8 S. E. C. 51.
[5] 8 S. E. C. 160.
[6] 7 S. E. C. 689.

qualified in accounting procedure. It appears that principal reliance was placed on Moore who came in at various times to make entries in the books on the basis of vouchers made by Stewart and his assistant. The details of all accounts and contracts were handled by H. E. Livermore. The practice was for Livermore to pocket all monies coming in and later to settle with the registrant on the basis of the difference between the amounts received and the commissions due him.

"The record contains many illustrations of the superficiality of the accountant's examination and audit and the doubtful value of his report. For example, he failed to make any inquiry as to the existence of contingent liabilities and apparently made no attempt to determine the collectibility of the accounts receivable, other than to accept the statement of an officer that the accounts were all good. Furthermore, he failed to make any disclosure of the unusual nature of the cash receipts system of the registrant under which all monies went through Livermore. The superficial nature of such an examination, the accountant's failure adequately to disclose the registrant's questionable accounting practices, and the fact that he admittedly ignored the Commission's regulations relating to financial statements included in a registration statement constitute a severe indictment of the value of his report."

In the *Resources* case, the Commission concluded that while the accountants' report was helpful in pointing out the matters upon which the accountants were unable to express any opinion and in flagging many of the material facts of particular interest to investors, it could not be considered to be a "certificate" within the meaning of the instructions calling for certified financial statements since the report contained exceptions pertaining to the value assigned to the corporation's principal assets and stated capital, and to the accounting principles followed in connection therewith and thus excluded from its purview all but approximately $35,000 of assets out of total stated assets of more than $9,000,000. As to the scope of the audit it was held that:

"Moreover, the auditors failed in two respects in the performance of their duties. In the first place, it appears that they were aware of certain additional material facts concerning Hoover's relationship to RCI which were not disclosed. Secondly, they failed to make as extensive an examination as, in our opinion, is required under the circumstances of this case.

"When auditors, in the course of an examination, gain knowledge of facts which are of material importance to investors, they are under a duty to report such facts to investors. If these facts are not set forth in the balance sheet, the accountant's report is an appropriate medium for conveying the information to investors.

"It is true that Arthur Andersen & Co. filed a report to the effect that they cannot 'express an opinion with respect to the * * * balance sheet that embraces the matter of value assigned therein to those assets and to the stated capital or the accounting principles followed in connection therewith.' However, they cannot excuse their failure to disclose the facts surrounding the organization of RCI and Hoover's true relationship to the Syndicate by pointing to this qualification. Nor does the qualification in their report run to the scope of their investigation, but merely to the fact that they were not able to express an opinion on certain matters of value. It must be assumed, therefore, that the auditors have represented that they have made the type of examination required by our

rules. However, the record shows that Arthur Andersen & Co. failed to make such an examination.

* * * * * * *

"It is, therefore, clear that, before the accountants prepared the data for the registration statement, their representative on the job had entertained grave doubts as to the bookkeeping methods employed by RCI and as to the nature of Hoover's relationship to the company. The obligation of the accountants to report material facts to investors made it their duty to express such doubts in their report unless, after such doubts arose, they made a careful investigation of available data and ascertained facts which reasonably justified them in setting those doubts at rest. But they made no such investigation. The evidence shows that they knew of the Syndicate and had access to the Syndicate subscription ledger, RCI's stock certificate books, and the minutes of the Syndicate and of the directors' meetings. Any adequate investigation of that available material would have revealed facts amply confirming the grave doubts expressed by Kuiper.

"In view, then, of those grave doubts and of the information which came to the attention and which was at the disposal of the accountants, they were, in our opinion, under an affirmative duty to examine, most carefully, into the relationship between Hoover and the Syndicate subscribers and between Hoover and RCI, and to disclose the true facts. An examination of the Syndicate agreement, the Syndicate subscription ledger, and the minutes of the organization meetings would have been sufficient to demonstrate to the accountants that Hoover had expended none of his own money in the acquisition of these properties; that the profits made by him were not disclosed either to the Syndicate subscribers or to RCI; and that the statements made in the registration statement with respect to Hoover's cost and the acquisition of the properties, not only do not constitute sufficient disclosure, but are in fact materially misleading."

To these formal decisions involving questions as to auditing procedures there should be added many more cases which have been informally resolved through discussion and conference between registrants, their accountants, and members of the Commission's staff. It appears from such conferences that the recommended extensions of auditing procedures to include physical checking or observation of inventory procedure, circularization of receivables, and more incisive analysis of the system of internal check and control are in fact being applied.

**Professional Conduct.**

No less important than the maintenance of sound auditing standards is the maintenance of high standards of independence and of professional conduct among certifying accountants.

The Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940 all incorporate the concept of independence as a prerequisite to certification by public accountants. The Commission's rules have always required independence in fact, and have refused to consider an accountant independent with respect to any person in whom he has any substantial interest, direct or indirect, or with whom he is, or was during the period of report, connected as a promoter, underwriter, voting trustee, director, officer, or

employee. Accounting Series Release No. 22[7] first summarized previous stop order decisions on the point as follows:

" '*In the Matter of Cornucopia Gold Mines*, 1 S. E. C. 364 (1936), the Commission held that the certification of a balance sheet prepared by an employee of the certifying accountants, who was also serving as the unsalaried but principal financial and accounting officer of the registrant, and who was a shareholder of the registrant, was not a certification by an independent accountant. *In the Matter of Rickard Ramore Gold Mines, Ltd.*, 2 S. E. C. 377 (1937), an accountant was held to be not independent by reason of the fact that he was an employee or partner of another accountant who owned a large block of stock issued to him by the registrant for services in connection with its organization. *In the Matter of American Terminals and Transit Company*, 1 S. E. C. 701 (1936), conscious falsification of the facts by the certifying accountant was held to rebut the presumption of independence arising from an absence of direct interest or employment. *In the Matter of Metropolitan Personal Loan Company*, 2 S. E. C. 803 (1937), it was held that accountants who completely subordinate their judgment to the desires of their client are not independent. *In the Matter of A. Hollander & Son, Inc.*, Securities Exchange Act of 1934, Release No. 2777 (1941), the Commission held that an accountant could not be considered independent when the combined holdings of himself, one of his partners, and their wives in the stock of the registrant had a substantial aggregate market value and constituted over a period of four years from 1½% to 9% of the combined personal fortunes of these persons. It was also held to be evidence of lack of independence, with respect to the registrant, that the accountant had made loans to, and received loans from, the registrant's officers and directors. In the same case, the evidence showed that registrant's president, over a period of years, had used the accountant's name as a false caption for an account on the books of an affiliate not audited by such accountant and that upon learning of these facts the accountant protested and procured a letter of indemnification in connection with such use. It was held that this continued use of the accountant's name, after his protest, and the overriding attitude apparently assumed by the registrant's president in this matter, constituted additional evidence of lack of independence.' "

The release then went on to express the opinion that when an accountant and his client, directly or through an affiliate, have entered into an agreement of indemnity which seeks to assure to the accountant immunity from liability for his own negligent acts, whether of omission or commission, the accountant could not be recognized as independent.

In *In the Matter of A. Hollander & Son, Inc.*,[8] the Commission outlined the considerations underlying the general concept of independence in these words:

"We cannot, however, accept the theory advanced by counsel for the interveners that lack of independence is established only by the actual coloring or falsification of the financial statements or actual fraud or deceit. To adopt such an interpretation would be to ignore the fact that one of the purposes of requiring a certificate by an independent public accountant is to remove the possibility of impalpable and unprovable biases which an accountant may unconsciously acquire because of his intimate nonprofessional contacts with his client. The requirement for certification by an independent public accountant is not so much a

[7] Published March 14, 1941.
[8] 8 S. E. C. 586 (1941).

guarantee against conscious falsification or intentional deception as it is a measure to insure complete objectivity. It is in part to protect the accounting profession from the implication that slight carelessness or the choice of a debatable accounting procedure is the result of bias or lack of independence that this Commission has in its prior decisions adopted objective standards. Viewing our requirements in this light, any inferences of a personal nature that may be directed against specific members of the accounting profession depend upon the facts of a particular case and do not flow from the undifferentiated application of uniform objective standards."

Cognate though not identical problems of ethics have arisen in a number of cases. State laws governing the issuance and revocation of licenses to practice as a certified public accountant or as a public accountant have recognized the necessity of maintaining high standards of professional conduct. The accounting professsion through its national and State organizations has voluntarily established codes of ethics. Violation of these standards, established after appropriate hearings, may be grounds for public admonition, for suspension or expulsion from the societies, or, in the case of State regulatory bodies, for revocation of the license to practice. Strengthening revisions of the code were made by the American Institute of Accountants and by several State societies during the past year. Because of its direct bearing on the accounting work of the Commission, the revised Rule 5 of the American Institute of Accountants' "Rules of Professional Conduct" may be quoted:

> "(5) In expressing an opinion on representations in financial statements which he has examined, a member or an associate shall be held guilty of an act discreditable to the profession if:
>
> (a) He fails to disclose a material fact known to him which is not disclosed in the financial statements but disclosure of which is necessary to make the financial statements not misleading; or
>
> (b) He fails to report any material misstatement known to him to appear in the financial statements; or
>
> (c) He is grossly negligent in the conduct of his examination or in making his report thereon; or
>
> (d) He fails to acquire sufficient information to warrant expression of an opinion, or his exceptions are sufficiently material to negative the expression of an opinion; or
>
> (e) He fails to direct attention to any material departure from generally accepted accounting principles or to disclose any material omission of generally accepted auditing procedure applicable in the circumstances."

In view of the existence of disciplinary machinery of this character, it is the practice of the Commission to bring to the attention of the appropriate societies and State agencies each case in which the Commission has publicly criticized the work or professional conduct of accountants practicing before it. During the past year, for example, the Council of the American Institute of Accountants sitting as a trial board on five cases called to its attention by the Commission

found two members guilty as charged, one of whom was suspended and the other publicly admonished. The remaining three were found not guilty, although in each case a published statement reviewedthe facts (without names) and indicated disapproval of certain of the practices.[9]

Voluntary disciplinary machinery of this kind can, if its sanctions are vigorously and uniformly applied, be of great importance in the maintenance of proper standards of professional conduct. It cannot, however, supplant or remove the Commission's direct disciplinary authority under its Rules of Practice. Rule II (g) of these rules includes as practice before the Commission the preparation of any statement, opinion, or other paper by an accountant, filed with the Commission with his consent. Rule II (e) provides that:

"The Commission may disqualify, and deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to, any person who is found by the Commission after hearing in the matter

(1) Not to possess the requisite qualifications to represent others; or

(2) To be lacking in character or integrity or to have engaged in unethical or improper professional conduct."

Moreover, it should be noted that during the past year two certified public accountants were indicted and two others convicted as a result of criminal proceedings in which the Commission participated.

**Accounting.**

As in past years, the greater part of the Commission's accounting work consists of the review of financial statements to determine compliance with the Commission's requirements and conformity to generally accepted accounting principles. Moreover, while formal opinions, rules, regulations, and accounting series releases establish standards of accounting to be observed by registrants, a much larger part of the effort of the Commission to improve accounting practice under the securities Acts takes place in informal conferences between registrants, their accountants and counsel, and the Commission's staff. Such conferences deal principally with the application of rules to particular situations and with the determination of accounting principles applicable in the absence of specific rules. For the most part such conferences settle the issues by agreement and in many cases lead to the selection, out of several generally recognized modes of treatment, of what may be termed the most preferable method.

In several of the Commission's published opinions the accounting practices of particular registrants were severely criticized. In *In the Matter of Resources Corporation International,*[10] it was held that it was misleading to imply that properties were carried in the balance sheet at valuations independently determined by the board of directors when in fact the directors had not independently valued the property but had merely accepted as true certain representations as to the

[9] See Journal of Accountancy, Vol. LXX, p. 487 (1940) and Vol. LXXII, p. 89 (1941).

[10] See page 188, *supra.*

amount paid for the property by a preexisting syndicate. On this point the Commission said:

"In the first place, the statements made in the balance sheet imply that the directors made an independent valuation of the properties at $9,000,000. This is entirely untrue. The directors and Syndicate subscribers merely assumed that Hoover was telling them the truth in stating that the actual cost of the properties was $9,000,000; they made no independent valuation, but, in the belief that Syndicate subscribers had contributed $7,350,000 which had been paid on the properties and that the balance due was $1,650,000, they issued the $7,350,000 in stock, assumed a $1,650,000 'obligation' and placed the figure represented by Hoover to be the original cost of the properties upon the books of RCI.

"In the second place, the statements made in the balance sheet, especially when coupled with the statements as to cost of properties and the amount of subscriptions received, contained in the exhibits to the registration statement, which are, of course, a part thereof, give an entirely misleading picture of the facts surrounding the acquisition of the properties and of Hoover's breach of his fiduciary duties. Thus, the impression is conveyed that at the time of the transaction, the profits were fully disclosed to the persons with whom Hoover was dealing; that such profits were realized by Hoover, as *vendor* of property, rather than as *agent* for the Syndicate subscribers; and that Hoover's profits were the result of arm's-length bargaining and were entirely lawful. As we have pointed out, the actual facts are to the contrary. Disclosure of the frauds of a promoter and the methods utilized by him becomes particularly important when, as here, such promoter, years later, is still in a controlling relationship with the corporation, and has continued, from time to time during the intervening period, to exact unlawful profits."

In the same case it was argued that juxtaposition of a $9,000,000 carrying value and a $359,154 "cost to the promoter" effected the maximum disclosure possible, namely, that the difference represented the promoter's profit. The opinion held this argument to be fallacious, quite apart from the fact that the difference was not an accurate indication of the promoter's profit, and that he had made no expenditure of his own money, all monies spent on acquisition of the property having been advanced to him as agent by the subscribers to a preexisting syndicate.

In *In the Matter of American Tung Grove Developments.*[11] profits on contracts for the sale, development, and maintenance of land were treated as realized at the time of signing the contract, although payments were to be made over a 3-year period. The procedure used, in the absence of evidence as to collectibility, collection experience, and resale value of retaken property, was held to be misleading unless accompanied by full explanation of its character and effect. In *In the Matter of A. Hollander & Son, Inc.*,[12] where the registrant's principal business was the curing, dressing, and dyeing of fur skins, the inclusion without further segregation of amounts advanced by the registrant in a joint merchandising venture among "Notes Receivable (trade)" was held to be an improper classification resulting in the concealment of material information. Inclusion of similar advances in

[11] See page 187, *supra.*

[12] See page 190, *supra.*

"Loans Receivable" without adequate qualifying statements was likewise held to conceal material information. Other cases dealt with accounting principles as to which the Commission had previously expressed its opinion, such as the disclosure of contingent liabilities due to sale of securities not registered under the Securities Act of 1933 and the arbitrary valuation of patent and mineral rights.

As noted elsewhere in this report [13] the Commission, upon request by a registrant, is empowered to hold confidential certain material otherwise required to be filed publicly with it. Under the Securities Exchange Act of 1934 many requests have related to portions of the financial statements and, in particular, to the sales and cost of goods sold as reflected in the profit and loss statement. During the past year the opinion of the Commission in *In the Matter of American Sumatra Tobacco Corporation*, dated February 1, 1939, was published,[14] ruling that data relating to sales and costs of goods sold should be made public. The text of the decision, publication of which was withheld pending the outcome of court proceedings,[15] may be quoted in part

[13] See page 234, *infra*.

[14] 7 S. E. C. 1033, Published September 4, 1940.

[15] In American Sumatra Tobacco Corporation v. Securities and Exchange Commission, 110 F. 2d 117, the United States Court of Appeals for the District of Columbia sustained the Commission. In its decision the court said:

" : : : it is clear that the Act contemplates publicity of corporate financial reports to insure the maintenance of fair dealing in the purchase and sale of securities not only for the benefit of the investing public, but as well for the protection of banks in which loans are collateralled by such securities. The provisions of Section 24, on the other hand, were, as we think, enacted to provide a means of avoiding the infliction of hardships in particular cases where full disclosure would more likely result in harm to the registrant than in benefit to the public Congress imposed on the Commission the duty of determining the question, and as we said in a former hearing in this case, this requires the exercise of a judicial discretion. The Commission is correct, therefore, in saying that its duty is to weigh the respective equities. And this the Commission says is what it did.

* * * * * * *

"What does appear is that the obvious purpose and intent of the Act is a full and complete disclosure of each registrant's financial condition, including a true statement of its profits and losses from time to time. The general principle underlying this requirement is as apparent to the layman as to the expert, and grows out of scandals resulting from past frequent manipulation of securities by the 'insider,' to the detriment of the investor. To correct these abuses, no one doubts, was in the public interest, and while nothing unfair or improper is imputed to petitioner, the question whether its case presents such positive equities as entitles it to be excepted from the general rule is, after all, the only question for decision.

"This was recognized by Mr. Blough, the Commission's official expert, who frankly stated in his testimony that if public knowledge of the items in controversy would so seriously affect registrant as to wreck its business, disclosure should not be required. We are in accord with this view, and we think it correctly reflects the spirit of the Act. For unquestionably Congress, in giving a registrant the right to file objection to publication and in authorizing the Commission to grant or refuse the request in the exercise of a sound judicial discretion, imposed on the Commission the duty of considering the claimed danger of loss and damage and of weighing it in the scale of public interest. And this, at least, is what the Commission has attempted to do and, if the conclusion reached is just as likely to be correct as incorrect, it is our duty to let it stand.

"In saying this, we can also say that we have no difficulty in understanding petitioner's reasons for apprehension that the disclosure will be harmful, and if the question were before us as an original proposition, we could easily see our way to sustaining the objections to general publication. But the question is primarily not for us but for the Commission, and Congress unquestionably intended that the Commission should bring to bear upon the decision of this and like questions, what has been called in cases within the jurisdiction of the Interstate Commerce Commission, the knowledge and experience of experts. This does not by any means set up an inquisition destructive of the rights of the individual. The delegated power is not to be exercised arbitrarily or to be considered an unfettered discretion over the property of the citizen. Its exercise is subject to review. But so long as the Commission's decision rests on substantial evidence and on inferences which are not arbitrary and capricious, it should be sustained. . . . "

as expressive of the Commission's views as to the significance and utility to the investing public of this information:

"The first question to be answered is whether the registrant's figures on sales and cost of goods sold are necessary, or useful, to investors, present or prospective.

"As a part of the information designed to assure investors the protection and benefits of adequate corporate publicity, Congress prescribed the filing of 'profit and loss statements for not more than the three preceding fiscal years.' And the Commission, by virtue of the authority granted to it in Sections 12 and 13 of the Act, has by rule required to be included in such statements the registrant's figures of sales and cost of goods sold. The importance of this disclosure can readily be demonstrated by the functions of a profit and loss statement.

"The profit and loss statement is designed to disclose for the period selected the amount of net profit or loss, the sources of revenue, and the nature of expenses. It thereby provides a basis for analyzing the results of operation and the course of the business; and in addition it may be utilized in forecasting the future revenues, expenses, and operating results of the enterprise. It is generally agreed among accountants and analysts that in order to perform these functions the statement of profit and loss should show, as a minimum requirement, the dollar volume of commodities or services, the cost of goods sold and operating expenses of the business, income from other sources, income deductions or nonoperating charges, and net profit for the period.

"To particularize, one of the essential purposes of the profit and loss statement is to furnish the investor or prospective investor with adequate historical data definitive of past earning power, and of prime importance in forecasting future earning power. In order either to judge the past or to forecast intelligently, an investor must have not only a record of past earnings or losses, but also the significant details as to how the particular results were obtained. The starting point in forecasting earning power is, of course, sales and operating revenues. Moreover, since earning power results from the sale of commodities or services for an amount greater than the cost of producing or distributing such commodities or services, the next essentials are the cost of goods sold and operating expenses. Similarly, selling and administrative expenses are of prime significance. If there is made available the historical record of sales, cost of sales, and the resultant profit margin, the investor is provided an important guide in calculating future costs in relation to future sales.

"If, however, sales and cost of sales in dollars are not included in the profit and loss statement, information essential for analysis is absent. In the first place, there is no possibility of gauging the effect of changes in selling prices, wage rates, material costs and similar items upon the undisclosed primary elements—sales and revenues, and cost of goods sold—upon which the profit figure is partially based. Likewise the possibility of gauging the probable effect of such changes upon the resultant profit figure itself becomes less likely. The relationship of the trends of the primary elements from which the resultant profit figure is derived varies under different business and economic conditions. The effects of variations in this relationship cannot be measured by study of the trend of the gross profit on sales or of the net operating profit alone.

"In the second place, the investor is also directly concerned with the relative size of an enterprise's *profit margin*, since it may be vital in appraising the significance to the particular enterprise of other known factors and trends. A business enterprise may manifest particular efficiency of production, purchasing or distribution; its location, cost of capital, personnel, patents, trade-marks may all be highly favorable. If the factors contributing to the wide profit margin cannot

be duplicated, strength may be indicated. But, to the extent that the contributing factors may not be lasting, weakness may be indicated. So a wide profit margin constitutes a warning signal; the investor must determine to what extent the margin is likely to continue. A narrow profit margin may likewise be indicative of strength or weakness. If the narrow profit margin represents the choice of the management to do a large volume of business at prices but little above the cost of production and if this method has resulted in a large scale, integrated, efficient business, the very narrowness of the margin may be an effective barrier to competition. On the other hand, a narrow profit margin may be indicative of a variety of causes, such as strong or even destructive competition, managerial inefficiency, increasing prices of raw materials relative to selling price. It follows, therefore, that, unless the *size* of the profit margin is known to the investor, a vital element of the information necessary for informed judgment and for this minimum protection is lacking. Moreover, in either case the extent of fluctuations in sales and cost of sales is itself an important factor in appraising the degree of fluctuations in the profit margin.

"In the third place, knowledge of sales is vital also if the quality of various balance sheet items is to be tested. The comparison of sales to receivables, inventories, fixed assets, and net worth is ordinarily one of the first steps taken in attempting to appraise the results of operations, and to predict their future course.

"Unless, in short, an adequate profit and loss statement, including gross sales and cost of sales, is made available, a sound appraisal of the management is likely to be impossible. Institutional investors and investment experts, it is true, may on occasion be able to obtain the necessary information through their own analyses or investigations, even though it is not contained in the published records. It is possible in this case, for example, that a skilled analyst, possessing expert and detailed knowledge respecting the tobacco industry, could on the basis of the disclosures contained in the nonconfidential portion of the registrant's financial statements calculate approximately its gross sales and cost of sales in dollars. Similarly, controlling stockholders may have access to such information. But the average investor will not have this information and will not be able to obtain it. As a result, he may well be helpless in making an adequate estimate of the efficiency with which the management of the company has conducted the business during the period covered by the particular profit and loss statement, in judging the future trends of the business, or, in sum, in making a sound decision whether to 'hold, buy, or sell' a security.

"It should not be implied, of course, in our emphasis of the importance to the investor of the need of an adequate profit and loss statement, that it will automatically give him a perfect and detailed picture of the operating results that the management is achieving with the enterprise. If, however, the profit and loss statement is adequate, the investor can form some judgment as to the future. And as financial reporting becomes increasingly clear and adequate, the more comprehensive will be the analysis which the investor can make of his investment, and the more intelligent will be his investment decisions." [16]

Problems continued to arise during the year as to the use of what has been termed a quasi or accounting reorganization. Despite treatment of this problem in several opinions of the Commission and accounting series releases, as related in the Sixth Annual Report,[17] it became apparent that it would be desirable to integrate and amplify

[16] Footnote citations omitted.

[17] Page 173.

the several statements on this question. Accordingly, an opinion of the Chief Accountant was issued as Accounting Series Release No. 25,[18] indicating the conditions under which a quasi-reorganization may be said to have been effected:

"'It has been the Commission's view for some time that a quasi-reorganization may not be considered to have been effected unless at least all of the following conditions exist:

" '(1) Earned surplus as of the date selected is exhausted;

" '(2) Upon consummation of the quasi-reorganization no deficit exists in any surplus account;

" '(3) The entire procedure is made known to all persons entitled to vote on matters of general corporate policy and the appropriate consents to the particular transactions are obtained in advance in accordance with the applicable law and charter provisions;

" '(4) The procedure accomplishes with respect to the accounts substantially what might be accomplished in a reorganization by legal proceedings—namely, the restatement of assets in terms of present conditions as well as appropriate modifications of capital and capital surplus, in order to obviate so far as possible the necessity of future reorganizations of like nature.

" 'It is implicit in such a procedure that reductions in the carrying value of assets at the effective date may not be made beyond a point which gives appropriate recognition to conditions which appear to have resulted in relatively permanent reductions in asset values; as for example, complete or partial obsolescence, lessened utility value, reduction in investment value due to changed economic conditions, or, in the case of current assets, declines in indicated realization value. It is also implicit in a procedure of this kind that it is not to be employed recurrently but only under circumstances which would justify an actual reorganization or formation of a new corporation, particularly if the sole or principal purpose of the quasi-reorganization is the elimination of a deficit in earned surplus resulting from operating losses.' "

During the past year four amendments and two clarifying interpretations of Regulation S-X were published. One of these adapted the requirements of this regulation for use by companies in filing registration statements and annual reports under the Investment Company Act of 1940. It is intended that instructions as to the form and content of financial statements of such companies will be reconsidered with a view to further changes that may be deemed necessary or desirable as a result of experience gained from the original filings under that Act.

**Miscellaneous Research.**

Among other accounting research work performed during the year was the beginning of an extensive survey and study of annual reports to stockholders as compared with annual reports filed by industrial and commercial companies with this Commission under the Securities Exchange Act of 1934. The objective of this study will be to deter-

[18] Published May 29, 1941.

mine, if possible, the extent to which the Commission's rules and decisions on accounting matters have influenced reports to stockholders which, with the exception of companies registered under the Investment Company Act of 1940, are not ordinarily subject to the jurisdiction of the Commission, and whether the financial statements accompanying such reports are in form, content, and disclosure reasonably consistent with and comparable to statements filed with this Commission. The study, however, has not progressed sufficiently to warrant a substantive report of its results.

**Cooperation with Professional Organizations.**

The development of uniform standards and practice in major accounting questions continues to be a common objective of the Commission and the accounting profession. Outstanding among efforts of professional associations toward this goal was the publication by the executive committee of the American Accounting Association, in June 1941, of a revised "Statement of Accounting Principles Underlying Corporate Financial Statements." Originally published in 1936, the statement gave rise to a very large volume of critical comment and discussion. The present revision should further stimulate progress toward its announced objective, the expression of a unified and coordinated body of accounting theory to the end that financial statements may be both intelligible and, as far as possible, comparable with statements of other periods and other corporations. Efforts of the authorized committees of the American Institute of Accountants toward improved accounting procedure resulted in the publication of seven official bulletins setting forth recommended procedure with respect to such auditing and accounting problems as the weight to be given a client's representations as to inventories and liabilities; the treatment of certain contingent liabilities; the accountant's certificate; accounting terminology; and combined income and surplus statements.

In connection with the promulgation of accounting series opinions and accounting rules, the practice of the Commission was continued of securing the comments and suggestions of cooperating committees of the various professional societies interested in accounting and of other interested persons. Many of the suggestions received in this manner are reflected in the substance of the rule or opinion as finally issued.

Not less important than the official and semiofficial publications are the papers presented at regular and annual meetings of the various societies and at accounting clinics and conferences frequently sponsored by leading universities and accounting societies. In addition to the educational value of such public discussions, the published papers form a valuable addition to accounting literature on a wide variety of

important issues and may be taken as a continuing indication of professional efforts to improve and clarify accounting and auditing procedures. Various members of the Commission and its staff have participated, from time to time, in such meetings.

## INTERPRETATIVE AND ADVISORY SERVICE

From its inception, the Commission has realized that the technical nature of the statutes administered requires the maintenance of an interpretative and advisory service to provide attorneys and the general public with prompt advice concerning problems arising under those statutes. The large volume of requests for interpretations received annually by the Washington office and regional offices of the Commission was augmented this year by the many new problems arising under the Investment Company Act of 1940 and the Investment Advisers Act of 1940, which are administered by the Commission. These requests embrace an extremely wide area extending from complaints attending the failure of corporations to declare dividends—a situation over which the Commission has no jurisdiction—to inquiries by foreign governments desirous of selling, for war purposes, securities held locally by their nationals. Generally, however, inquiries relate to problems confronting modest business enterprises interested in capital expansion. In every case, the Commission attempts to aid the person making the inquiry to understand and comply with the law.

The jurisdiction of the Commission does not extend to private disputes of a civil nature arising under the Securities laws. Consequently, the Commission cannot advise litigants concerning the prosecution or defense in such cases.

## COMPLAINTS AND INVESTIGATIONS

One of the important functions of the Commission is, of course, the enforcement of the several statutes which it administers. The Commission annually receives and replies to thousands of complaints from the public with respect to alleged violations. Information indicating statutory violations also reaches the Commission from other sources, such as the constant surveillance of market activities, the examination of registration statements, and the facts furnished by cooperating State and Federal agencies.

Every complaint lodged with the Commission receives careful consideration. Frequently, the complainant seeks the Commission's aid to recover money invested in securities or to rectify strictly internal conditions of a corporation, matters over which the Commission has no jurisdiction. While the Commission cannot assist investors directly in recovering money obtained from them in violation of law, it can, and does, give them helpful information contained in its public

records, investment manuals, and other public sources to which the investor may not have ready access.

Where the violation of a statute is indicated, preliminary inquiries are made to substantiate statements made by the complainant. If, after this preliminary inquiry, it appears to the Commission that one of the statutes has been violated, an investigation is initiated in an effort to determine the facts. Much of this investigative work is conducted through the Commission's nine regional offices and the Washington Field Office. These offices are strategically located in principal financial centers throughout the country. Such investigations may lead to civil, criminal, or administrative proceedings; on the other hand, they may prove negative. Sometimes a violation of statutes administered by other branches of the Federal government, or by State authorities, is indicated. It is the Commission's policy to cooperate fully with such bodies and to furnish them with information in which they are interested.

At the beginning of the past fiscal year, the enforcement section had pending 696 investigations and legal cases under the Securities Act of 1933, Securities Exchange Act of 1934, Public Utility Holding Company Act of 1935, Investment Company Act of 1940 and Investment Advisers Act of 1940. During the year, 484 additional investigations were initiated. Out of this total of 1,180 cases, 548 were disposed of during the past year, leaving 632 cases pending as of June 30, 1941. The following table indicates the number of such cases pending and disposed of during the past fiscal year:

*Investigations and legal cases developed therefrom under the Securities Act of 1933, the Securities Exchange Act of 1934, Section 12 (h) of the Public Utility Holding Company Act of 1935, the Investment Company Act of 1940, and the Investment Advisers Act of 1940, for the fiscal year ended June 30, 1941*

| | Investigations and legal cases pending July 1, 1940 | Investigations initiated or docketed July 1, 1940 to June 30, 1941 | Total to be accounted for | Investigations and legal cases closed (or changed to docketed cases) July 1, 1940 to June 30, 1941 | Investigations and legal cases pending as of July 1, 1941 | | |
|---|---|---|---|---|---|---|---|
| | | | | | Investigations | Legal cases (civil and criminal) developed from investigations | Total investigations and legal cases |
| Preliminary investigations [a] | 153 | 184 | 337 | 194 | 143 | ---------- | 143 |
| Docketed investigations [b] | 543 | 300 | 843 | 354 | [c] 322 | [d] 167 | 489 |
| Total | 696 | 484 | 1,180 | 548 | 465 | 167 | 632 |

[a] Investigations carried on primarily through correspondence.
[b] Investigations assigned to field investigators.
[c] Includes 180 informal and 142 formal docketed investigations.
[d] Includes 55 informal and 112 formal docketed investigations.

The Commission has long recognized the advantages to be realized from cooperation between Federal and State agencies and certain private organizations interested in the prevention of fraud in the sale

of securities. Accordingly, in connection with the enforcement of the fraud and registration provisions of the Acts, the Commission has established through its Securities Violations Files a clearing house for information concerning fraudulent securities transactions. The information thus assembled with the assistance of State securities commissions and other public agencies, the members of the National Association of Better Business Bureaus, Inc., and members of the United States Chamber of Commerce, is made available only to those officials and agencies who are directly concerned with the suppression of fraudulent and other illegal practices in the sale of securities.

## LITIGATION

**Civil Proceedings.**

At the beginning of the fiscal year ended June 30, 1941, 13 civil proceedings instituted by the Commission were pending; during the year, the Commission instituted 34 additional proceedings, including 28 injunctive actions brought against 82 persons to restrain them from fraudulent and otherwise illegal practices in the sale of securities. Of this total of 47 proceedings, 36 were disposed of during the fiscal year, including 32 cases which resulted in the entry of injunctions against 79 persons. Eleven civil proceedings were pending at the end of the year.

Since its inception, the Commission has instituted a total of 404 civil proceedings and disposed of 393. Permanent injunctions have been obtained against 853 firms and individuals.

The following tables indicate, by types of cases, the number of civil cases instituted by and against the Commission from its inception to the close of the fiscal year ended June 30, 1941:

*Cases instituted by the Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Public Utility Holding Company Act of 1935, and miscellaneous cases*

| Types of cases | Total cases instituted prior to July 1, 1940 | Total cases pending as of June 30, 1940 | Total cases instituted during fiscal year ended June 30, 1941 | Total cases pending during fiscal year ended June 30, 1941 | Total cases instituted prior to July 1, 1941 | Total cases closed prior to July 1, 1940 | Total cases closed during fiscal year ended June 30, 1941 | Total cases closed prior to July 1, 1941 | Total cases pending as of June 30, 1941 |
|---|---|---|---|---|---|---|---|---|---|
| Actions to enjoin violations of Securities Act, Securities Exchange Act, and Public Utility Holding Company Act | *338 | 12 | 28 | 40 | 366 | *326 | 31 | 357 | 9 |
| Actions involving the enforcement of subpenas issued pursuant to Securities Act and Securities Exchange Act | 30 | 1 | 3 | 4 | 33 | 29 | 3 | 32 | 1 |
| Miscellaneous proceedings | 2 | 0 | 3 | 3 | 5 | 2 | 2 | 4 | 1 |
| Total | *370 | 13 | 34 | 47 | 404 | *357 | 36 | 393 | 11 |

* Adjusted figure.

*Cases instituted against the Commission and cases in which the Commission was permitted to intervene*

| Types of cases | Total cases instituted prior to July 1, 1940 | Total cases pending as of June 30, 1940 | Total cases instituted during fiscal year ended June 30, 1941 | Total cases pending during fiscal year ended June 30, 1941 | Total cases instituted prior to July 1, 1941 | Total cases closed prior to July 1, 1940 | Total cases closed during fiscal year ended June 30, 1941 | Total cases closed prior to July 1, 1941 | Total cases pending as of June 30, 1941 |
|---|---|---|---|---|---|---|---|---|---|
| Actions to enjoin enforcement of Securities Act, Securities Exchange Act, and Public Utility Holding Company Act, with the exception of subpenas issued by the Commission | 62 | 1 | 3 | 4 | 65 | 61 | 4 | 65 | 0 |
| Actions to enjoin enforcement of or compliance with subpenas issued by the Commission | 7 | 0 | 0 | 0 | 7 | 7 | 0 | 7 | 0 |
| Petitions for review of Commission's orders by circuit courts of appeals (or Court of Appeals for District of Columbia) under the Securities Act, Securities Exchange Act, and Public Utility Holding Company Act | 50 | 1 | 8 | 9 | 58 | 49 | 1 | 50 | 8 |
| Miscellaneous actions against Commission or officers of Commission | [a] 5 | [a] 3 | 1 | 4 | 6 | 2 | 1 | 3 | 3 |
| Total | [a] 124 | [a] 5 | 12 | 17 | 136 | 119 | 6 | 125 | 11 |

[a] Adjusted figure

A brief description of all civil proceedings commenced or pending during the year ended June 30, 1941, showing their status at the end of that year, is set forth in Appendix IV, page 323, of this report. Some of the more important or interesting of these cases are described below in more detail.

Past annual reports have discussed many ingenious schemes to secure public investment in business enterprises without complying with the provisions of the Securities Act of 1933. As was stated in the Commission's Sixth Annual Report: [19]

" * * * These schemes usually are camouflaged as the 'sale' of real or personal property coupled with an arrangement under which the promoter-seller retains possession of the property, representing that he will manage or resell it for the benefit of the purchasers."

During the past fiscal year, the Commission has been successful in several actions brought to enjoin violation of the Securities Act of 1933 where attempts were made to disguise the actual sale of a security as a sale of personal property. Noteworthy among these cases were *Securities and Exchange Commission* v. *Louis Payne;* [20] *Securities and*

[19] Page 141.
[20] 35 F. Supp. 873; see also Sixth Annual Report, p. 149.

*Exchange Commission* v. *Leo C. Pyne*; [21] and *Securities and Exchange Commission* v. *The Sentenal Corporation et al.*[22]

In the *Louis Payne* case, the defendant, without complying with the registration provisions of the Securities Act of 1933, offered to sell silver foxes under a bill of sale coupled with a ranching agreement. This agreement provided that the defendant would care for and breed the foxes and dispose of their offspring. In holding the entire transaction to constitute a sale of securities, Judge Edward A. Conger, of the United States District Court for the Southern District of New York, said:

"True the said documents on their face, and judged according to form, appear to be contracts of sale; true the purchaser is given title and the right to possession of the animal or animals mentioned in the contracts; true there are other indicia of ownership, such as marking of the animals for each individual 'purchaser', the recording in the proper office of the 'bill of sale' in the name of the purchaser and the payment of personal tax on each animal; nevertheless, viewing the various transactions by and large and all the surrounding circumstances one can conclude only that these transactions were investments and not actual and bona fide sales.

* * * * *

"Many in this world of ours desire to make money without effort. Men and women in all professions, busy men and women with good incomes, have an innate desire to increase their income or their principal. They do this by so-called investments. They venture into realms of which they know nothing. All the literature of the defendant appeals to this urge. Here was an appealing proposition to an investor. Under skillful handling and care by experienced men, and by the very law of nature, a pair of foxes would produce young each year (at least three). This increment was the profit. Properly handled by a skilled salesman, who had access to the proper markets, this increment would return dollars. All without any effort on the part of the purchasers."

In the *Leo C. Pyne* case, the Commission prevented public investment in securities offered in violation of the registration and fraud provisions of the Securities Act of 1933 by obtaining an injunction before any sales had been completed. The defendants were offering undivided interests or "ship shares" in two boats, which they were operating, and in additional boats which they represented would be built. Proceeds from the sale of these interests were proposed to be used in the construction of new fishing vessels. The shares or interests were offered at $1,000 each and represented a temporary interest in the proceeds from the two existing vessels as well as an interest in the vessels to be built.

The complaint alleged that, in attempting to make sales to prospects, the defendants, either directly or through their agent, made many false and misleading statements. The court held that the "ship shares" or the undivided interests in vessels, which carried with them the right to the receipt of profits by prospective purchasers through efforts other than their own, and which involved "the invest-

[21] U. S. D. C. Mass. (1941); see also Sixth Annual Report, p. 142.
[22] U. S. D. C. S. D. Ohio (1941).

ment of money with the expectation of profits through the efforts of other persons", were securities within the meaning of the Securities Act of 1933. The court also held that the defendants had violated the fraud provisions of the Act, as well as its registration provisions in the sale of the securities.

*Securities and Exchange Commission* v. *The Sentenal Corporation et al.* involved the sale of popcorn-vending machines, coupled with a lease-back and profit-sharing agreement. The defendants consented to the entry of a permanent injunction against further sales in violation of the registration provisions of the Securities Act of 1933.

The injunction was used to prevent illegal sales of another type of security in *Securities and Exchange Commission* v. *Mario Casa-Massa et al.*[23] The security involved was described by the defendants as an "expectancy equity." The defendants were engaged in soliciting and selling equities in two trusts which allegedly held United States patents on a new and improved type of differential for automobiles and trucks. The defendants represented, among other things, that several large automobile manufacturers were interested in the invention. The Commission's complaint charged this was untrue, that no United States patents were held by the defendants, and that the differential had failed to prove practical in several tests. The complaint further alleged evidence that the defendants were appropriating a large part of the proceeds received from the sales to their own use. After the filing of the complaint, the defendants consented to the entry of a final judgment enjoining further violations of the registration and fraud provisions of the Securities Act of 1933.

Other forms of securities frequently involved in the Commission's civil litigation relate to oil and gas properties. These securities took the form either of outright sales of oil and gas leases or of fractional undivided interests in oil and gas leases. Typical of the former type of case is *Securities and Exchange Commission* v. *Claude D. Adams et al.*[24] In this case, the defendants were selling assignments of oil and gas leases covering unproven and speculative tracts of land in minimum parcels or units of 5 acres without complying with the registration provisions of the Securities Act of 1933. The prices of such parcels were determined by the location of the leases with respect to a test well the defendants had agreed and undertaken to drill and complete. The Commission's complaint charged violations of the registration and fraud provisions of the Act. The defendants agreed to discontinue the sale of the securities and consented to the entry of a final judgment enjoining further sales in violation of the registration provisions of that Act.

[23] U. S. D. C. N. D. Ill., March 1941.
[24] U. S D. C. S. D. Cal., 1941.

The second type of securities referred to in the preceding paragraph was involved in *Securities and Exchange Commission* v. *Arthur Lewis Larson*.[25] In this case, the Commission filed a complaint seeking to enjoin the defendant from continuing to sell undivided fractional interests in oil and gas leases in violation of the registration and fraud provisions of the Securities Act of 1933 and the registration and fraud provisions of the Securities Exchange Act of 1934 relating to over-the-counter brokers and dealers. The Commission's motion for a summary judgment was granted and a permanent injunction was ordered by the court.

The cases in the field of civil litigation which have been discussed so far involved violations of both the registration and fraud provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934. In *Securities and Exchange Commission* v. *Timetrust Incorporated et al.*,[26] the injunction was sought solely upon the grounds that the defendants had violated the fraud provisions of the Securities Act of 1933. The court handed down a memorandum opinion finding that the defendants, Timetrust, Inc., Bank of America National Trust & Savings Association, Meredith Parker, Ralph W. Wood, H. E. Blanchett, A. P. Giannini, L. Mario Giannini, and John M. Grant, had violated the fraud provisions of the Securities Act of 1933 in the sale of certificates of interest in shares of the common stock of Bank of America National Trust & Savings Association. The complaint was filed on April 5, 1939, and after several preliminary matters had been heard and determined, as related in the Fifth and Sixth Annual Reports,[27] the case went to trial on May 10, 1940. The fraudulent acts and practices complained of consisted, in general, of misleading statements and representations concerning the nature and soundness of Timetrust certificates. These statements and representations, set forth in literature distributed by Timetrust, Inc., and made orally by salesmen, portrayed the Timetrust certificates as being similar to a savings account and represented that the investment would be bound to have a large increase in principal due to "dollar averaging," compounding income, and unrealized appreciation. The plan was represented as being a safe and sound investment, but the literature and representations of the salesmen did not disclose that the purchase of Timetrust certificates was merely a method of purchasing Bank of America common stock on the instalment plan. On the facts, the court concluded that, in addition to making false and misleading statements and omissions, the defendants were engaging in a device, scheme, and artifice to defraud purchasers and prospective purchasers and rendered judgment enjoining each of the defendants from these

[25] U. S. D. C. E. D. Mich., Jan. 13, 1941.
[26] U. S. D. C. N. D. Cal. (1941).
[27] Pages 102 and 147, respectively.

acts. All defendants have appealed to the Circuit Court of Appeals for the Ninth Circuit.

The Commission has also found it necessary, for the protection of investors, to seek to enjoin the sale of securities where no fraud appeared. Such was the case in *Securities and Exchange Commission* v. *Chinese Consolidated Benevolent Association, Inc.*,[28] filed June 12, 1940. In that case, the Commission sought to enjoin the defendant, a patriotic association, from selling unregistered bonds of the Chinese Government in violation of the Securities Act of 1933. The defendant, through mass meetings and newspaper advertisements, had solicited offers to buy the unregistered bonds. It had undertaken these activities, without profit to itself, in the interest of the Chinese Government and had no official or contractual relationship with that Government. The District Court of the Southern District of New York, on motions for judgment on the pleadings, found for the defendant on the ground that it was not an underwriter and was, therefore, exempt from the provisions of the Act. The Circuit Court of Appeals for the Second Circuit, in an opinion rendered by Judge A. N. Hand (Swan, C. J. dissenting), reversed the district court and directed it to issue an injunction.[29] The court found that the defendant was selling for an issuer within the meaning of the statute and was therefore an underwriter. It also found that, irrespective of whether the defendant was an underwriter, it was engaged in a transaction in which an issuer was distributing securities. The court pointed out that the action instituted by the Commission was undertaken "only to prevent the sale of Chinese securities through the mails without registry. If it cannot be prevented, there is nothing to stop Germany, Italy, Japan, or any other nation, as well as China, from flooding our markets with securities without affording purchasers the information which the Securities Act intends to render available for investors in foreign bond issues."

A different type of injunction is sought by the Commission in *Securities and Exchange Commission* v. *The North American Company et al.* which is now pending in the United States District Court for the District of Delaware. Here the Commission, in its efforts to effectuate the policies embodied in the Public Utility Holding Company Act of 1935, instituted an action against the North American Light & Power Company and The North American Company. The complaint seeks an injunction to prevent North American Light & Power Company from holding a stockholders' meeting for the purpose of voting on a resolution to dissolve the company and also to enjoin such dissolution and liquidation and to enjoin The North American Company from voting at the meeting.

[28] U. S. D. C. S. D., N. Y. (1941).
[29] U. S. C. C. A. 2d, (June 1941).

At the time this action was begun, there was a proceeding under Section 11 (b) (1) of the Public Utility Holding Company Act of 1935 pending before the Commission with respect to The North American Company and its subsidiaries. The contention of the Commission is that under the circumstances North American Light & Power Company, as a registered holding company, may not exercise the privilege of dissolving and liquidating pursuant to State statutes unless it has first submitted its proposed plan of liquidation to the Commission in the pending proceeding and unless the Commission has found, under Section 11 (e) of the Act and that such plan is "fair and equitable to the persons affected" thereby.

The Commission's duty to protect the investing public has necessitated the institution of a number of actions against over-the-counter brokers and dealers who have violated the provisions of the Securities Exchange Act of 1934. Two examples of such cases are *Securities and Exchange Commission* v. *John F. Cole,* doing business as Fulton, Cole & Roe, [30] and *Securities and Exchange Commission* v. *William E. Atwood & Company, Inc.* [31]

In the *Cole* case, the defendant represented himself as being a member of the "International Securities Dealers Association," a name confusingly similar to National Association of Securities Dealers, Inc. (a well-known association registered under the Securities Exchange Act of 1934) when, in fact, he was not a member of either association. Also, the defendant represented falsely that he was a member of the Investment Bankers Association and of a nonexistent "New York Curb Stock and Bond Market." The Commission sought an injunction to enjoin the continuance of these frauds in violation of Section 15 (a) of the Securities Exchange Act of 1934 and Section 17 (a) of the Securities Act of 1933. The court granted a preliminary injunction and, upon failure by the defendant to enter an appearance, made the injunction permanent.

In the *Atwood* case, the defendant represented that he was an over-the-counter broker and dealer, ready and able to execute his customers' orders for the purchase and sale of securities, without disclosing to his customers that he was insolvent. Although the defendant represented that money received from customers would be used to purchase securities for their account and that the securities would be held in safekeeping, the Commission alleged that Atwood did not intend to do either, but intended to and did convert the money to his own use and benefit. The defendant consented to an entry of both a temporary restraining order and a final judgment enjoining it from further violating Section 15 (c) (1) of the Securities Exchange Act of 1934 and Section 17 (a) (3) of the Securities Act of 1933.

[30] U. S. D. C. N. D. Ill., June 16, 1941.
[31] U. S. D. C. D. of Me., July 2, 1940.

It has been said that the interpretation of an act by the agency charged with its administration should control, unless plainly erroneous, in order to accomplish the objects of the act without constant and disconcerting friction.[32] The Commission, therefore, takes part in many actions between private parties which involve provisions of the statutes which it administers. It may intervene or appear as *amicus curiae*. In either case its purpose is to give the court the benefit of its experience in the special field and to inform the court of its interpretation and the reasons therefor.

*Herman Geismar* v. *Bond & Goodwin et al.*, is the first case, within the knowledge of the Commission, in which the plaintiff claims that the Securities Exchange Act of 1934 gives a right to rescind or to recover damages for fraud in an over-the-counter sale of securities. The defendants moved to dismiss the amended complaint, contending that the statute did not create such claims for relief. The Commission appeared *amicus curiae* and argued that the right to rescind such a transaction was clear, at least since the 1938 amendment to Section 29 (b), which provided a statute of limitations for such actions.[33]

In *A. C. Frost & Co.* v. *Coeur D'Alene Mines Corporation*,[34] the corporation gave an option to purchase all or any part of its treasury stock to plaintiff's assignor. The stock was unregistered and the corporation refused to deliver the stock on the ground that the option was in violation of the Securities Act of 1933 and therefore void.

A. C. Frost & Co. filed suit in the State court of Idaho charging that the corporation had repudiated the option and asked judgment for its breach and for money due under the terms of the option. On appeal, the Supreme Court of Idaho held the option void and denied recovery. The United States Supreme Court granted *certiorari* and the Commission filed an *amicus curiae* brief sponsored by the Solicitor General. The United States Supreme Court, through Mr. Justice McReynolds, referred to the Commission's brief and held that, even though the option contract contemplated a public offering, the Securities Act of 1933 gave the public adequate remedies against the seller and that such remedies are "inconsistent with the idea that every contract having relation to sales of unregistered shares is absolutely void," and reversed the judgment of the Supreme Court of Idaho.

In *Boudinot Atterbury et al.* v. *Consolidated Coppermines Corporation*,[35] the Commission's proxy rules were involved and the Commission obtained permission to file a brief as *amicus curiae*. The officers of the corporation, with the exception of the two plaintiffs, had

[32] *Securities and Exchange Commission* v. *Associated Gas & Electric Co.*, 99F. (2d) 795, 798 (C. C. A. 2d, 1938).

[33] Judge Coxe of the District Court for the Southern District of New York, on July 8, 1941, handed down an opinion holding that the statute provides an action both for rescission and for damages.

[34] 312 U. S. 38 (1941).

[35] Ct. of Chancery, Del., Newcastle County (1940).

solicited the proxies of the shareholders, stating that the proxies were solicited by the management and further stating that the only business to be presented by the management or by anyone else within the knowledge of the management, was the election of directors. The plaintiffs thereupon solicited the revocation of any proxies given the management. The record also contained evidence that the management was informed that plaintiffs intended to present other business at the meeting. The meeting was held and the management elected directors and plaintiffs filed suit to set aside the corporate action.

The Commission in its brief contended (1) that the solicitation of the revocation of a proxy is itself a solicitation of a "proxy, consent, or authorization;" (2) that a solicitation "by the management" is not false and misleading, even though a minority of the management does not join in the solicitation; (3) that there is a duty to inform those whose proxies are solicited of questions to be presented and the use the proxies are to be put to; (4) that there is a duty on those soliciting the proxies to inform those whose proxies have been solicited of changed conditions which make statements made in the soliciting material no longer true; and (5) that the question of invalidity of action taken pursuant to proxies improperly solicited is for the court to decide. The court found in favor of defendants without specifically determining all the points raised by the Commission.

In *Leland Stanford, Jr., University* v. *The National Supply Company*,[36] the university filed an action to recover the par value of preferred stock held by it, together with the accumulated dividends. The complaint alleged that the university owned 1,300 shares of preferred stock of the First National Company and that this corporation consolidated with another to form The National Supply Company. Under the plan of consolidation, the preferred stock was exchangeable for stock in the new corporation and the accumulated dividends were eliminated.

The university contended that the exchange was a sale, that the new securities were unregistered, and that the prospectus was misleading, in that it failed to inform the stockholders of their rights and the manner in which to assert such rights. The Commission in its brief contended that (a) the distribution of the securities, being the result of a consolidation approved by a vote of the stockholders, was not a sale and therefore was not a violation of Section 5 of the Securities Act of 1933; (b) that even if a sale were involved, there would be no liability under Section 12 (1) of the Act if the defendant had relied upon the Commission's interpretative regulations;[37] and (c) if a sale were involved, the reliance upon the Commission's interpretative

[36] U. S. D. C. N. D Cal. (1941).

[37] Under the theory adopted by the Commission and made public in a note to Rule 5 for the Use of Form E-1 under the Securities Act of 1933, no sale was involved in this transaction.

regulations could not protect defendant from liability under Section 12 of the Act for false and misleading statements. No decision has yet been rendered.

In *Samuel N. Levy et al.* v. *Irving Feinberg et al.*,[38] a group of stockholders sued to recover damages for the corporation, American Beverage Corporation, alleging that one of the defendants, formerly a majority stockholder, director, and president of the company, had given an option on his stock to Feinberg with the knowledge that Feinberg would defraud American Beverage Corporation and apply a large portion of its assets to extinguish the indebtedness of another corporation, Prendergast-Davies, owned by Feinberg. This was accomplished by the subsequent sale of the assets of Prendergast-Davies to American Beverage Corporation and the assumption of Prendergast-Davies liabilities.

Proxy material sent to the stockholders of American Beverage Corporation, just prior to the time the option was exercised, contained statements that the solicitation was being made by the management for the reelection of existing directors or such other persons as would maintain the existing management for the ensuing year. The material also stated that prospects for the coming year were very encouraging. No mention was made of the option, although it had been granted under circumstances indicating that it would be exercised and control of the corporation assumed by Feinberg to the detriment of the corporation. The option was exercised prior to the meeting and a new board of directors was elected by the vote of Feinberg's newly-acquired stock. Thereafter, the new board approved the purchase of Prendergast-Davies and the assumption of its liabilities.

The Commission filed an *amicus curiae* brief in which it took the position that the proxy material distributed by the management in the solicitation of proxies to vote in the election of directors did not meet the disclosure requirements of the Commission's proxy rules.[39] In a decision for the plaintiff, the court held that the Commission's proxy rules required the disclosure of the option. The court also held that the statements contained in the proxy statement concerning the purposes of the solicitation and the corporation's prospects were false and misleading.

**Criminal Proceedings.**

The statutes administered by the Commission provide for the transmission to the Department of Justice of evidence of violations of the criminal provisions of those statutes. Criminal proceedings are instituted in the discretion of the Attorney General. It is the policy of the Commission to make a thorough investigation of alleged violations of law before referring a case to the Department of Justice and to

[38] Supreme Court of New York, Special Term; N. Y. Law Journal, March 25, 1941.

[39] For discussion of these rules see p. 232, *infra*.

furnish to the Department the results of such investigation. Thereafter, if criminal proceedings are instituted, the members of the Commission's staff who participated in the investigation assist the United States Attorneys in the preparation of the cases for presentation to the grand jury and for trial.

Up to July 1, 1941, the Commission had referred to the Department of Justice 329 cases, including 52 cases which were referred during the past fiscal year. Since the organization of the Commission, a total of 1,852 defendants [40] have been indicted in 260 cases, including 27 cases which had been referred to the Post Office Department. During the past year indictments were returned against 194 defendants.

Since the inception of the Commission, convictions have been obtained against 739 defendants in 200 cases, representing 93 percent of the 213 cases which have been disposed of as to principal defendants; 124 defendants, named in 44 cases, were convicted during the past year.

The foregoing figures include perjury proceedings arising out of Commission investigations. A total of 20 defendants have been so indicted, and 8 convicted, including 2 defendants who were convicted during the past fiscal year. At the end of the year, indictments for perjury were pending as to 11 defendants.

The following table discloses the comparative statistics with respect to criminal proceedings in cases developed by the Commission.

*Criminal cases developed by the Commission based upon violation of the Securities Act of 1933, the Securities Exchange Act of 1934, the mail fraud statute, conspiracy, perjury, and other related Federal statutes*

| Year ended June 30 | Number of cases referred to Department of Justice | Number of defendants indicted | Number of defendants convicted | | |
|---|---|---|---|---|---|
| | | | As a result of plea of guilty or nolo contendere | By verdict | Total |
| 1934 | 7 | 32 | 1 | 4 | 5 |
| 1935 | 28 | 186 | 18 | 4 | 22 |
| 1936 | 46 | 395 | 76 | 29 | 105 |
| 1937 | 44 | [a] 233 | 73 | 50 | 123 |
| 1938 | [a] 36 | 253 | 71 | 27 | 98 |
| 1939 | 51 | [a] 327 | 73 | 40 | 113 |
| 1940 | [a] 65 | 232 | [a] 97 | 52 | [a] 149 |
| 1941 | 52 | 194 | 72 | 52 | 124 |
| Total | [b] 329 | 1,852 | 481 | 258 | 739 |

[a] Adjusted figure

[b] In addition, indictments have been returned in 27 cases referred by the Commission to the Post Office Department, including 1 case in which an indictment was returned during the past fiscal year.

Up to July 1, 1941, the Commission had secured the citation of 24 defendants in 7 proceedings for contempt of court orders which had

[40] This figure contains some duplication resulting from the fact that some persons were named as defendants in several indictments or in more than one case.

been obtained by the Commission. Nineteen of these defendants were found guilty. None were found guilty during the past fiscal year.

A brief description of the criminal cases filed or pending during the year ended June 30, 1941, showing their status at the end of that year, is set forth in the tables comprising Appendix IV, page 327 of this report. A more detailed description of some of the more important cases follows.

*United States* v. *Union Electric Company of Missouri.*—On January 17, 1941, an indictment was returned by a Federal grand jury in St. Louis, Mo., charging Union Electric Company of Missouri, a subsidiary of The North American Company, and Louis H. Egan, former president of the Union Electric Company, with violations of, and with conspiracy to violate, Section 12 (h) of the Public Utility Holding Company Act of 1935. This action resulted from an investigation by the Commission which extended over a period of nearly 2 years.

Under the provisions of Section 12 (h) of the Public Utility Holding Company Act of 1935, it is unlawful for any registered holding company to make, in any manner, any contribution, directly or indirectly, to political groups or in connection with the political campaign of any individual. In this case the indictment alleged that, to further the political campaigns and to assure the election to public office of certain individuals, the Union Electric Company made contributions out of a "slush fund" which was accumulated through various artifices, such as kickbacks on legal fees, payments to contractors, and the padding of expense accounts.

To further the prosecution of this case, members of the Commission's staff were appointed as special assistants to the Attorney General and in such capacity aided the United States attorney in St. Louis, Mo., in the presentation of the case to the grand jury. The proceeding has been marked thus far by various motions and demurrers asserting, among other defenses, that this particular section of the Act is unconstitutional. These motions and demurrers on the part of the defendant have been consistently overruled and the case will probably be tried in the fall of 1941.

During the course of the Commission's investigation, three employees of the company were indicted for perjury committed before officers of the Commission. The charges alleged that the defendants had testified falsely with respect to certain phases of the aforementioned practices. Albert C. Laun, vice president of the Union Electric Company, entered a plea of *nolo contendere.* He was sentenced to a year and a day in prison and was fined $4,500. He was paroled after serving about one-third of his sentence. Frederick J. Martin, formerly a sales manager employed by the Union Electric Company,

pleaded guilty to the charge of perjury and was sentenced to 6 months in prison and fined $501. After serving about 10 days, and after giving the Commission a full statement of the facts in regard to which he committed perjury, he was placed on probation. The third defendant indicted was Frank J. Boehm, former executive vice president of the company, who elected to stand trial, and was found guilty. He was sentenced to 5 years in prison on each of two counts, to run concurrently and was fined $2,000. His case is now pending on appeal before the United States Circuit Court of Appeals for the Eighth Circuit. The appeal is set for argument on September 10, 1941.[41]

*United States* v. *E. M. Hill et al.*—Early in 1939, evidence acquired by the Commission in proceedings leading to the revocation of the broker-dealer registrations of certain firms was forwarded to the Attorney General and the Chief Inspector of the Post Office Department. This evidence disclosed that, for approximately 6 years, hundreds of small businesses or prospective businesses had been victimized by the operations of the so-called "front money racket."[42] The victims had been induced to pay advance fees, estimated as aggregating $1,000,000, for various services in connection with incorporation and registration, and the preparation of sales literature. This was accomplished by false and misleading representations as to the ability of persons engaged in such racket to secure financing and capital upon the payment of the advance fee. While almost every conceivable type of small business was represented in the list of victims, the investigation failed to reveal a single instance in which a share of stock had been sold or a dollar of capital secured for the victims.

As a result of this reference, a joint investigation was undertaken by the Post Office Department and the Commission which culminated on May 21, 1940, in an indictment at Cleveland, Ohio, charging 12 defendants, operating in their own names and in the names of some 23 different companies located throughout the United States and abroad, with carrying on a scheme to defraud persons who were desirous of securing financing or additional capital.

Members of the Commission's staff were appointed special assistants to the United States attorney and participated in the presentation of the case to the grand jury and in the trial which took place in February 1941. On the eighth day of the trial, pleas of guilty were entered by nine defendants and sentences were imposed as follows: E. M. Hill, Cleveland, and Arthur L. Rose, New York, 5 years imprisonment; Bernard V. Gross, Chicago, and Carl J. Barth, Cleve-

[41] Affirmed on November 6, 1941.
[42] Sixth Annual Report, p. 162.

land, 2 years imprisonment; William H. Gould and Roland S. Mott, both of New York, 3 months imprisonment; Edward Schofs, New York, Paul E. Reinhardt, Los Angeles, and Victor DeVilliers, New York, suspended sentence of 2 years; and W. M. Harvey, New York (who pleaded *nolo contendere*) 1 hour in the custody of the marshal. The case is still pending as to Samuel Lewis, who was granted a separate trial because of illness, and C. Wayne Gould, who has not as yet been apprehended.

*United States* v. *Arnold Joerns et al.*—This case is the most recent step in the Commission's efforts to uncover the facts underlying the promotion of Resources Corporation International, a very large securities promotion predicated on two million acres of timber and ranch land in Mexico. On December 13, 1940, an indictment was returned in Chicago, Ill., against nine of the promoters and their accomplices The indictment charged that subscribers to International Syndicate, the original vehicle for the promotion, were told that two million acres of valuable timber properties had been acquired in Mexico at a cost of $9,000,000; that $7,350,000 had been subscribed to the syndicate; and that $1,650,000 was still due and unpaid on the lands; when, in fact, only $152,919.82 had been expended by the promoters in acquiring the properties, and substantially all the purported cost and remaining liability were fictitious.

On October 15, 1931, a meeting of International Syndicate subscribers was held to dissolve the syndicate and to form Resources Corporation International. According to the indictment, the late Harper S. Hoover and his associates were able to acquire the bulk of the stock of the latter company.

According to the indictment, Hoover and his associates proceeded to engage in an extensive stock-selling campaign, particularly in the year 1937, which they stimulated by various fraudulent devices, including sham timber-cutting contracts, payments upon which were used to give an appearance of earning power and income to the corporation. In this way, Hoover disposed of 528,709 shares of his personally owned stock in Resources Corporation International between 1931 and 1937 at a gross profit of $4,759,140.95.

During the period from 1938 to 1940, there had been extensive litigation between the Commission and Resources Corporation International, Harper S. Hoover, and his associates. In March 1938, the Commission instituted a stop order proceeding pursuant to Section 8 of the Securities Act of 1933. The proceeding was interrupted several times because of litigation instituted by Resources Corporation International after its motion to withdraw its registration statement and terminate the stop order proceeding had been denied by the Commission. Resources Corporation sought a direct appeal to the Circuit Court of Appeals for the Seventh Circuit, which appeal

was dismissed on the ground that the Commission's order refusing to permit withdrawal of the registration statement was interlocutory and therefore not reviewable at that stage of the proceeding. The corporation then filed suit in the District of Columbia to enjoin the Commission from continuing the proceeding. The injunction was refused. The Commission issued a stop order suspending the effectiveness of the registration statement on July 10, 1940.

The criminal proceedings against Arnold Joerns and the other associates of Hoover are at present pending in the United States District Court for the Northern District of Illinois and should come to trial in the fall of 1941.

*United States* v. *Central Securities Corporation et al.*—In this case, three individuals and the Central Securities Corporation, a broker-dealer registered under Section 15 of the Securities Exchange Act of 1934, were indicted on charges of fraudulently effecting the redemption of municipal public improvement bonds issued by the cities of Gary, Hammond, and East Chicago, Ind. On November 8, 1940, an indictment was returned in South Bend, Ind., charging the defendants with conspiracy to violate Section 15 (c) of the Securities Exchange Act of 1934. This section prohibits fraud by brokers and dealers in security transactions effected in the over-the-counter markets as distinguished from the established national securities exchanges.

The three individuals named in the indictment were Edwin H. Dickmeyer, president of Central Securities Corporation; Louis F. Conter, former treasurer of Lake County, Ind.; and Edward L. Reil, former employee of the treasurer's office of Lake County. The indictment charged that the defendants entered into an agreement whereby Conter, as treasurer of Lake County, would give preference to Central Securities Corporation over all other persons in the redemption of the public improvement bonds and coupons issued by the three Indiana cities in return for the payment to him of bribes totalling 20 percent of the aggregate amount of principal and interest received by the corporation in the redemption of such bonds and coupons. It was also alleged that the agreement provided that Reil would be appointed by Conter as an employee of the county treasurer's office to maintain close scrutiny and supervision over the treasurer's accounts kept in the three cities.

The indictment alleged that, as a part of a conspiracy to defraud, the corporation would falsely advise customers, who had such bonds on deposit with it for collection or for sale, that it had an opportunity to sell their bonds at from 25 percent to 70 percent of their face values and would recommend acceptance of these offers for the purpose of reinvesting in other securities. The indictment charged that after authorization had been obtained from customers to sell their bonds and coupons the corporation, contrary to the authorization, would mail

the bonds and coupons to Reil who would present them to the treasurer's office in the particular cities where the bonds had been issued and collect 100 cents on the dollar, to the full extent of funds available.

The indictment further alleged that Reil would transmit the payments to Central Securities Corporation, which would remit to him 20 percent of the proceeds to be paid to Conter and 5 percent to be retained for his services in the transaction. According to the indictment, the corporation would then send a statement to the customer, indicating that it had purchased his bonds for its own account, together with a check for the amount of the pretended offer, and would retain for itself the remainder.

The defendants by demurrer challenged the indictment primarily on the ground that Section 15 (c) (1) of the Securities Exchange Act of 1934 was an unconstitutional delegation of legislative power, and that Rule X-15C1–2 was void because adopted pursuant to such statute. The defendants also contended that wilful violation of Section 15 (c) (1) does not constitute a crime, that the improvement bonds involved in the case were not securities within the meaning of the Act, and that the section was not effective until the adoption of the rule. On April 22, 1941, the court overruled the demurrer without opinion.

The case is at present awaiting trial in the United States District Court for the Northern District of Indiana.

*United States* v. *W. J. Herring et al.*—W. J. Herring, a securities broker, Little Rock, Ark., was sentenced to 3 years imprisonment on his plea of guilty to charges of violating the fraud provisions of the Securities Act of 1933 and Section 215 of the Criminal Code, in connection with the sale of the common stock of Investors Participating Corporation, of which he was the promoter.

The indictment, which was returned by the Federal grand jury at Little Rock, Ark., charged that Herring had falsely represented that the stock of the Investors Participating Corporation was an absolutely safe investment; that the funds received from the sale of the stock were being used to promote and advance the interests of the corporation; that a 100 percent dividend would shortly be declared because of the corporation's remarkable progress; and that the investors' money was backed by the assets of W. J. Herring & Company. Actually, the latter company was hopelessly insolvent; the corporation had operated at a deficit during its entire existence; and the funds from the sale of stock were being converted to the personal use of the defendant.

*United States* v. *Robert J. Boltz.*—In this case, Robert J. Boltz, an attorney and investment counselor of Philadelphia, Pa., was indicted on 21 counts alleging violations of the fraud provisions

of the Securities Act of 1933, the broker-dealer registration provisions of the Securities Exchange Act of 1934, and Section 215 of the Criminal Code.

A member of the Philadelphia bar and of the city's most exclusive clubs and institutions and a direct descendant of Philadelphia's first families, he used his name and position to attract some 200 persons to entrust to him more than $2,500,000 in funds and securities. Prior to the effective date of the Investment Advisers Act of 1940, Boltz was told by representatives of the Securities and Exchange Commission that he must register with the Commission as an investment adviser, and that his books and records were subject to inspection by the Commission. Boltz challenged the Commission's jurisdiction and, when steps were taken to enforce inspection, he disappeared. The case of the missing investment counselor attracted Nation-wide attention as city, State, and Federal enforcement authorities cooperated in an exhaustive Nation-wide search. Four months after his disappearance, he was apprehended in Rochester, N. Y., and returned to Philadelphia for trial in the State courts, where he was sentenced to a term of from 20 to 40 years in prison.

The Federal indictment charged that Boltz had defrauded numerous investors residing in and around Philadelphia who had entrusted him with the investment of their funds in securities. It was alleged that he had charge of 167 active accounts and, contrary to limitations in the agreements with his customers, ran a margin trading account, executed short sales, and used customers' funds to speculate in securities and commodities for his own account with very large losses to the customers. Boltz allegedly guaranteed a minimum annual return of 6 percent and represented that he would preserve intact the principal of all funds entrusted to him. It was further charged that, in order to effectuate the fraud, Boltz delivered checks and quarterly statements falsely showing or representing substantial profits earned when, in fact, monies received by customers were returns of principal or payments from funds and securities received by him from other customers.

According to the indictment, Boltz represented that he was a principal stockholder of North America Investment Fund, Inc., an incorporated investment trust with portfolio assets in excess of $5,000,000, and that he actually pledged stock certificates of this fund with various national banks in Philadelphia as collateral for substantial loans. It was charged, however, that North America Investment Fund, Inc. was wholly fictitious, was never incorporated, and had no assets.

Boltz pleaded guilty on all counts and, on February 28, 1941, was sentenced, in the United States District Court for Eastern Pennsyl-

vania, to 20 years imprisonment. This is the longest sentence imposed in a criminal case under the Securities Act of 1933.

*United States* v. *Eugene S. Gates.*—A fictitious cement manufacturing enterprise was the subject of a large-scale stock promotion in this case. Having leased a cement plant at Chula Vista, Calif., Eugene S. Gates and his associates proceeded to engage in the promotion of the stock of the newly formed International White Cement Company in the States of Colorado, California, and Illinois.

As a result of the Commission's investigation into the affairs of this company, a Federal grand jury at Denver, Colo., indicted Gates and seven of his associates for violations of the fraud provisions of the Securities Act of 1933, and for mail fraud and conspiracy to defraud, in connection with the sale of stock of International White Cement Company. The defendants were charged with representing to prospective investors that the company was operating and manufacturing cement, when it was not operating and had never operated, and, in fact, did not have the machinery and equipment necessary for the production of cement. It was alleged that they also employed the not uncommon device of impressing investors with the payment of fictitious dividends to further the alleged fraudulent scheme and to induce additional purchases of the company's stock, when, in fact, the company had no income other than that from the sale of stock.

Eugene S. Gates, who was promoter and president of the company, was given a sentence of 8 years imprisonment and was fined $2,300 after having been found guilty on 14 counts of the indictment. On December 2, 1940, he filed notice of appeal and his case is now pending in the United States Circuit Court of Appeals for the Tenth Circuit. Three other defendants were given lesser prison sentences; 3 others were placed on probation; and the indictment was dismissed as to the remaining defendant.

*United States* v. *Bankers Industrial Service, Inc., et al.*—On December 27, 1940, a certified public accountant and three officers and directors of Bankers Industrial Service, Inc., of Wilmington, Del., were given prison sentences ranging from 1 year and 1 day to 3½ years for violation of the fraud section of the Securities Act of 1933, in connection with the sale of the Class A common stock of Bankers Industrial Service, Inc.

This fraudulent scheme, which cost investors approximately $1,000,000, was effectuated by means of misrepresentations with respect to the net profits of the company and other aspects of its financial condition. The defendants also falsely represented to investors that the DuPont family of Wilmington, Del., was financially interested in the company. They further represented that no compensation would be or had been paid to the directors of the company when, in fact, they intended to convert the entire proceeds of the sales to their own use.

Those convicted were Medford H. White, of Wilmington, Del., a former member of the State Board of Accountancy of that State; Frank Ware, of Garden City, N. Y.; Willard R. Jeffrey, of Dunmore, Pa.; Bankers Industrial Service, Inc., of New York City, N. Y., Jersey City, N. J., and Wilmington, Del., and its president, Leo F. Gaffeney, of Plainfield, N. J.; Hiltz & Co., a New York brokerage concern; and Henry I. Pitney, New York City securities broker, whose sentence of one year and one day imprisonment was suspended. White has taken an appeal to the Circuit Court of Appeals for the Second Circuit.

*United States* v. *Baskette et al.*—The indictment in this case was returned by the Federal grand jury at Los Angeles, Calif., on October 23, 1940, charging Walter C. Baskette of Los Angeles and five accomplices with violations of the fraud provisions of the Securities Act of 1933 and with mail fraud and conspiracy to defraud in connection with an oil and gas lease promotion under the name of Caloma Oil Company. It also charged that the defendants obtained oil and gas leases on 2,600 acres of "wildcat" land situated in Pontotoc County, Okla., and caused to be written a geological report on the property falsely indicating that there were favorable prospects of finding oil. It was further charged that the defendants were fully aware that the prospects of finding oil were unfavorable.

The defendants, according to the indictment, induced the purchase of the assignments of leases and interests in the drill site by numerous false statements and fraudulent representations including, among other things, statements that the property lay in oil-producing territory wherein every indication pointed to the probability that oil would be found in large quantities; that the surface outcroppings on the Caloma property were identical with the outcroppings found in the Fitts, Jesse, and other surrounding sites which were generally known to be lucrative; that the leases had been withdrawn from the market and were only available to a certain few investors; and that individual salesmen had invested their personal funds in Caloma leases.

Baskette and four other defendants, Andreas Atherton of San Jose, Frank Dent of Los Angeles, Raymond J. Standish of Los Angeles, and Guy C. McBride of Oklahoma City, were found guilty as charged. Thomas J. Finnerty of Los Angeles, formerly a deputy real estate commissioner of the State of California, was found guilty only on the charge of conspiracy. On May 16, 1941, Baskette was sentenced to 4 years imprisonment and placed on probation for 3 years after the expiration of the term. Atherton, Dent, and Standish were each sentenced to 2 years imprisonment and placed on probation for 3 years after the expiration of their terms. McBride, who had pleaded *nolo contendere*, was sentenced to 18 months imprisonment to be

followed by 3 years probation. Finnerty was placed on probation for 3 years.

*United States* v. *Francis M. Cox.*—On April 9, 1941, a jury in the United States District Court at Chattanooga, Tenn., found Francis M. Cox and Edward L. Kenyon guilty of violating the fraud provisions of the Securities Act of 1933 and Section 215 of the Criminal Code in connection with the sale of the capital stock of the Franklin Savings and Loan Company. F. Marion Johnson, the third defendant, pleaded *nolo contendere.* The defendants, Cox, Kenyon, and Johnson, were president, stock salesman, and secretary, respectively, of the company, a Chattanooga industrial bank and small loan company.

The charges in the indictment were based upon the operation of a fraudulent scheme by the defendants to effect sales of the company's stock. This involved the payment of fictitious dividends when the company consistently incurred large operating losses, the manipulation of the company's books and the diversion of funds for the use and benefit of the defendants, and false representations as to the company's financial condition.

Among the false representations made by the defendants were statements to the effect that the Franklin Savings and Loan Company was the oldest banking organization in existence; that the company had assets amounting to $1,000,000; that the company was earning and paying dividends; and that its stock was guaranteed by the United States Government.

On April 12, 1941, the court imposed sentences on the three defendants. Francis M. Cox was sentenced to 8 years imprisonment and fined $10,000. Edward L. Kenyon was given a prison sentence of 5 years and fined $4,000. A sentence of 3 years imprisonment and a fine of $2,000 was imposed on F. Marion Johnson, but he has recently been granted an executive pardon.

*United States* v. *Alexander Mengarelli.*—This case represents one of the instances in which the Commission has cooperated with a State agency in order to complete an investigation of a stock promotion which led beyond the territorial jurisdiction of the agency instituting the investigation. This particular case originated in the office of the Attorney General of the State of New York.

Mengarelli, a securities broker and dealer of Syracuse, N. Y., was convicted on June 15, 1941, of violating the fraud provisions of the Securities Act of 1933 and the mail fraud statute in the sale of the common stock of Ozonide Corporation, of Detroit, Mich., which had been organized for the purpose of exploiting and promoting an oil-cracking process. It appeared that Mengarelli had distributed some 30,000 shares of the stock at prices ranging from $1.25 to $2.50 a share, which he had taken down under an option at 75 cents a share. Mengarelli had told investors that Ozonide Corporation was newly formed, when

he knew it had been in existence for more than eight years; that the stock of the corporation was scarce, when he held an option on a very large block of the stock; and that he was selling it at cost, whereas his profits ranged from 50 cents to $1.75 a share. Mengarelli also falsely represented that the Italian Government had deposited $250,000 in escrow in a New York bank for the right to use the process, whereas, even if the representation had been true, the investors would not have benefited because Ozonide Corporation did not own the foreign rights to the process.

The United States District Court of the Northern District of New York sentenced Mengarelli to 18 months imprisonment. The sentence was suspended and he was placed on probation for 3 years.

*United States* v. *Buckhorn Mining Company and James R. Davies.*—This case resulted in the first convictions where the indictment was predicated solely upon the use of the mails and the instrumentalities of interstate commerce in the sale of securities without compliance with the registration provisions of the Securities Act of 1933.

In April 1938, the Commission obtained an injunction against James R. Davies and the Buckhorn Mining Company enjoining them from further violations of Section 5 of the Securities Act of 1933 in connection with the sale of the common stock of Buckhorn Mining Company. Despite the injunction, the sale of stock was wilfully continued. On May 15, 1940, an indictment was returned by a Federal grand jury at Pocatello, Idaho, charging that the stock of the Buckhorn Mining Company, of which Davies was the president and promoter, was sold to investors in Idaho and neighboring States in violation of the registration provisions of the Securities Act of 1933.

Davies was sentenced, in the United States District Court for the District of Idaho, to 15 months in prison and the company was fined $1,000.

*United States* v. *David A. Smart et al.*—In this case, twelve individuals were charged with conspiracy to violate the anti-manipulation section of the Securities Exchange Act of 1934 in connection with trading on the New York Curb Exchange in the common stock of Esquire-Coronet, Inc., between May and September 1938. The indictment, which was returned in the United States District Court at Chicago on May 2, 1941, named as defendants David A. Smart, Alfred Smart, Arthur Greene, A. D. Elden, Jeannette Kilmnick, and Alfred R. Pastel, all of Chicago, Walter Lyon and Walter Stein, of Walter Lyon and Co., David Van Alstyne, J. J. Hindon Hyde, and Walter Winfield of Van Alstyne, Noel and Company, and Leo G. Seisfeld, all of New York City.

The indictment charged that the defendants conspired to create a rise in the price of the Esquire-Coronet stock on the New York Curb Exchange by means of a series of transactions designed to induce the

purchase of that stock by others, in violation of Section 9 (a) (2) of the Securities Exchange Act of 1934. It was alleged in the indictment that the defendants David A. Smart and Alfred Smart granted an option on 200,000 shares of Esquire-Coronet stock to the defendant Greene, who, in turn, optioned the shares to Walter Lyon and Co. According to the indictment Van Alstyne, Noel and Company joined in the distribution of these shares.

Among the devices alleged in the indictment to have been employed by the defendants in stimulating activity in the stock and thereby causing its rise, were agreements to guarantee persons against loss, and the domination of the volume of trading and over-bidding in order to raise the price of the stock on the exchange. Another device used by the defendants for the same purpose, the indictment alleged, was to sell certain individuals shares of Esquire-Coronet stock at a price substantially under the prevailing market price for the stock in order to compensate such persons for purchasing the stock on the Curb Exchange at prices above the last sales price. Some of these trades, the indictment charged, were strategically placed at the opening and closing of the trading session.

The defendants have filed demurrers to the indictment, which are set for argument in the United States District Court for the Northern District of Illinois on September 8, 1941.

**Appellate Decisions in Criminal Cases.**

In *Sidney J. Dillon et al.* v. *United States*, Sidney J. Dillon and Lewis E. Crowley had been convicted upon their pleas of *nolo contendere* to an indictment charging violations of the fraud provisions of the Securities Act of 1933 and the mail fraud statute.[43] On July 16, 1940, the Circuit Court of Appeals for the Eighth Circuit affirmed the convictions, holding that "the pleas of *nolo contendere* were confessions of guilt for the purpose of the case." The court also decided that there was no impropriety in joining in one indictment counts charging violations of the Securities Act of 1933 and the mail fraud statute. The defendants filed a petition for a writ of *certiorari*, which was denied by the Supreme Court on October 28, 1940.

In *John J. McKee and Moe Platt* v. *United States*, McKee and Platt had been convicted of conspiracy to defraud the United States in connection with its governmental functions of administering the Securities Act of 1933 and the Securities Exchange Act of 1934.[44] Both defendants appealed to the circuit court of appeals, which court dismissed the appeal on October 25, 1940.

In *Robert M. Thompson* v. *United States*, Thompson had been convicted of fraud in connection with the sale of contracts to stockholders of Atlas Holding Company. An appeal was taken to the Circuit

[43] Sixth Annual Report, p. 154.
[44] Sixth Annual Report, p. 160.

Court of Appeals for the Fifth Circuit. The court dismissed the appeal on the grounds that the defendant had failed to perfect the appeal within the prescribed time limit.

In *Alva Brown Davis* v. *United States*, Davis had been convicted of fraud in connection with the operation of the Santa Fe Land Trust & Title Company of Dallas, Texas. The Circuit Court of Appeals for the Fifth Circuit affirmed the conviction and, on October 14, 1940, the Supreme Court denied a petition for a writ of *certiorari*.

In *Leo S. Holmes* v. *United States*, Holmes had been convicted of violations of the fraud provisions of the Securities Act of 1933 in the sale of securities of First Mortgage Acceptance Corporation of Omaha, Nebraska.[45] On November 27, 1940, the Circuit Court of Appeals for the Eighth Circuit affirmed the conviction.

In *John H. McGloon* v. *United States*, McGloon, a former vice president and comptroller of McKesson & Robbins, Inc., was convicted of falsifying reports filed with the Securities and Exchange Commission.[46] The conviction was affirmed by the Circuit Court of Appeals for the Second Circuit on December 30, 1940. On March 17, 1941, the Supreme Court denied *certiorari*.

In *Paul B. Roubay* v. *United States*, and *M. E. Waggoner* v. *United States*, both Roubay and Waggoner had been convicted of fraud in connection with the sale of trade acceptances by Comanche Mining and Reduction Company against nonexistent gold and silver bullion. The Circuit Court of Appeals for the Ninth Circuit affirmed the conviction of Roubay on October 25, 1940, and affirmed the conviction of Waggoner on July 26, 1940. A petition for *certiorari* by Waggoner was denied by the Supreme Court on November 12, 1940.

In *Norman W. Minuse et al.* v. *United States*, Norman W. Minuse and Joseph E. H. Pelletier had been convicted of conspiracy to violate the anti-manipulation provisions of the Securities Exchange Act of 1934 in transactions on the New York Curb Exchange involving the stock of Tastyeast, Inc.[47] On August 7, 1940, the Circuit Court of Appeals for the Second Circuit reversed the convictions and ordered a new trial on the grounds that error had been committed in rulings of the lower court on matters of trial procedure.

In *Andrew G. Ilseng et al.* v. *United States*, Andrew G. Ilseng, Andrew G. Ilseng, Jr., and Leslie A. McKercher had been convicted of fraud and conspiracy to defraud in connection with the promotion of various mining ventures. On June 13, 1941, the Circuit Court of Appeals for the Ninth Circuit affirmed the convictions on all but one count, but reversed the conviction on that count because there had not been sufficient proof of the jurisdictional basis for that particular

[45] Sixth Annual Report, p. 157.
[46] Sixth Annual Report, p. 155.
[47] Sixth Annual Report, p. 158.

charge. The case was remanded to the district court for resentencing because the sentences imposed were to run concurrently with the sentence under the invalid count.

In *Hiram R. Edwards* v. *United States*, Edwards had been convicted of violations of the fraud and registration provisions of the Securities Act of 1933 and of mail fraud and conspiracy in connection with the sale of interests in five trusts having assets consisting of oil and gas leases. The conviction was affirmed by the United States Circuit Court of Appeals for the Tenth Circuit on June 29, 1940.

The Supreme Court granted *certiorari* and on March 3, 1941, reversed the conviction and remanded the case to the district court for trial of issues raised by a plea in abatement of the defendant in which he claimed that immunity had been conferred upon him in the course of hearings before the Securities and Exchange Commission. The court held that the district court erred in refusing the defendant an opportunity to be heard on that point.

The court sustained the Government's contention that an indictment, charging a violation of the registration provision of the Securities Act of 1933, need not negative the availability of an exemption. The court also ruled that the fraud provisions of the Securities Act of 1933 did not impliedly repeal the mail fraud statute in the field of securities sales and that the two statutes could be useful side by side.

In *Joshua F. Simons et al.* v. *United States*, Joshua F. Simons, Samuel Markowitz, and William Markowitz had been convicted of violations of the mail fraud provisions of the Securities Act of 1933 in the sale of oil and gas leases. An appeal was taken to the Circuit Court of Appeals for the Ninth Circuit, which court affirmed the convictions on April 21, 1941. A petition for *certiorari* has been filed.

In *Thomas W. Benson* v. *United States*, Benson had been convicted of violations of the fraud provisions of the Securities Act of 1933 in the sale of stock of the Suwannee Life Insurance Company. The Circuit Court of Appeals for the Fifth Circuit affirmed the conviction and, on October 21, 1940, a petition for *certiorari* was denied by the Supreme Court.

In *Joseph R. Rossignol* v. *United States*, Rossignol had been convicted of fraud in connection with the operation of a general security brokerage and investment business in Atlanta, Ga.[48] The conviction was affirmed by the Circuit Court of Appeals for the Fifth Circuit. On October 14, 1940, the Supreme Court denied a petition for a writ of *certiorari*.

In *Edward J. Hartenfeld* v. *United States*, Hartenfeld had been convicted of fraud in the sale of securities of the American Terminal and Transit Company.[49] The conviction was affirmed by the Circuit Court of Appeals for the Seventh Circuit. On October 14, 1941, the Supreme Court denied *certiorari*.

[48] Sixth Annual Report, p. 157.

[49] Sixth Annual Report, p. 153.

In *Joseph J. Mascuch* v. *United States*, Mascuch was convicted of perjury committed before officers of the Commission during an investigation into the stock market trading and the common stock of Breeze Corporations, Inc., of which he was president. The Circuit Court of Appeals for the Second Circuit affirmed the conviction and a petition for *certiorari* was denied by the Supreme Court on October 14, 1940.

## FORMAL OPINIONS

The Opinions and Research Section of the General Counsel's Office prepares drafts of the Commission's formal opinions in contested cases arising under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, and the Investment Advisers Act of 1940. The work of this section is done by a group of approximately 30 attorneys, who are also engaged from time to time in rendering interpretative and advisory assistance to the public. While engaged in the preparation of opinions, these attorneys work under the direction of the Supervising Attorney in Charge of the Opinions and Research Section and are completely isolated, with respect to this work, from persons actively participating in the proceedings. It is an invariable rule that the attorney assigned to prepare an opinion must not have had any connection with any previous phase of the case with respect to which the opinion is to be prepared. In addition, the attorney is subject to the following instructions:

"In no cases assigned for the preparation of opinions should the attorney confer with the attorneys who have been responsible for the preparation or prosecution of the proceeding. * * * It is just as improper to consult employees of the Commission who have taken part in the proceedings as it would be to consult attorneys for the respondent. Even on formal or procedural matters not concerned with the merits of the case, attorneys should consult the supervising attorney and allow him to make any inquiries from other divisions of the Commission which may be necessary. The same inflexible rule must apply to consultation with the trial examiner."

After hearings have been held, and after consultation with the Commission, an attorney in this section analyzes the entire record and prepares a draft of the formal opinion in accordance with the Commission's instructions. In most cases he also prepares a narrative abstract of the record. Commission experts are from time to time consulted on technical problems arising in the course of the preparation of the opinion, but these experts are never individuals who have participated in the preparation of the case or testified at the hearing. When the draft of the opinion and the abstract of the record have been completed, they are submitted to the supervising attorney, who reviews the entire case and, in conjunction with the opinion attorney,

revises the draft. The revised draft is submitted to the Assistant General Counsel in charge of the section, in important or difficult cases to the General Counsel, and then to the Commission. After further discussion by the Commission with the attorneys responsible for the preparation of the draft opinion and after full consideration by the Commission, the opinion may be modified, amended, or completely rewritten in accordance with the Commission's directions. The typical opinion has been described in the Report of the Attorney General's Committee on Administrative Procedure as "an admirably clear and orderly exposition of the problems involved, of the conflicting contentions and the important relevant evidence, and of the rationale of the Commission's decision." [50]

The Commission, during the past year, issued 264 formal opinions under the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, and the Investment Advisers Act of 1940. Some of the more interesting opinions which merit discussion are as follows:

*In the Matter of Cities Service Company.*[51]—The Commission in this case denied an application of the Cities Service Company under Sections 3 (a) (3) and 3 (a) (5) of the Public Utility Holding Company Act of 1935 for an order exempting it and its subsidiaries as such from the provisions of the Act. Cities Service Company is the top holding company in a system which combines very extensive public-utility operations with a huge oil and natural gas enterprise. It contended that, inasmuch as the bulk of its utilities holdings was pledged with banks as trustees and the right to vote all of the stock was assigned to such trustees, Cities Service Company had divested itself of the power to vote the pledged securities; that the companies whose securities had been pledged were no longer its subsidiary companies within the meaning of Section 2 (a) (8) (A) of the Act; that Cities Service was primarily engaged or interested in businesses other than the business of a public-utility company and was only incidentally a holding company within the meaning of Section 3 (a) (3) and did not derive a material part of its income from its public-utility subsidiaries within the meaning of that section; and that it did not derive a material part of its income from its domestic public-utility subsidiaries within the meaning of Section 3 (a) (5).

The Commission's opinion discussed at length the relationship between the applicant and its subsidiaries and the factors to be considered in determining whether an applicant is "only incidentally a holding company, being primarily engaged or interested in one or more businesses other than the business of a public-utility company."

[50] Administrative Procedure in Government Agencies, 77th Cong., 1st Sess., S. Doc. No. 8, p. 458.
[51] Holding Company Act Release No. 2444.

The record showed that the combined assets of applicant's public-utility subsidiaries were valued at more than $400,000,000; that their operations extended to 20 States and Canada with an estimated population in the areas served of approximately 4,500,000; that the operations of the bulk of applicant's utility subsidiaries had no functional relationship to the business of its nonutility companies; that the aggregate fixed assets of applicant's consolidated utility subsidiaries, at book value, represented 38 percent of the fixed assets of all subsidiaries of the applicant; that the aggregate gross revenues of applicant's consolidated utility subsidiaries amounted to more than $70,000,000 for the year 1938; and that applicant's holdings in its utility subsidiaries, and their assets, constituted a factor of prime importance in the ability of the applicant to function as a credit vehicle for financing the needs of its nonutility subsidiaries. The Commission concluded that Cities Service Company was not entitled to exemption under Sections 3 (a) (3) or 3 (a) (5).

Consideration of the legislative history of these provisions and the income statements of the applicant, furnished the Commission with additional support for its conclusions. The Commission noted the history of indulgence in practices explicitly condemned by Congress and the frequent reference in Congressional debate and Federal Trade Commission reports to Cities Service Company as an example of the type of company whose regulation was deemed necessary in order to effectuate the purposes of the Act. Finally, the position of Cities Service Company and its subsidiaries as one of the most important public-utility holding-company systems in the United States, its vast scope of operation, and the fact that its securities are widely held by the public caused the Commission to find that it would be detrimental to the public interest and the interest of investors and consumers to grant the application.

*In the Matter of The Dayton Power and Light Company, Morgan Stanley & Co. Incorporated.*[52]—The decision in this case was the first to hold that an underwriting house (Morgan Stanley) was affiliated with a public-utility company (Dayton) for the purposes of the Commission's "arm's-length bargaining" rule.[53] The effect of the decision under the rule was to prohibit Morgan Stanley from retaining any share in the underwriting fees and commissions received in connection with $25,000,000 principal amount of first mortgage bonds which were issued and sold by Dayton to the public early in 1940 through an underwriting group headed by Morgan Stanley.

The basis of the decision was that, at the time of the bond issue, Morgan Stanley, through J. P. Morgan & Co., stood in an influential

[52] Holding Company Act Releases Nos. 2654 and 2693.

[53] Rule U-12F-2 of the General Rules and Regulations promulgated under the Public Utility Holding Company Act of 1935. This rule has been superseded by Rule U-50.

position with respect to the underwriting of securities of companies (including Dayton) which were within the orbit of influence of The United Corporation and Columbia Gas and Electric Corporation, registered holding companies under the Public Utility Holding Company Act of 1935.[54] The arm's-length bargaining rule was designed to meet the problems and eliminate the evils arising out of an absence of arm's-length bargaining in transactions between investment bankers and companies subject to the Act.

The Commission's opinion reviewed at length the histories of the companies involved and their officers and directors in relation to J. P. Morgan & Co., which had for years prior to 1934 engaged in both commercial banking and investment banking. The opinion stated that after the Banking Act of 1933 required the divorcement of investment banking from commercial banking, the members of J. P. Morgan & Co. organized Morgan Stanley to carry on the underwriting business which their firm could no longer transact, and that leading partners of J. P. Morgan & Co. had a substantial interest in the capital and profits of Morgan Stanley through ownership of its preferred stock. In 1929, J. P. Morgan & Co. had been a principal promoter of The United Corporation and had occupied a dominant position in its affairs for some years after.

The Commission concluded, among other things, that those partners of J. P. Morgan & Co. who had an interest in the preferred stock of Morgan Stanley possessed a substantial motive for using whatever influence they had to supply Morgan Stanley with underwriting business and that J. P. Morgan & Co. still held a position of influence, though no longer an official one, with The United Corporation, Columbia Gas and Electric Corporation, and their subsidiaries.

Morgan Stanley has taken an appeal from this decision to the Circuit Court of Appeals for the Second Circuit.

*In the Matter of The Detroit Edison Company.*[55]—The Commission's opinion in this case made clear the scope of the phrase "subject to a controlling influence," as used in Section 2 (a) (8) of the Public Utility Holding Company Act of 1935. Under that section, if Company A owns 10 percent of the voting securities of Company B, Company B is a "subsidiary" of Company A unless Company B can show that it is not controlled by Company A or subject to Company A's "controlling influence." Thus, Detroit Edison was *prima facie* a subsidiary of The North American Company and of American Light & Traction Company, registered holding companies, since North American owned 19.28 percent and American Light 20.27 percent of Detroit Edison's outstanding voting securities. Detroit Edison

[54] Dayton was 100 percent controlled by Columbia Gas and Electric Corporation, which was a subsidiary of The United Corporation.

[55] 7 S. E. C. 968 (1940); petition for review denied, *The Detroit Edison Company* v. *Securities and Exchange Commission*, 119 F. (2d) 730 (C. C. A. 6th, 1941).

claimed, however, that it was not controlled by North American or American Light, and that its management and policies were not subject to a controlling influence by either of those holding companies so as to make regulation of Detroit Edison necessary within the standards prescribed by the Act.

It appeared that for many years the management of Detroit Edison had been headed by very able executives and that the holding companies were content and did not interfere with these executives. With respect to this attitude, however, on the part of the holding companies, the Commission held:[56]

"But whether the holding company has exercised control or effectively exerted influence is, upon application such as this, material only insofar as such circumstances may evidence the existence in the holding company of the ultimate directory power. Inaction on the part of a holding company does not necessarily negate the existence of control or controlling influence. It may only evidence satisfaction with the manner in which a subsidiary is being operated. A subsidiary company, moreover, does not cease to be such merely because it has been given the opportunity to build up an able and self-contained management."

After reviewing the history of the relationship between Detroit Edison and specified holding companies, the Commission concluded that Detroit Edison had sustained its burden of showing the absence of controlling influence by American Light, but had failed to sustain the same burden with respect to North American. The Circuit Court of Appeals for the Sixth Circuit denied Detroit Edison's petition for review and affirmed the Commission's order.

*In the Matter of Ebasco Services Incorporated.*[57]—This decision was the first important step in the Commission's efforts to require service companies to comply with the provisions of Section 13 of the Public Utility Holding Company Act of 1935. Section 13 (b) of the Act requires that servicing by a subsidiary service company of associate companies must be at cost. In this case, the problem arose with respect to interlocking officers of Electric Bond and Share Company and Ebasco, its subsidiary service company. The functions of the interlocking officers were commingled with their functions as officers of Bond and Share. The Commission indicated that it was unreal to assume that the value of the services of these common officers to each company could be determined with any degree of accuracy and the ascertainment of cost of performing services for the operating companies in the Bond and Share system was thus an "almost impossible and wasteful task" by virtue of the commingling of the functions of the common officers of Bond and Share and Ebasco.

Section 13 (a) of the Act prohibits intra-system servicing for a charge by registered holding companies. One of the principal reasons

[56] 7 S. E. C., p. 969.
[57] 7 S. E. C. 1056 (1940).

for compelling the registered holding company to be divorced from the service company business was to provide a more accurate means of determining the cost of such services. Therefore, the Commission held that effective regulation pursuant to Section 13 (b) of the Act required that the officers and employees who held positions in both Bond and Share and Ebasco should sever their relations with one company or the other. As an alternative, Bond and Share might undertake to pay the entire compensation of these common officers and employees. Either course would be a step towards insuring performance by Ebasco of service, sales, or construction contracts for associate companies at cost, within the meaning of Section 13 (b).

*In the Matter of Engineers Public Service Company, El Paso Electric Company.*[58]—The Commission, in this case, approved the issue and sale of certain securities of El Paso for the purpose of refunding its outstanding bonds. Previously, in applying the standards of Section 7 (d) of the Public Utility Holding Company Act of 1935, the Commission had adopted a policy of being somewhat more liberal in refunding cases than in cases where securities were to be issued for the raising of new capital. It had taken the view that, if a proposed refunding promised to be beneficial to the issuing company and if the proposed capital structure and earnings coverages were to be somewhat better than before, the standards of Section 7 (d) should be applied less strictly than if the proposed securities were to increase the issuer's funded debt. The Commission felt bound to adhere to that principle for the purposes of this decision inasmuch as El Paso had planned its security issues in reliance upon the Commission's prior decisions.

However, in an appendix published with its opinion in this case, the Commission prospectively overruled its previous policy. It expressed the view that there was as much danger in the perpetuation of too much old debt as there was in the creation of too much debt. For illustration, the Commission drew extensively upon the experience of the Interstate Commerce Commission and others in connection with railway financing. The Commission stated its future policy, as follows:

"A refunding of outstanding senior securities where the issuer has a high ratio of debt to net property or where the security issue does not fully meet the standards of Section 7 (d) will not be permitted effectiveness *merely* because it is a refunding. Such effectiveness will be permitted only where it appears that the circumstances are so unusual and extraordinary as to justify a departure from the general policy announced. Even in such cases the applicants should also be prepared to have included in their refunding operations measures definitely providing for a reduction of the ratio of debt to net property and of debt to total capitalization to a reasonable level."

[58] Holding Company Act Release No. 2699.

*In the Matter of Columbia Gas & Electric Corporation.*[59]—In this proceeding, which arose under Section 11 (e) of the Public Utility Holding Company Act of 1935, the Commission held that the provisions of the Act do not permit the combination of gas and electric utility properties in a "single integrated system." The Commission pointed out, however, that its holding in this respect does not mean that electric properties and gas properties can never be retained together by a registered holding company, for a combination of such properties may be retained where the electric properties are found to constitute an integrated electric utility system and the gas properties an integrated gas utility system, and where retention of both systems satisfies the standards applicable to retention by a holding company of more than one integrated utility system. This position was reconsidered and affirmed in the later case of *The United Gas Improvement Company and Its Subsidiary Companies.*[60]

*In the Matter of A. Hollander & Son, Inc.*[61]—The opinion in this case, a proceeding under Section 19 (a) (2) of the Securities Exchange Act of 1934 to determine whether the registration of a corporation should be revoked or suspended because of failure to disclose material information, dealt with three important aspects of the Commission's policy with respect to registration statements and annual reports. In the first place, it was indicated clearly that a corporate management cannot avail itself of the existence of a separate corporate entity as a pretext for concealing transactions in which the management is involved. Thus, in setting forth the amount of securities owned beneficially by officers and directors of a registrant, it was held that a registrant must include securities in the portfolio of a corporation completely owned and controlled by such officers and directors. Secondly, it was held that where an interchange of information, advice, services, property, and other assistance takes place between a registrant and a corporation completely owned and controlled by the registrant's officers and directors, such an arrangement must be disclosed both as a material contract between registrant and its officers and directors and as a material advisory or service contract with an affiliate. The third aspect of the opinion dealt with the determination of who may certify financial statements as "independent" public accountants. In this connection, it was concluded that (1) the holding by accountants and their immediate families of securities of a registrant amounting to from 1½ percent to 9 percent of their combined approximate net worth, (2) the making of loans by accountants to and from a registrant's officers and directors, (3) the continuous and unexplained use of an accountant's name in a false and misleading connection on the books

[59] 8 S. E. C. 443 (1941), Holding Company Act Release No. 2477
[60] 9 S. E. C. —— (1941), Holding Company Act Release No. 2692.
[61] Securities Exchange Act Release No. 2777.

of a company affiliated with the registrant, and (4) the concealment in registrant's financial statements of its participation in a venture not associated with its indicated line of business, each constituted evidence of a disqualifying lack of independence on the part of the accountants.

The order handed down by the Commission provided that registration would be revoked unless registrant filed appropriate amendments and mailed a copy of the Commission's decision to each of its stockholders of record. The registrant was also required to file with this Commission and with the New York Stock Exchange, for public inspection, quarterly reports summarizing the material transactions taking place between the registrant and its officers and directors (including transactions with wholly-owned companies of such officers and directors) and, in its annual reports to stockholders, to summarize all such transactions taking place during the preceding year.

### SOLICITATION OF PROXIES, CONSENTS, AND AUTHORIZATIONS

During the past fiscal year, the Commission extended its rules and regulations governing the solicitation of proxies, consents, and authorizations to cover securities of investment companies registered under the Investment Company Act of 1940. This change became effective on November 1, 1940, through the adoption of Rule N-20A–1 under Section 20 (a) of that Act. The rules and regulations pursuant to Section 14 (a) of the Securities Exchange Act of 1934 were already applicable to securities listed and registered on national securities exchanges and, pursuant to Section 12 (e) of the Public Utility Holding Company Act of 1935, to securities of registered public-utility holding companies and their subsidiaries.

The work of the Commission in the enforcement of these rules, which are commonly referred to as the proxy rules, is unspectacular in nature. However, it constitutes one of the leading fronts in the current campaign for corporate democracy. Under the rules, stockholders must be given a fair chance to vote for or against each specific proposal that is submitted to them. Furthermore, a company's management, when it submits its own proxy material and if it has been given adequate notice, must include information concerning the proposals of minority stockholders and must cooperate in mailing whatever proxy material is submitted by such stockholders. Most important of all is the requirement of the rules that the security holders must be fully informed as to the nature of the proposals on which they will be asked to vote or give consents or authorizations. The assurance that security holders are adequately informed of the important developments taking place within their corporations is one of the best available guarantees for the existence of a responsive

corporate management, sensitive to its fiduciary responsibilities and public obligations.

Cases handled by the Commission this past year indicate that corporate managements, when releasing proxy material to their stockholders, may still sometimes fail to inform the solicited stockholders of the nature of their voting power. This is illustrated by a case in which the Commission brought about the adjournment of the annual stockholders' meeting and the resolicitation of proxies for the election of directors, because the corporate management had failed to state in its proxy material that, under the company's charter, the holders of preferred stock upon which dividends were in default were entitled to elect a majority of the company's directors.

A more complicated situation arose in another case involving a plan of recapitalization. The purpose of this plan was to eliminate dividend arrearages on the preferred stock of a company by a merger with an affiliated company. The amount of the accumulated dividend arrearages on the preferred stock far exceeded the net worth of the company. Nevertheless, the management of the company, which held a substantial amount of its common stock, claimed that some part of the new securities could with propriety be allotted to the holders of the common stock. Its justification was that the corporate charter contained a provision that, in the event of the company's liquidation, the assets would be divided among the preferred and common stockholders without taking into account arrearages of dividends on the preferred. The management, however, failed to disclose in its proxy material that, even if all of the common stock were voted in favor of the liquidation, the liquidation could not take place without the affirmative vote of approximately 60 percent of the outstanding preferred stock. Furthermore, the management failed to state that, on a going-concern basis, the interests of the common stockholders were subordinate to the rights of the preferred stockholders to the large amount of accumulated unpaid dividends on the preferred stock. The management, upon being advised that its proxy material was deficient, agreed not to vote any proxies which it might have received from its solicitation until *after* the stockholders had been given appropriate corrective information and had expressly confirmed their proxies.

The most usual item of corporate business to which proxy machinery is directed is, of course, the election of directors; other frequently recurring items are mergers, consolidations, transfers of all or a part of corporate assets, acquisitions of control of other businesses, issuances and modifications of securities, charter and by-law amendments, restatements of accounts, compensation plans for executives or other employees, etc. The past year has seen an increasing amount of proxy material filed with this Commission in connection with retire-

ment plans for officers and employees, and amendments to corporate by-laws providing for the indemnification of directors and officers against expenses and other costs of lawsuits that may be brought against them.

During the past fiscal year, the Commission examined both the preliminary and final proxy material with respect to 1,620 solicitations and in each case commented thereon to the persons making the solicitation. In many cases, it examined revised drafts of preliminary material. In addition, 450 pieces of supplemental or "follow-up" soliciting material were received and examined.

### CONFIDENTIAL TREATMENT OF APPLICATIONS, REPORTS, OR DOCUMENTS

Among the Acts administered by the Commission, the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Investment Company Act of 1940, and the Investment Advisers Act of 1940 provide for the confidential treatment, upon application by registrants, of information contained in reports, applications, or documents which they are required to file. The Securities Act of 1933 empowers the Commission to hold confidential only material contracts, or portions thereof, if it is determined by the Commission that disclosure will impair the value of the contracts and is not necessary for the protection of investors. The other four statutes referred to are, in general, without specific restriction in this respect and empower the Commission to hold confidential under certain conditions any information contained in any reports required to be filed under those statutes. Disclosure of information confidentially filed under the latter statutes is made only when the Commission determines that disclosure is in the public interest.

Although registrants may seek judicial review of decisions by the Commission adverse to them, no petitions for such judicial review were filed in any of these cases during the past fiscal year.

The following table indicates the number of applications received and acted upon during the past year, together with the number pending at its close:

*Applications for confidential treatment—Fiscal year ended June 30, 1941*

| Act under which filed | Number pending July 1, 1940 | Number received | Number granted | Number denied or withdrawn | Number pending June 30, 1941 |
|---|---|---|---|---|---|
| Securities Act of 1933 | 0 | 30 | 27 | 2 | 1 |
| Securities Exchange Act of 1934 | 21 | [a] 63 | 49 | [b] 30 | 5 |
| Public Utility Holding Company Act of 1935 | | [c] 21 | | | |
| Investment Company Act of 1940 | 0 | 0 | 0 | 0 | 0 |
| Investment Advisers Act of 1940 | 0 | 0 | 0 | 0 | 0 |
| Total | 21 | 114 | 76 | 32 | 6 |

[a] These applications involved a total of 82 separate items of information.
[b] Of this number 3 applications were granted in part.
[c] Registered holding companies and their subsidiaries have not, generally speaking, requested confidential treatment, under the Public Utility Holding Company Act of 1935, as to any information pertaining to their business. All but one of these applications for confidential treatment relate either to reports filed by banks claiming exemption as holding companies under Rule U-3, or to one of the exhibits to the Form U5S filed by holding companies concerning which there was advance assurance that the staff saw no present need for public disclosure of the information in question. The rules of the Commission under that Act provide that, where a request for confidential treatment is made, the information in question "shall not be made available to the public unless and until the Commission so directs." The Commission has not taken steps to direct disclosure with respect to any of the applications filed during the current year.

## REPORTS OF OFFICERS, DIRECTORS, PRINCIPAL SECURITY HOLDERS, AND CERTAIN OTHER AFFILIATED PERSONS [62]

**New Rules, Regulations, and Forms to Implement Section 30 (f) of the Investment Company Act of 1940.**

During the past year the Commission published two forms, N–30F–1 and N-30F–2, to be used by officers, directors, and other persons occupying specified relationships to registered closed-end investment companies in making reports prescribed by Section 30 (f) of the Investment Company Act of 1940. Form N-30F–1 is used for filing initial reports of holdings following registration of a closed-end investment company or assumption of one of the specified relationships to such a company, and Form N–30F–2 is used to report subsequent monthly purchases and sales and other changes in such holdings. The Commission adopted the companion Rules N-30F–1 and N-30F–2 governing the use of these new forms. In conjunction with the adoption of these rules and forms, and in order to avoid any unnecessary duplication in connection with the reporting requirements, the Commission also adopted Rule X-16A–7 under the Securities Exchange Act of 1934 to permit persons who are under the duty to file ownership reports under both the Investment Company Act of 1940 and the Securities Exchange Act of 1934 to use the new forms for

[62] For information regarding the general purpose and scope of reporting requirements, the Commission's examination procedure, and the publication of security ownership reports, see Sixth Annual Report of the Commission, pp. 180, 182, as well as previous annual reports.

In addition to the reports required of certain persons closely identified with the management or control of companies required under other Acts administered by the Commission, the Investment Company Act of 1940 provides, under Section 30 (f) thereof, which became effective November 1, 1940, that every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of outstanding securities (other than short-term paper) of which a registered closed-end investment company is the issuer or who is an officer, director, member of an advisory board, investment adviser, or affiliated person of an investment adviser of such a company, shall file an initial report disclosing his direct and indirect beneficial ownership of every class of outstanding securities (other than short-term paper) of the company, and report all subsequent changes in such ownership.

reports required under both Acts. Thus, an officer of a closed-end investment company registered under the Investment Company Act of 1940, which also has equity securities listed and registered on a national securities exchange, may comply with the reporting requirements of both Acts by filing reports on Form N-30F–1 or N-30F–2 with the Commission and the exchange on which the securities are listed.

In addition, the Commission adopted Rule N-30F–3 exempting for the purposes of Section 30 (f) of the Investment Company Act of 1940 securities held in a decedent's estate during a period of 2 years following the appointment and qualification of the executor or administrator; securities held by a guardian or committee for an incompetent; securities held by a receiver, trustee in bankruptcy, or other similar person duly authorized by law to administer the estate of another person; and securities reacquired and held by or for the account of the issuer. A similar rule has been in effect for some time under Section 16 of the Securities Exchange Act of 1934.

Forms 4, 5, and 6 under the Securities Exchange Act of 1934 and Forms U-17–1 and U-17–2 under the Public Utility Holding Company Act of 1935 were continued unchanged during the year.[63]

**Volume of Reports.**

The number of ownership reports filed on the various forms in accordance with the requirements under these three Acts and examined by the Commission during each of the past 2 fiscal years is set forth in the following tabulation.

*Number of ownership reports of officers, directors, principal security holders, and certain other affiliated persons filed and examined*

| Description of report | Fiscal year 1940 | Fiscal year 1941 |
|---|---|---|
| Original reports—Securities Exchange Act: | | |
| Form 4 | 14,215 | 12,629 |
| Form 5 | 392 | 322 |
| Form 6 | 1,698 | 1,751 |
| Total | 16,305 | 14,702 |
| Amended reports—Securities Exchange Act: | | |
| Form 4 | 1,846 | 1,453 |
| Form 5 | 109 | 83 |
| Form 6 | 82 | 74 |
| Total | 2,037 | 1,610 |
| Original reports—Holding Company Act: | | |
| Form U-17-1 | 257 | 139 |
| Form U-17-2 | 529 | 480 |
| Total | 786 | 619 |

[63] Form 4 is used for reporting changes in ownership of equity securities; Form 5 for reporting ownership of equity securities at the time an issuer for the first time secures registration of any equity security on a national securities exchange; Form 6 for reporting ownership of equity securities by additional persons who become officers, directors, or principal stockholders; Form U-17-1 for reporting ownership of securities at the time a holding company becomes registered or an additional person becomes an officer or director; and Form U-17-2 for reporting changes in ownership of utility securities.

*Number of ownership reports of officers, directors, principal security holders, and certain other affiliated persons filed and examined*—Continued

| Description of report | Fiscal year 1940 | Fiscal year 1941 |
|---|---|---|
| Amended reports—Holding Company Act: | | |
| Form U-17-1 | 23 | 19 |
| Form U-17-2 | 94 | 55 |
| Total | 117 | 74 |
| Original reports—Investment Company Act: | | |
| Form N-30F-1[a] | | 1,691 |
| Form N-30F-2[b] | | 605 |
| Total | | 2,296 |
| Amended reports—Investment Company Act: | | |
| Form N-30F-1 | | 65 |
| Form N-30F-2 | | 52 |
| Total | | 117 |

[a] November 1, 1940, was earliest date of ownership required to be reported on Form N-30F-1.
[b] November 1940 was earliest month for which changes in ownership were required to be reported on Form N-30F-2.

Of the 3,764 officers, directors, and principal security holders who filed initial reports on Forms 5, 6, and N-30F–1 during the past year 2,714 did so without the necessity for any action by the Commission. However, the remaining 1,050 persons did not file their initial reports until after the Commission had called the reporting requirements to their attention.

The Commission examines a wide variety of sources to obtain information as to the identity of persons who fail to file reports in compliance with the requirements of the statutes. Among these sources are applications for registration of securities, annual reports, current reports, and proxy statements filed by issuers pursuant to the Securities Exchange Act of 1934; registration statements filed by issuers under the Securities Act of 1933; notifications of registration, registration statements, and annual supplements filed by registered holding companies under the Public Utility Holding Company Act of 1935; notifications of registration under the Investment Company Act of 1940; letters received from issuers; and the current publications of certain daily, weekly, and quarterly financial news services.

During the period that the security ownership reporting requirements have been in effect—more than 6 years under the Securities Exchange Act of 1934, more than 5 years under the Public Utility Holding Company Act of 1935, and less than a year under the Investment Company Act of 1940—an aggregate of approximately 170,000 original and amended reports has been filed by 31,115 persons. There has been practically no necessity for any formal action by the Commission in order to secure the filing of these reports, notwithstanding the large number of reports and persons involved.

## PUBLICATIONS

**Releases.**

The Commission conceives it to be its duty to see to it that the public is kept informed of the activities of the Commission through informational releases made available currently to the press and mailed free upon request to any person. The releases are classified into various categories so that a person may receive copies of all announcements relating to one particular phase of the Commission's work (for example—releases relating to the Securities Act of 1933) without obtaining other material in which such person would have no interest.

The releases promulgated by the Commission include its findings, opinions, and orders, as well as announcements of rules, filings of registration statements, utility company applications and corporate annual reports, public hearing notices, security transactions and holdings, statistical data, etc. Among those on the mailing lists, in addition to members of the general public, are banks, insurance companies, brokerage firms, security dealers, investment and financial services, statistical organizations, stock exchanges, corporations, universities, libraries, and law, accounting, and engineering firms.

Included among the announcements issued during the past fiscal year were 312 releases relating to the Commission's activities under the Securities Act of 1933; 374 releases dealing with activities under the Securities Exchange Act of 1934; and 717 releases with reference to activities under the Public Utility Holding Company Act of 1935. There were 153 releases concerning the Investment Company Act of 1940 and 18 under the Investment Advisers Act of 1940 (both Acts became effective November 1, 1940). In addition, there were 39 releases concerning the duties of the Commission under Chapter X of the Bankruptcy Act, while 11 releases were issued under the Trust Indenture Act of 1939.

The Commission continued the daily publication of the Registration Record, which presents a brief description of data filed under the Securities Act of 1933 and the Trust Indenture Act of 1939. This data includes a thumbnail sketch of registration statements and applications for qualifications of indentures, amendments, effective dates, withdrawals of registration statements or applications, and certain information with respect to formal proceedings instituted by the Commission under the provisions of these Acts.

A classification of releases issued by the Commission for the past fiscal year follows:

| | |
|---|---|
| Opinions and orders | 823 |
| Filing of registration statements, applications, and other public documents | 393 |
| Reports on court actions | 173 |
| Statistical data | 143 |

| | |
|---|---|
| Rules, regulations, and interpretations | 85 |
| Survey series | 30 |
| Accounting opinions | 3 |
| Personnel changes | 2 |
| Miscellaneous | 97 |

**Other Publications.**[64]

Other publications issued by the Commission during the year included the following:

Report to the Congress on the Study and Investigation of the Work, Activities, Personnel, and Functions of Protective and Reorganization Committees:

Part VIII—(Final part.) A Summary of the Law Pertaining to Equity and Bankruptcy Reorganizations and of the Commission's Conclusions and Recommendations.

Report to the Congress on the Study of Investment Trusts and Investment Companies:

Part Three.—Abuses and Deficiencies in the Organization and Operation of Investment Trusts and Investment Companies:

Chapter VII—Problems in Connection with Management of Assets of Investment Trusts and Investment Companies.

Part Four.—The Control of Industry by Investment Companies and Their Economic Significance:

Chapter I—Control and Influence of Investment Companies Over Industry.

Twenty-four semimonthly issues of the Official Summary of Stock Transactions and Holdings of Officers, Directors, and Principal Stockholders.

An alphabetical list of Over-the-Counter Brokers and Dealers registered with the Commission as of June 30, 1940, together with supplements thereto.

List of Securities Traded on Exchanges under the Securities Exchange Act of 1934, as of June 30, 1940, and as of December 31, 1940, together with the supplements thereto.

Report on The Problem of Multiple Trading on Securities Exchanges.

The Problem of Maintaining Arm's-Length Bargaining and Competitive Conditions in The Sale and Distribution of Securities of Registered Public-Utility Holding Companies and their Subsidiaries.

Decisions and Reports of the Commission:

Paper-bound:

Volume 5, Part 1—June 1, 1939, to July 31, 1939.
Volume 5, Part 2—August 1, 1939, to September 30, 1939.
Volume 6, Part 1—October 1, 1939, to December 31, 1939.
Volume 6, Part 2—January 1, 1940, to March 31, 1940.
Volume 7, Part 1—April 1, 1940, to June 30, 1940.
Volume 7, Part 2—July 1, 1940, to August 31, 1940.]

Buckram-bound:[65]

Volume 3—January 1, 1938, to October 31, 1938.
Volume 4—November 1, 1938, to May 31, 1939.
Volume 5—June 1, 1939, to September 30, 1939.

Investigation in the Matter of McKesson and Robbins, Inc.:

Report on Investigation.

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[64] A complete list of the Commission's publications, the Rules of Practice or the Guide to Forms will be sent upon request made to the office of the Commission in Washington, D. C.

[65] The buckram-bound volumes contain all decisions and reports printed in their respective paper-bound volumes. They also contain a table of cases reported with the sections of the Acts involved and an index-digest of the cases.

## PUBLIC INSPECTION OF REGISTERED INFORMATION

Under the provisions of the several Acts administered by the Commission, certain information filed with the Commission is made available to the public under such regulations and reasonable limitations and at such reasonable charge as the Commission may prescribe. Accordingly, there are available for inspection in the Public Reference Room of the Commission at Washington, D. C., copies of all public information contained in registration statements, applications, reports, declarations, and other public documents on file with the Commission. In addition to the thousands of letters and telephone calls received during the past fiscal year from members of the public requesting registered information, more than 8,380 members of the public visited this Public Reference Room during this period seeking such information. Also, through the facilities provided by the Commission for the sale of public registered information, more than 3,100 orders for photocopies of material, involving 155,679 pages, were filled during the fiscal year. Photocopies of registered public information may be procured from the offices of the Commission in Washington, D. C., only.

In order to make public information further available for inspection, the Commission has, insofar as practicable, made registered information filed with it available to the public in its regional offices. Thus, in the Public Reference Room which is maintained in the Commission's New York Regional Office, facilities are provided for the inspection of copies of (1) such applications for permanent registration of securities on all national securities exchanges, except the New York Stock Exchange and the New York Curb Exchange, as have received final examination in the Commission, together with copies of supplemental reports and amendments thereto, and (2) annual reports filed pursuant to the provisions of Section 15 (d) of the Securities Exchange Act of 1934, as amended, by issuers that have securities registered under the Securities Act of 1933, as amended. The fact that during the past fiscal year more than 14,700 members of the public visited the Public Reference Room of the New York Regional Office seeking registered public information, forms, releases, and other material indicates a continued demand for such information in this zone.

Likewise, in the Public Reference Room of the Chicago Regional Office there are available for public inspection copies of applications for permanent registration of securities on the New York Stock Exchange and the New York Curb Exchange, which have received final examination in the Commission, together with copies of all supplemental reports and amendments thereto. During the fiscal year

ended June 30, 1941, more than 4,580 members of the public utilized the facilities provided in this office by requesting registered information, forms, releases, and other material.

In each of the Commission's regional offices there are available for inspection copies of prospectuses used in public offerings of securities effectively registered under the Securities Act of 1933, as amended. Duplicate copies of applications for registration of brokers or dealers transacting business on over-the-counter markets, together with supplemental statements thereto, filed under the Securities Exchange Act of 1934, are also available for public inspection in each regional office having jurisdiction over the zone in which the principal office of the broker or dealer is located. Also, inasmuch as letters of notification under Regulation A exempting small issues of securities from the registration requirements of the Securities Act of 1933, as amended, may be filed with the regional office of the Commission for the region in which the issuer's principal place of business is located, copies of such material are available for inspection at the particular regional office where it is filed.

In addition, as a result of the Commission's regionalization during the past fiscal year of the registration of securities under the Securities Act of 1933 and the qualification of indentures under the Trust Indenture Act of 1939, there are available for inspection in the Commission's San Francisco and Cleveland Regional Offices, in which are provided complete facilities for such registration and qualification, copies of registration statements and applications for qualification of indentures filed at those regional offices.

Copies of all applications for permanent registration of securities on national securities exchanges are available for public inspection at the respective exchange upon which the securities are registered.

## PUBLIC HEARINGS

The following statistics indicate the number of public hearings held by the Commission from July 1, 1935, to June 30, 1941.

| | Public hearings held | | | |
|---|---|---|---|---|
| | July 1, 1935, to June 30, 1939 | July 1, 1939, to June 30, 1940 | July 1, 1940, to June 30, 1941 | Total |
| Securities Act of 1933 | 320 | 19 | 11 | 350 |
| Securities Exchange Act of 1934 | 395 | 112 | 98 | 605 |
| Public Utility Holding Company Act of 1935 * | 790 | 228 | 199 | 1,217 |
| Trust Indenture Act of 1939 | ---------- | 3 | 5 | 8 |
| Investment Advisers Act of 1940 | ---------- | ---------- | 5 | 5 |
| Investment Company Act of 1940 | ---------- | ---------- | 84 | 84 |
| Total | 1,505 | 362 | 402 | 2,269 |

* Exclusive of Investment Trust Study.

## PERSONNEL

**Commissioners.**

Commissioner Edward C. Eicher was elected Chairman of the Commission on April 9, 1941, for the period ending June 30, 1941,[66] vice Chairman Jerome N. Frank, who resigned as Chairman and Commissioner on April 30, 1941.

Commissioner Robert E. Healy, of Vermont, was reappointed Commissioner on June 6, 1941, for the term ending June 5, 1946. Commissioner Healy was originally appointed Commissioner on July 3, 1934, and reappointed on June 19, 1936.

Ganson Purcell, of New York, was appointed Commissioner on June 11, 1941, for the term ending June 5, 1942, vice Jerome N. Frank.

The Commissioners, as of the close of the past fiscal year, were as follows:

Eicher, Edward C., Chairman
Healy, Robert E.
Henderson, Leon [67]
Pike, Sumner T.
Purcell, Ganson

**Staff Officers and Regional Admintisrators.**

The staff officers and regional administrators, as of the close of the past fiscal year, were as follows:

*Staff Officers:*

Bane, Baldwin B., Director of the Registration Division.
Brassor, Francis P., Secretary of the Commission, Director of Personnel, and Director of the Administrative Division.
Burke, Edmund, Jr., Director of the Reorganization Division.[68]
Lane, Chester T., General Counsel.
Neff, Harold H., Foreign Expert.
O'Brien, Robert H., Director of the Public Utilities Division.
Raymond, William T., Supervisor of Information Research.
Schenker, David, Director of Investment Company Division.[69]
Sheridan, Edwin A., Executive Assistant to the Chairman.
Treanor, James A., Director of the Trading and Exchange Division.
Werntz, William W., Chief Accountant.

*Regional Administrators:*

Allred, Oran H., Fort Worth Regional Office.
Caffrey, James J., New York Regional Office.
Green, William, Atlanta Regional Office.
Judy, Howard A., San Francisco Regional Office.
Karr, Day, Seattle Regional Office.
Kennedy, W. McNeil, Chicago Regional Office.

[66] Commissioner Eicher was reelected Chairman of the Commission on September 17, 1941, for the period ending June 30, 1942.

[67] Resigned as Commissioner on July 8, 1941. Edmund Burke, Jr., of New York, was appointed Commissioner on July 31, 1941, for the term ending June 5, 1944, vice Leon Henderson.

[68] Edmund Burke, Jr. was appointed Commissioner on July 31, 1941. Martin Riger was appointed as Director of the Reorganization Division on September 1, 1941.

[69] Mr. Schenker resigned on November 16, 1941. John H. Hollands was appointed Director of the Investment Company Division on November 16, 1941.

Lary, Howard N., Denver Regional Office.[70]
Malone, William M., Washington Field Office.
Moore, Dan Tyler, Cleveland Regional Office.
Rooney, Joseph P., Boston Regional Office.[71]

**Statistics.**

At the close of the fiscal year ended June 30, 1941, the personnel of the Commission comprised 5 Commissioners, and 1,678 employees. Of these 1,678 employees, 1,106 were men, and 572 were women.

| | |
|---|---|
| Commissioners | 5 |
| Departmental: | |
| Permanent | 1,236 |
| Temporary | 63 |
| Regional Offices: | |
| Permanent | 370 |
| Temporary | 4 |
| Total | 1,678 |
| Subject to retirement act | 970 |

## FISCAL AFFAIRS

| | |
|---|---|
| Appropriations for fiscal year 1941: | |
| Salaries and expenses | $5,330,000 |
| Printing and binding | 70,000 |
| Total appropriated | 5,400,000 |
| Obligations for fiscal year 1941: | |
| Salaries: | |
| Departmental | 3,357,417 |
| Field | 1,157,414 |
| Expenses: | |
| Mileage and witness fees | 7,042 |
| Supplies and material | 138,545 |
| Communication service | 78,446 |
| Travel expense | 296,997 |
| Transportation of things | 4,295 |
| Reporting hearings | 24,918 |
| Light and power | 7,102 |
| Rents | 114,687 |
| Repairs and alterations | 4,362 |
| Special and miscellaneous expenses | 2,585 |
| Purchase of equipment | 56,013 |
| Total obligations for salaries and expenses | 5,249,823 |
| Obligations for printing and binding | 69,990 |
| Grand total obligations | 5,319,813 |
| Unobligated balance | 80,187 |
| Appropriations | $5,400,000 |

[70] Deceased August 6, 1941. John L. Geraghty was appointed Regional Administrator of the Denver Regional Office on September 16, 1941.

[71] Mr. Rooney resigned on November 16, 1941. Paul R. Rowen was appointed Regional Administrator of the Boston Regional Office on November, 17, 1941.

## RECEIPTS FOR THE FISCAL YEAR 1941

*Comparison of receipts for the fiscal year 1941 with those for the fiscal years 1938, 1939, and 1940, and the total receipts of the Commission since its creation* [a]

| Character of receipts | To June 30, 1937 | 1938 | 1939 | 1940 | 1941 | Total |
|---|---|---|---|---|---|---|
| Fees from registration of securities | $1,185,170.31 | $220,480.39 | $276,072.12 | $204,210.75 | $308,525.98 | $2,194,459.55 |
| Fees under Trust Indenture Act | | | | 400.00 | 2,100.00 | 2,500.00 |
| Fees from registered exchanges | 989,912.05 | 474,292 93 | 278,474.74 | 266,932.53 | 194,488.40 | 2,204,100.65 |
| Fees from sale of photo duplications | 56,244.25 | 21,475.44 | 20,840.04 | 19,960.72 | 12,439.35 | 130,959.80 |
| Miscellaneous revenue | 552.47 | 207.59 | 12.60 | 1,136.36 | 218.57 | 2,127.59 |
| Grand total | 2,231,879.08 | 716,456.35 | 575,399.50 | 492,640.36 | 517,772.30 | 4,534,147.59 |

[a] This sum is not available for expenditure by the Commission but is deposited into the U. S. Treasury as miscellaneous receipts. The Commission is at liberty to expend only such funds as the Congress appropriates for its use.

# PART IX
# APPENDIXES

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## APPENDIX I

Addresses of and States comprising the territory served by the Commission's regional offices.

| Address | Territory served |
|---|---|
| New York Regional Office, 120 Broadway, New York, New York. | New York, New Jersey, and Pennsylvania. |
| Boston Regional Office, 82 Devonshire Street, Boston, Massachusetts. | Massachusetts, Connecticut, Rhode Island, Vermont, New Hampshire, and Maine. |
| Atlanta Regional Office, Forsythe and Marietta Streets, Atlanta, Georgia. | Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Florida, and that portion of Louisiana east of the Atchafalaya River. |
| Cleveland Regional Office, 1370 Ontario Street, Cleveland, Ohio. | Michigan, Indiana, Ohio, and Kentucky. |
| Chicago Regional Office, 105 West Adams Street, Chicago, Illinois. | Minnesota, Wisconsin, Iowa, Illinois, Missouri, and Kansas City (Kansas). |
| Fort Worth Regional Office, Tenth and Lamar Streets, Fort Worth, Texas. | Oklahoma, Arkansas, Texas, that portion of Louisiana west of the Atchafalaya River, and Kansas (except Kansas City). |
| Denver Regional Office, 444 Seventeenth Street, Denver, Colorado. | Wyoming, Colorado, New Mexcio, Nebraska, North Dakota, South Dakota, and Utah. |
| San Francisco Regional Office, 625 Market Street, San Francisco, California. | California, Nevada, Arizona, Philippine Islands, and Hawaii. |
| Seattle Regional Office, 821 Second Avenue, Seattle, Washington. | Washington, Oregon, Idaho, Montana, and Alaska. |
| Washington Field Office, 1778 Pennsylvania Avenue, NW., Washington, D. C. | Virginia, West Virginia, Maryland, Delaware, and District of Columbia. |

# APPENDIX II

## STATISTICAL TABLES

TABLE 1.—*Effective registrations under the Securities Act of 1933* [1]*—Totals from September 1934 to June 1937, inclusive, by fiscal years, and from July 1937 to June 1941, inclusive, by months*

[Amounts in thousands of dollars [2]]

| Year and month | Total securities effectively registered | | | Total, less securities reserved for conversion or substitution [3] | Securities proposed for sale by issuers |
|---|---|---|---|---|---|
| | Number of statements | Number of issues | Amount | Amount | Amount |
| Total, September 1934–June 1935 | 284 | 364 | 913,130 | 796,102 | 686,245 |
| Total fiscal year 1936 | 689 | 966 | 4,835,050 | 4,484,542 | 3,935,903 |
| Total fiscal year 1937 | 840 | 1,266 | 4,851,465 | 4,510,391 | 3,634,608 |
| *1937* | | | | | |
| July | 61 | 88 | 278,174 | 205,389 | 152,510 |
| August | 48 | 69 | 302,343 | 224,459 | 181,631 |
| September | 40 | 54 | 228,802 | 180,190 | 86,486 |
| October | 32 | 40 | 128,209 | 126,984 | 124,399 |
| November | 40 | 57 | 62,130 | 59,230 | 31,861 |
| December | 48 | 103 | 216,294 | 193,745 | 145,429 |
| *1938* | | | | | |
| January | 19 | 41 | 81,474 | 78,808 | 63,162 |
| February | 24 | 31 | 206,993 | 186,650 | 140,465 |
| March | 23 | 34 | 77,369 | 68,522 | 63,803 |
| April | 27 | 37 | 97,899 | 97,349 | 91,289 |
| May | 28 | 44 | 97,048 | 85,537 | 53,850 |
| June | 21 | 32 | 327,979 | 286,248 | 213,903 |
| Total fiscal year 1938 | 411 | 630 | 2,104,714 | 1,793,111 | 1,348,788 |
| *1938* | | | | | |
| July | 25 | 39 | 225,624 | 224,322 | 195,674 |
| August | 34 | 51 | 414,405 | 317,204 | 287,382 |
| September | 30 | 43 | 130,587 | 112,147 | 95,550 |
| October | 21 | 29 | 411,878 | 405,063 | 358,079 |
| November | 31 | 58 | 303,392 | 249,989 | 218,519 |
| December | 29 | 43 | 166,327 | 140,709 | 130,349 |
| *1939* | | | | | |
| January | 19 | 50 | 143,001 | 142,137 | 135,939 |
| February | 17 | 25 | 24,020 | 21,366 | 16,360 |
| March | 37 | 45 | 87,282 | 69,614 | 62,257 |
| April | 36 | 57 | 308,519 | 278,371 | 235,667 |
| May | 20 | 24 | 88,062 | 55,588 | 31,228 |
| June | 44 | 56 | 276,096 | 271,720 | 252,910 |
| Total fiscal year 1939 | 343 | 520 | 2,579,193 | 2,288,230 | 2,019,914 |
| *1939* | | | | | |
| July | 36 | 47 | 234,969 | 228,694 | 188,081 |
| August | 34 | 48 | 304,829 | 296,294 | 277,487 |
| September | 17 | 26 | 35,956 | 26,888 | 24,816 |
| October | 21 | 25 | 30,817 | 28,461 | 13,509 |
| November | 17 | 44 | 114,924 | 113,994 | 112,153 |
| December | 25 | 35 | 166,571 | 153,367 | 149,542 |

See footnotes at end of table.

TABLE 1.—*Effective registrations under the Securities Act of 1933*[1]*—Totals from September 1934 to June 1937, inclusive, by fiscal years, and from July 1937 to June 1941, inclusive, by months*—Continued

[Amounts in thousands of dollars[2]]

| Year and month | Total securities effectively registered | | | Total, less securities reserved for conversion or substitution[3] | Securities proposed for sale by issuers |
|---|---|---|---|---|---|
| | Number of statements | Number of issues | Amount | Amount | Amount |
| *1940* | | | | | |
| January | 26 | 36 | 146,482 | 143,542 | 102,375 |
| February | 30 | 42 | 249,933 | 241,143 | 231,314 |
| March | 29 | 38 | 70,996 | 60,474 | 46,929 |
| April | 36 | 53 | 245,723 | 225,510 | 133,065 |
| May | 15 | 21 | 102,761 | 99,739 | 97,270 |
| June | 20 | 28 | 82,577 | 76,882 | 56,240 |
| Total fiscal year 1940 | 306 | 443 | 1,786,538 | 1,694,988 | 1,432,781 |
| *1940* | | | | | |
| July | 24 | 31 | 200,313 | 199,591 | 195,286 |
| August | 22 | 38 | 123,242 | 116,780 | 73,858 |
| September | 24 | 43 | 130,581 | 115,167 | 95,162 |
| October | 26 | 35 | 287,456 | 273,307 | 256,125 |
| November | 42 | 55 | 161,748 | 158,886 | 107,197 |
| December | 35 | 50 | 322,618 | 318,856 | 292,166 |
| *1941* | | | | | |
| January | 26 | 35 | 415,699 | 393,713 | 365,928 |
| February | 13 | 20 | 183,098 | 182,543 | 161,342 |
| March | 27 | 36 | 162,828 | 157,514 | 127,398 |
| April | 27 | 47 | 186,996 | 182,325 | 92,774 |
| May | 26 | 37 | 272,521 | 269,620 | 164,480 |
| June | 21 | 29 | 163,584 | 161,071 | 149,233 |
| Total fiscal year 1941 | 313 | 456 | 2,610,684 | 2,529,373 | 2,080,949 |

[1] Included in the data presented in tables 1 to 7, inclusive, are "reorganization and exchange securities" which, in annual reports prior to 1940, were shown only in separate tables.

[2] Rounding off figures has resulted in slight differences between the totals and the actual sums of the components in tables 1 to 7.

[3] "Securities reserved for conversion or substitution" include in addition to securities reserved for the conversion of securities having convertible features, voting trust certificates and certificates of deposit. In previous annual reports these "substitute securities" were included in reorganization and exchange securities.

TABLE 2.—*Effective registrations under the Securities Act of 1933—By types of securities, from July 1940 to June 1941, inclusive, by months*

[Amounts in thousands of dollars]

| Year and month | Total, all securities: Total securities effectively registered | | Total, all securities: Total, less securities reserved for conversion or substitution | Total, all securities: Securities proposed for sale by issuers | Secured bonds: Total securities effectively registered | | Secured bonds: Total, less securities reserved for conversion or substitution | Secured bonds: Securities proposed for sale by issuers |
|---|---|---|---|---|---|---|---|---|
| | Number of issues | Amount | Amount | Amount | Number of issues | Amount | Amount | Amount |
| *1940* | | | | | | | | |
| July | 31 | 200,313 | 199,591 | 195,286 | 6 | 105,148 | 105,148 | 105,148 |
| August | 38 | 123,242 | 116,780 | 73,858 | 2 | 6,650 | 6,650 | 6,650 |
| September | 43 | 130,581 | 115,167 | 95,162 | 5 | 39,541 | 39,541 | 38,550 |
| October | 35 | 287,456 | 273,307 | 256,125 | 6 | 230,483 | 230,483 | 230,483 |
| November | 55 | 161,748 | 158,886 | 107,197 | 6 | 70,607 | 70,607 | 70,607 |
| December | 50 | 322,618 | 318,856 | 292,166 | 7 | 147,045 | 147,045 | 147,045 |
| *1941* | | | | | | | | |
| January | 35 | 415,699 | 393,713 | 365,928 | 10 | 135,365 | 135,365 | 135,365 |
| February | 20 | 183,098 | 182,543 | 161,342 | 2 | 133,159 | 133,159 | 133,159 |
| March | 36 | 162,828 | 157,514 | 127,398 | 6 | 82,670 | 82,670 | 82,348 |
| April | 47 | 186,996 | 182,325 | 92,774 | 6 | 89,770 | 89,770 | 32,788 |
| May | 37 | 272,521 | 269,620 | 164,480 | 4 | 88,434 | 88,434 | 86,350 |
| June | 29 | 163,584 | 161,07 | 149,233 | 4 | 111,480 | 111,480 | 111,480 |
| Total | 456 | 2,610,684 | 2,529,373 | 2,080,949 | 64 | 1,240,351 | 1,240,351 | 1,179,971 |
| | Unsecured bonds | | | | Preferred stock | | | |
| *1940* | | | | | | | | |
| July | 2 | 72,000 | 72,000 | 72,000 | 6 | 11,040 | 11,040 | 11,040 |
| August | 2 | 24,878 | 24,878 | 24,500 | 6 | 16,465 | 16,465 | 10,549 |
| September | 4 | 22,598 | 22,598 | 22,598 | 8 | 16,016 | 16,016 | 3,175 |
| October | 2 | 11,428 | 11,428 | 11,428 | 10 | 23,869 | 23,869 | 10,056 |
| November | 1 | 1,766 | 1,766 | 1,766 | 5 | 24,262 | 24,262 | 8,149 |
| December | 7 | 107,318 | 107,318 | 107,223 | 14 | 48,907 | 48,907 | 28,739 |
| *1941* | | | | | | | | |
| January | 5 | 60,037 | 60,037 | 60,037 | 3 | 6,537 | 6,537 | 2,050 |
| February | 2 | 2,983 | 2,983 | 2,983 | 8 | 37,565 | 37,565 | 21,527 |
| March | 0 | | | | 10 | 48,422 | 48,422 | 18,635 |
| April | 4 | 33,288 | 33,288 | 33,288 | 7 | 10,920 | 10,570 | 10,500 |
| May | 1 | 49,500 | 49,500 | 49,500 | 10 | 75,181 | 75,181 | 17,964 |
| June | 1 | 1,000 | 1,000 | 1,000 | 5 | 21,980 | 21,980 | 21,980 |
| Total | 31 | 386,795 | 386,795 | 386,322 | 92 | 341,165 | 340,815 | 164,363 |
| | Common stock | | | | Certificates of participation, beneficial interest, warrants, certificates of deposit, and voting trust certificates | | | |
| *1940* | | | | | | | | |
| July | 11 | 9,474 | 9,209 | 4,911 | 6 | 2,651 | 2,194 | 2,187 |
| August | 16 | 63,956 | 57,917 | 21,289 | 12 | 11,293 | 10,870 | 10,870 |
| September | 11 | 19,383 | 19,375 | 13,340 | [1] 15 | 33,042 | 17,637 | 17,500 |
| October | 13 | 15,803 | 7,397 | 4,158 | 4 | 5,873 | 130 | |
| November | 21 | 26,578 | 26,578 | 16,655 | 22 | 38,535 | 35,672 | 10,020 |
| December | 21 | 19,314 | 15,552 | 9,159 | 1 | 35 | 35 | |
| *1941* | | | | | | | | |
| January | 13 | 53,812 | 31,826 | 8,529 | [2] 4 | 159,948 | 159,948 | 159,948 |
| February | 6 | 9,387 | 8,832 | 3,674 | 2 | 5 | 5 | |
| March | 9 | 5,069 | 2,151 | 2,149 | 11 | 26,667 | 24,270 | 24,267 |
| April | 21 | 48,332 | 44,010 | 11,782 | 9 | 4,687 | 4,687 | 4,417 |
| May | 19 | 58,640 | 56,404 | 10,666 | 3 | 765 | 100 | |
| June | 12 | 23,408 | 21,111 | 9,513 | 7 | 5,715 | 5,499 | 5,260 |
| Total | 173 | 353,157 | 300,364 | 115,825 | 96 | 289,216 | 261,048 | 234,469 |

[1] Includes 2 guaranties. [2] Includes 1 issue of face amount installment certificates totaling $154,350,000.

NOTE.—For back figures, see Sixth Annual Report, p. 246; Fifth Annual Report, p. 199; Fourth Annual Report, p. 144; Third Annual Report, p. 127; Second Annual Report, pp. 98 and 99.

TABLE 3.—*Effective registrations under the Securities Act of 1933—By major industrial groups of issuers, from July 1940 to June 1941, inclusive, by months*

[Amounts in thousands of dollars]

| Year and month | Total, all industries | | | | | Extractive | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Total securities effectively registered | | | Total, less securities reserved for conversion or substitution | Securities proposed for sale by issuers | Total securities effectively registered | | | Total, less securities reserved for conversion or substitution | Securities proposed for sale by issuers |
| | Number of statements | Number of issues | Amount | Amount | Amount | Number of statements | Number of issues | Amount | Amount | Amount |
| *1940* | | | | | | | | | | |
| July | 24 | 31 | 200,313 | 199,591 | 195,286 | 2 | 2 | 3,974 | 3,974 | 3,974 |
| August | 22 | 38 | 123,242 | 116,780 | 73,858 | 1 | 2 | 28 | 28 | 27 |
| September | 24 | 43 | 130,581 | 115,167 | 95,162 | 2 | 3 | 25,250 | 12,750 | 12,750 |
| October | 26 | 35 | 287,456 | 273,307 | 256,125 | 1 | 2 | 6,195 | 3,177 | 159 |
| November | 42 | 55 | 161,748 | 158,886 | 107,197 | 5 | 6 | 1,731 | 1,731 | 1,267 |
| December | 35 | 50 | 322,618 | 318,856 | 292,166 | 1 | 1 | 250 | 250 | 250 |
| *1941* | | | | | | | | | | |
| January | 26 | 35 | 415,699 | 393,713 | 365,928 | 0 | 0 | | | |
| February | 13 | 20 | 183,098 | 182,543 | 161,342 | 0 | 0 | | | |
| March | 27 | 36 | 162,828 | 157,514 | 127,398 | 0 | 0 | | | |
| April | 27 | 47 | 186,996 | 182,325 | 92,774 | 1 | 2 | 571 | 571 | 571 |
| May | 26 | 37 | 272,521 | 269,620 | 164,480 | 1 | 1 | 250 | 250 | 250 |
| June | 21 | 29 | 163,584 | 161,071 | 149,233 | 2 | 2 | 1,687 | 1,687 | 1,469 |
| Total | 313 | 456 | 2,610,684 | 2,529,373 | 2,080,949 | 16 | 21 | 39,936 | 24,418 | 20,717 |
| | Manufacturing | | | | | Financial and investment | | | | |
| *1940* | | | | | | | | | | |
| July | 14 | 18 | 82,118 | 81,396 | 77,256 | 1 | 1 | 2,186 | 2,186 | 2,186 |
| August | 10 | 15 | 61,667 | 55,205 | 28,843 | 3 | 12 | 19,407 | 19,407 | 19,407 |
| September | 10 | 18 | 40,705 | 38,158 | 31,284 | 2 | 5 | 6,815 | 6,815 | 6,515 |
| October | 8 | 9 | 73,327 | 70,097 | 60,484 | 2 | 4 | 2,669 | 1,779 | 1,779 |
| November | 11 | 14 | 19,796 | 18,243 | 16,126 | 15 | 19 | 49,926 | 49,926 | 21,814 |
| December | 14 | 20 | 119,456 | 115,944 | 111,931 | 5 | 7 | 19,353 | 19,353 | 19,353 |
| *1941* | | | | | | | | | | |
| January | 11 | 16 | 134,595 | 114,377 | 91,714 | 5 | 6 | 162,693 | 162,693 | 161,059 |
| February | 5 | 8 | 24,652 | 24,097 | 22,205 | 1 | 2 | 2,983 | 2,983 | 2,983 |
| March | 7 | 10 | 44,720 | 41,013 | 41,013 | 7 | 8 | 25,976 | 25,976 | 25,976 |
| April | 11 | 18 | 68,287 | 65,136 | 62,661 | 8 | 17 | 72,221 | 72,221 | 15,019 |
| May | 10 | 16 | 125,335 | 123,499 | 55,005 | 4 | 6 | 3,701 | 3,301 | 3,000 |
| June | 9 | 11 | 17,902 | 15,605 | 12,713 | 3 | 4 | 5,260 | 5,260 | 5,260 |
| Total | 120 | 173 | 812,560 | 762,770 | 611,235 | 56 | 91 | 373,190 | 371,900 | 284,351 |
| | Merchandising | | | | | Transportation and communication | | | | |
| *1940* | | | | | | | | | | |
| July | 1 | 3 | 358 | 358 | 194 | 0 | 0 | | | |
| August | 2 | 2 | 16,560 | 16,560 | | 1 | 1 | 500 | 500 | 500 |
| September | 2 | 3 | 6,063 | 6,063 | 6,063 | 0 | 0 | | | |
| October | 1 | 1 | 700 | 700 | 178 | 7 | 8 | 14,732 | 7,722 | 6,867 |
| November | 1 | 2 | 8,663 | 8,663 | 6,300 | 2 | 2 | 1,510 | 200 | 200 |
| December | 6 | 9 | 11,395 | 11,395 | 7,390 | 1 | 1 | 209 | 209 | |
| *1941* | | | | | | | | | | |
| January | 1 | 2 | 5,255 | 3,487 | | 4 | 4 | 69,488 | 69,488 | 69,488 |
| February | 2 | 3 | 3,842 | 3,842 | 587 | 0 | 0 | | | |
| March | 0 | 0 | | | | 4 | 4 | 3,752 | 2,468 | 2,468 |
| April | 1 | 2 | 400 | 400 | 400 | 3 | 4 | 7,594 | 6,074 | 6,004 |
| May | 0 | 0 | | | | 3 | 4 | 8,171 | 8,171 | 3,569 |
| June | 0 | 0 | | | | 2 | 4 | 16,690 | 16,690 | 16,451 |
| Total | 17 | 27 | 53,236 | 51,468 | 21,112 | 27 | 32 | 122,646 | 111,522 | 105,547 |

See footnote at end of table.

TABLE 3.—*Effective registrations under the Securities Act of 1933—By major industrial groups of issuers, from July 1940 to June 1941, inclusive, by months*—Continued

[Amounts in thousands of dollars]

| Year and month | Electric light and power, gas and water | | | | | Other industries [1] | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Total securities effectively registered | | | Total, less securities reserved for conversion or substitution | Securities proposed for sale by issuers | Total securities effectively registered | | | Total, less securities reserved for conversion or substitution | Securities proposed for sale by issuers |
| | Number of statements | Number of issues | Amount | Amount | Amount | Number of statements | Number of issues | Amount | Amount | Amount |
| *1940* | | | | | | | | | | |
| July | 6 | 7 | 111,676 | 111,676 | 111,676 | 0 | 0 | | | |
| August | 2 | 2 | 13,319 | 13,319 | 13,319 | 3 | 4 | 11,763 | 11,763 | 11,763 |
| September | 5 | 6 | 50,386 | 50,386 | 38,550 | 3 | 8 | 1,362 | 995 | |
| October | 6 | 10 | 189,833 | 189,833 | 186,658 | 1 | 1 | 1 | | |
| November | 5 | 8 | 78,052 | 78,052 | 59,418 | 3 | 4 | 2,072 | 2,071 | 2,071 |
| December | 6 | 8 | 171,360 | 171,360 | 152,992 | 2 | 4 | 595 | 345 | 250 |
| *1941* | | | | | | | | | | |
| January | 5 | 7 | 43,668 | 43,668 | 43,668 | 0 | 0 | | | |
| February | 4 | 5 | 151,341 | 151,341 | 135,303 | 1 | 2 | 280 | 280 | 265 |
| March | 7 | 9 | 87,729 | 87,729 | 57,942 | 2 | 5 | 651 | 329 | |
| April | 2 | 2 | 37,061 | 37,061 | 7,258 | 1 | 2 | 863 | 863 | 863 |
| May | 5 | 7 | 133,644 | 133,644 | 101,985 | 3 | 3 | 1,420 | 755 | 671 |
| June | 3 | 6 | 121,829 | 121,829 | 113,340 | 2 | 2 | 216 | | |
| Total | 56 | 77 | 1,189,898 | 1,189,898 | 1,022,109 | 21 | 35 | 19,223 | 17,401 | 15,883 |

[1] Includes agriculture, real estate, service industries, and miscellaneous domestic companies.

NOTE.—For back figures, see Sixth Annual Report, pp. 247 and 248; Fifth Annual Report, pp. 201 and 202; Fourth Annual Report, pp. 145 and 146; Third Annual Report, pp. 129 and 130; Second Annual Report, p. 100; First Annual Report, pp. 72 and 73.

TABLE 4.—*Effective registrations under the Securities Act of 1933—Total amount effective, amount not proposed for sale by issuers, issuing and distributing expenses and net proceeds, from July 1940, to June 1941, inclusive, by months*

[Amounts in thousands of dollars]

| Year and month | Total amount effective | | | | | Cost of flotation (applicable to amount proposed for sale by issuers) [1] | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Total | Registered for account of issuers (excluding substitute securities) | | Substitute securities (v. t. ctfs. and ctfs. of deposit) | Registered for account of others | Total | Compensation to underwriters, agents, etc. | Expenses | Net proceeds from amount proposed for sale by issuers |
| | | Proposed for sale | Not proposed for sale | | | | | | |
| *1940* | | | | | | | | | |
| July | 200,313 | 195,286 | 429 | 457 | 4,140 | 5,705 | 4,523 | 1,182 | 189,581 |
| August | 123,242 | 73,858 | 16,717 | 422 | 32,246 | 3,784 | 3,410 | 374 | 70,074 |
| September | 130,581 | 95,162 | 14,162 | 15,405 | 5,851 | 3,905 | 3,248 | 657 | 91,257 |
| October | 287,456 | 256,125 | 22,219 | 5,743 | 3,369 | 6,107 | 4,874 | 1,233 | 250,018 |
| November | 161,748 | 107,197 | 46,931 | 2,862 | 4,758 | 4,442 | 3,747 | 695 | 102,755 |
| December | 322,618 | 292,166 | 25,594 | | 4,859 | 8,508 | 6,882 | 1,626 | 283,658 |
| *1941* | | | | | | | | | |
| January | 415,699 | 365,928 | 24,620 | | 25,150 | 11,938 | 10,677 | 1,262 | 353,990 |
| February | 183,098 | 161,342 | 18,242 | | 3,514 | 2,047 | 1,174 | 874 | 159,294 |
| March | 162,828 | 127,398 | 33,033 | 2,397 | | 4,987 | 4,267 | 720 | 122,411 |
| April | 186,996 | 92,774 | 62,174 | | 32,048 | 2,935 | 2,384 | 551 | 89,839 |
| May | 272,521 | 164,480 | 30,861 | 665 | 76,515 | 4,710 | 3,983 | 727 | 159,770 |
| June | 163,584 | 149,233 | 2,297 | 216 | 11,838 | 3,781 | 2,726 | 1,055 | 145,452 |
| Total | 2,610,684 | 2,090,949 | 297,279 | 28,168 | 204,287 | 62,850 | 51,895 | 10,955 | 2,018,099 |

AMOUNT REGISTERED BY ISSUERS BUT NOT PROPOSED FOR SALE

| Year and month | Reserved for conversion | Reserved for options | Reserved for other subsequent issuance | To be issued in exchange for other securities | To be issued against claims | To be issued for assets | To be issued for selling and distributing expenses |
|---|---|---|---|---|---|---|---|
| *1940* | | | | | | | |
| July | 264 | 165 | | | | | |
| August | 6,040 | 8,030 | 741 | 1,906 | | | |
| September | 8 | 700 | | 13,454 | | | |
| October | 8,406 | | | 13,291 | 522 | | |
| November | | 2,460 | 3,059 | 41,413 | | | |
| December | 3,762 | 1,693 | | 20,140 | | | |
| *1941* | | | | | | | |
| January | 21,986 | | | 2,634 | | | |
| February | 555 | 140 | | 17,542 | | | 5 |
| March | 2,918 | | | 30,116 | | | |
| April | 4,672 | 425 | | 57,052 | | | 25 |
| May | 2,236 | 115 | | 28,189 | | 303 | 18 |
| June | 2,297 | | | | | | |
| Total | 53,144 | 13,728 | 3,800 | 225,736 | 522 | 303 | 48 |

[1] Not including amounts set forth as securities "to be issued for selling and distributing expenses."

NOTE.—For back figures, see Sixth Annual Report, p. 249; Fifth Annual Report, p. 203; Fourth Annual Report, p. 147; Third Annual Report, p. 132; Second Annual Report, p. 101; First Annual Report, p. 74.

TABLE 5, PART I.—*Effective registrations under the Securities Act of 1933—Estimated net proceeds from sale of securities, by proposed uses, from July 1940 to June 1941, inclusive, by months*

[Amounts in thousands of dollars]

| Year and month | Grand total | New money | | | | | Repayment of indebtedness and retirement of stock | | | | Purchase of securities | | | Purchase of other assets | Organization expense | Miscellaneous and unaccounted for |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Total | Plant and equipment | Working capital | Reimbursement of corporate treasuries for capital expenditures | Other new-money purposes | Total | Bonds and notes | Other debt | Preferred stock | Total | For investment | For affiliation | | | |
| *1940* | | | | | | | | | | | | | | | | |
| July | 189,581 | 22,985 | 12,899 | 4,350 | 5,581 | 155 | 164,329 | 161,423 | 997 | 1,909 | 2,016 | 2,016 | | 200 | 1 | 52 |
| August | 70,074 | 31,996 | 6,699 | 25,173 | | 124 | 19,241 | 19,181 | 60 | | 18,576 | 18,039 | 537 | 60 | 5 | 196 |
| September | 91,257 | 45,432 | 36,711 | 7,580 | 1,046 | 95 | 41,159 | 37,342 | 2,694 | 1,123 | 4,515 | 4,363 | 152 | 20 | | 132 |
| October | 250,018 | 14,899 | 10,086 | 4,813 | | | 234,833 | 233,624 | 697 | 512 | 13 | | 13 | | 4 | 269 |
| November | 102,755 | 9,309 | 3,342 | 5,705 | | 262 | 79,933 | 69,825 | 681 | 9,427 | 13,463 | 13,381 | 82 | | 10 | 40 |
| December | 283,658 | 33,862 | 4,259 | 29,503 | | 100 | 244,090 | 223,900 | 1,934 | 18,256 | 4,861 | 4,612 | 249 | 173 | | 672 |
| *1941* | | | | | | | | | | | | | | | | |
| January | 353,990 | 18,147 | 1,194 | 8,126 | 8,827 | | 181,853 | 154,049 | 2,093 | 25,711 | 152,842 | 152,842 | | | | 1,148 |
| February | 159,294 | 13,069 | 4,348 | 8,721 | | | 144,241 | 128,973 | 13,000 | 2,268 | 1,372 | | 1,372 | | | 613 |
| March | 122,411 | 46,801 | 45,387 | 1,414 | | | 51,647 | 46,038 | 540 | 5,069 | 23,493 | 23,493 | | 133 | | 337 |
| April | 89,839 | 20,182 | 11,522 | 8,586 | | 74 | 56,627 | 54,650 | 1,802 | 175 | 11,339 | 11,339 | | 1,564 | 8 | 120 |
| May | 159,770 | 12,642 | 4,076 | 8,010 | | 556 | 144,698 | 144,390 | 206 | 101 | 2,356 | 2,256 | 100 | | 6 | 69 |
| June | 145,452 | 17,493 | 11,705 | 5,787 | | | 122,391 | 113,247 | 2,546 | 6,598 | 4,853 | 4,853 | | 700 | | 15 |
| Total | 2,018,099 | 286,814 | 152,228 | 117,768 | 15,453 | 1,364 | 1,485,039 | 1,386,642 | 27,250 | 71,147 | 239,699 | 237,194 | 2,505 | 2,850 | 34 | 3,663 |

NOTE.—For back figures, see Sixth Annual Report, p. 250; Fifth Annual Report, p. 204; Fourth Annual Report, p. 148; Third Annual Report, p. 133; Second Annual Report, p. 102; First Annual Report, p. 75.

TABLE 5, PART 2.—*Effective registrations under the Securities Act of 1933—Estimated net proceeds from sale of securities, by proposed uses, from July 1940 to June 1941, inclusive, by months*

[In percent of net proceeds]

| Year and month | Grand total | New money | | | | | Repayment of indebtedness and retirement of stock | | | | Purchase of securities | | | Purchase of other assets | Organization expense | Miscellaneous and unaccounted for |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Total | Plant and equipment | Working capital | Reimbursement of corporate treasuries for capital expenditures | Other new-money purposes | Total | Bonds and notes | Other debt | Preferred stock | Total | For investment | For affiliation | | | |
| *1940* | | | | | | | | | | | | | | | | |
| July | 100 | 12.1 | 6.8 | 2.3 | 2.9 | 0.1 | 86.7 | 85.2 | 0.5 | 1.0 | 1.1 | 1.1 | ------- | 0.1 | 0.0 | 0.0 |
| August | 100 | 45.7 | 9.6 | 35.9 | ------- | .2 | 27.5 | 27.4 | .1 | ------- | 26.5 | 25.7 | 0.8 | .1 | .0 | .2 |
| September | 100 | 49.8 | 40.2 | 8.3 | 1.2 | .1 | 45.1 | 40.9 | 3.0 | 1.2 | 5.0 | 4.8 | .2 | .0 | .0 | .1 |
| October | 100 | 6.0 | 4.1 | 1.9 | ------- | ------- | 93.9 | 93.4 | .3 | .2 | .0 | ------- | .0 | ------- | .0 | .1 |
| November | 100 | 9.1 | 3.2 | 5.6 | ------- | .3 | 77.8 | 68.0 | .6 | 9.2 | 13.1 | 13.0 | .1 | ------- | .0 | .0 |
| December | 100 | 11.9 | 1.5 | 10.4 | ------- | .0 | 86.1 | 78.9 | .7 | 6.5 | 1.7 | 1.6 | .1 | .1 | ------- | .2 |
| *1941* | | | | | | | | | | | | | | | | |
| January | 100 | 5.1 | .3 | 2.3 | 2.5 | ------- | 51.4 | 43.5 | .6 | 7.3 | 43.2 | 43.2 | ------- | ------- | ------- | .3 |
| February | 100 | 8.2 | 2.7 | 5.5 | ------- | ------- | 90.5 | 81.0 | 8.1 | 1.4 | .9 | ------- | .9 | ------- | .0 | .4 |
| March | 100 | 38.2 | 37.1 | 1.1 | ------- | ------- | 42.2 | 37.6 | .5 | 4.1 | 19.2 | 19.2 | ------- | .1 | ------- | .3 |
| April | 100 | 22.5 | 12.8 | 9.6 | ------- | .1 | 63.0 | 60.8 | 2.0 | .2 | 12.6 | 12.6 | ------- | 1.8 | .0 | .1 |
| May | 100 | 7.9 | 2.5 | 5.0 | ------- | .4 | 90.6 | 90.4 | .1 | .1 | 1.5 | 1.4 | .1 | ------- | .0 | .0 |
| June | 100 | 12.0 | 8.0 | 4.0 | ------- | ------- | 84.2 | 77.9 | 1.8 | 4.5 | 3.3 | 3.3 | ------- | .5 | ------- | .0 |
| Total | 100 | 14.2 | 7.5 | 5.8 | 0.8 | .1 | 73.6 | 68.7 | 1.4 | 3.5 | 11.9 | 11.8 | 0.1 | 0.1 | 0.0 | 0.2 |

NOTE.—For back figures, see Sixth Annual Report, p. 251; Fifth Annual Report, p. 205; Fourth Annual Report, p. 149; Third Annual Report, p. 134; Second Annual Report, p. 103; First Annual Report, p. 75.

TABLE 6.—*Effective registrations under the Securities Act of 1933—Detailed statistics by industries—Fiscal year ended June 30, 1941*

[Amounts in thousands of dollars]

| Industry | Number of issues | Total registrations | | | | | | Substitute securities (v. t. ctfs. and ctfs. dep.) | Securities registered for account of others | Securities registered for account of issuers (excluding substitute securities) | Securities not offered for sale or exchange | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Total | Secured bonds | Unsecured bonds | Preferred stock | Common stock | Ctfs. of part., beneficial interest, warrants, v. t. ctfs. and ctfs. dep. | | | | Total | Reserved for conversion | Reserved for options | Reserved for other subsequent issuance |
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
| Agriculture | 2 | 2,111 | | | | 671 | 1,440 | | | 2,111 | | | | |
| Extractive: | | | | | | | | | | | | | | |
| Coal mining | 1 | 1,469 | | | | 1,469 | | | | 1,469 | | | | |
| Metal mining | 8 | 2,723 | | | 565 | 2,158 | | | 212 | 2,511 | | | | |
| Oil and gas wells | 9 | 25,774 | | | | 468 | 25,306 | 12,500 | 218 | 13,056 | 1 | | 1 | |
| Quarries and non-metal mining | 3 | 9,969 | 3,774 | | 3,177 | | 3,018 | 3,018 | | 6,951 | | | | |
| Total extractive | 21 | 39,935 | 3,774 | | 3,742 | 4,095 | 28,324 | 15,518 | 429 | 23,987 | 1 | | 1 | |
| *Manufacturing: | | | | | | | | | | | | | | |
| Food and related products | 18 | 124,297 | | 98,278 | 3,399 | 22,164 | 457 | 422 | 21,330 | 102,545 | 350 | 350 | | |
| Tobacco products | 2 | 14,899 | | | 14,899 | | 0 | | | 14,899 | | | | |
| Beverages (incl. breweries and distill.) | 6 | 6,475 | 5,000 | | 500 | 975 | 0 | | | 6,475 | 375 | 375 | | |
| Textiles and textile products | 8 | 94,461 | | 24,500 | 28,802 | 41,006 | 153 | 150 | 62,197 | 32,114 | 3,143 | 3,143 | | |
| Lumber and lumber products | 6 | 2,545 | | | 778 | 1,310 | 457 | 457 | 515 | 1,573 | | | | |
| Paper and paper products | 8 | 5,403 | | | 896 | 2,955 | 1,552 | 1,552 | 2,946 | 905 | 5 | 5 | | |
| Printing, publishing, and allied industries | 1 | 2,100 | | | 2,100 | | | | | 2,100 | | | | |
| Chemicals and allied products | 14 | 84,295 | 22,440 | 24,628 | 17,773 | 19,455 | | | 8,171 | 81,124 | 1,514 | 1,514 | | |
| Petroleum refining | 9 | 141,054 | 175 | 121,425 | 875 | 18,580 | | | | 141,054 | 18,580 | 18,580 | | |
| Tire and other rubber products | 1 | 49,500 | | 49,500 | | | | | | 49,500 | | | | |
| Building and related products | 5 | 16,938 | 200 | 10,658 | 4,020 | 2,060 | | | 650 | 16,288 | | | | |
| Iron and steel | 9 | 129,930 | 110,100 | 15,925 | 2,000 | 1,905 | | | | 129,930 | 1,593 | 1,593 | | |
| Non-ferrous metals | 3 | 19,238 | 7,688 | 10,200 | | 1,350 | | | | 19,238 | | | | |

TABLE 6.—*Effective registrations under the Securities Act of 1933—Detailed statistics by industries—Fiscal year ended June 30, 1941*—Con.

[Amounts in thousands of dollars]

| Industry | Number of issues | Total registrations | | | | | | Substitute securities (v. t. ctfs. and ctfs. dep.) | Securities registered for account of others | Securities registered for account of issuers (excluding substitute securities) | Securities not offered for sale or exchange | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Total | Secured bonds | Unsecured bonds | Preferred stock | Common stock | Ctfs. of part., beneficial interest, warrants, v. t. ctfs. and ctfs. dep. | | | | Total | Reserved for conversion | Reserved for options | Reserved for other subsequent issuance |
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
| Manufacturing—Continued. | | | | | | | | | | | | | | |
| Machinery and tools: | | | | | | | | | | | | | | |
| Industrial machinery and tools | 18 | 24,677 | | | 4,830 | 19,842 | 5 | | 7,477 | 17,200 | 3,778 | 3,589 | 125 | 59 |
| Electrical machinery and equipment | 4 | 2,630 | | | | 2,630 | | | 2,155 | 475 | 175 | | 175 | |
| Office machinery and equipment | 2 | 1,794 | | 1,766 | 28 | | | | | 1,794 | | | | |
| Miscellaneous machinery and tools | 1 | 837 | | | | 837 | | | 702 | 135 | | | | |
| Total machinery and tools | 25 | 29,939 | | 1,766 | 4,858 | 23,310 | 5 | | 10,335 | 19,604 | 3,948 | 3,589 | 300 | 59 |
| Transportation equipment: | | | | | | | | | | | | | | |
| Railroad equipment | 2 | 8,173 | | | 5,376 | 2,797 | | | | 8,173 | 2,797 | 2,797 | | |
| Automobile parts and accessories | 6 | 12,891 | | 8,120 | 3,000 | 1,767 | 3 | | 635 | 12,255 | 97 | | 97 | |
| Aircraft | 24 | 12,900 | | | 3,582 | 8,891 | 427 | | 583 | 12,317 | 2,296 | 1,738 | 557 | |
| Shipbuilding | 7 | 30,257 | | | 8,798 | 21,326 | 132 | | 18,055 | 12,202 | 7,447 | 6,747 | 700 | |
| Radio | 5 | 13,247 | | | 3,740 | 9,507 | | | 2,940 | 10,307 | 3,568 | 3,230 | 338 | |
| Total transportation equipment | 44 | 77,468 | | 8,120 | 24,496 | 44,289 | 563 | | 22,214 | 55,254 | 16,204 | 14,513 | 1,691 | |
| Miscellaneous manufacturing | 14 | 14,018 | | | 1,699 | 9,140 | 3,178 | 3,178 | 8,858 | 1,982 | 369 | 369 | | |
| Total manufacturing | 173 | 812,560 | 145,602 | 364,999 | 107,093 | 188,499 | 6,366 | 5,760 | 132,215 | 674,584 | 46,079 | 44,029 | 1,991 | 59 |
| Financial and investment: | | | | | | | | | | | | | | |
| Investment and trading: | | | | | | | | | | | | | | |
| Closed-end management | 1 | 4,030 | 4,030 | | | | | | | 4,030 | | | | |
| Open-end management | 44 | 105,645 | | | | 35,244 | 70,402 | | | 105,645 | 3,000 | | | 3,000 |
| Investment plans | 13 | 17,162 | | | | | 17,162 | | | 17,162 | | | | |

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Face amount certificates | 1 | 154,350 | | | | | 154,350 | | | 154,350 | | | | |
| Total investment and trading | 59 | 281,187 | 4,030 | | | 35,244 | 241,914 | | | 281,187 | 3,000 | | | 3,000 |
| Holding companies | 3 | 56,982 | 56,982 | | | | | | | 56,982 | | | | |
| Commercial credit, finance and mortgage | 13 | 7,274 | | 2,983 | 2,196 | 2,095 | | | 64 | 7,210 | 1,291 | 1,291 | | |
| Industrial and personal loan | 6 | 13,526 | | 11,565 | 550 | 1,411 | | | 300 | 13,226 | | | | |
| Insurance | 5 | 10,195 | | | | 9,976 | 220 | | 220 | 9,975 | | | | |
| Other financial and investment | 5 | 4,026 | | | | 421 | 3,605 | | | 4,026 | | | | |
| Total financial and investment | 91 | 373,190 | 61,012 | 14,548 | 2,746 | 49,145 | 245,739 | | 584 | 372,606 | 4,291 | 1,291 | | 3,000 |
| Merchandising | 27 | 53,236 | | 5,970 | 17,795 | 29,470 | 1 | | 17,374 | 35,862 | 14,229 | 1,768 | 11,720 | 741 |
| Real estate | 19 | 2,639 | 1,398 | 95 | | 4 | 1,140 | 1,136 | 2 | 1,501 | | | | |
| Construction | | | | | | | | | | | | | | |
| Transportation and communication: | | | | | | | | | | | | | | |
| Railroads (incl. terminal and switching) | 2 | 4,009 | | | | | 4,009 | 4,009 | | | | | | |
| Pipe lines | 6 | 37,423 | 28,720 | | 924 | 7,780 | | | | 37,423 | | | | |
| Steam shipping | 2 | 4,852 | 2,250 | | | 2,602 | | | 4,602 | 250 | | | | |
| Aviation | 11 | 13,362 | | | 5,250 | 7,982 | 130 | | 439 | 12,923 | 4,286 | 4,286 | | |
| Telephone and telegraph | 10 | 61,689 | 52,194 | | 4,038 | 5,218 | 239 | | 864 | 60,826 | 1,520 | 1,520 | | |
| Radio | 1 | 1,310 | | | | | 1,310 | 1,310 | | | | | | |
| Total transportation and communication | 32 | 122,645 | 83,164 | | 10,212 | 23,581 | 5,688 | 5,318 | 5,904 | 111,422 | 5,806 | 5,806 | | |
| Service | 13 | 4,903 | | | 1,950 | 2,517 | 435 | 435 | | 4,467 | 265 | 250 | 15 | |
| Electric light, power, heat, water, and gas: | | | | | | | | | | | | | | |
| Holding companies | 3 | 64,106 | 61,276 | | | 2,830 | | | | 64,106 | | | | |
| Operating-holding companies | 2 | 101,725 | 85,900 | | 15,825 | | | | | 101,725 | | | | |
| Operating companies | 72 | 1,024,067 | 798,224 | 1,183 | 181,801 | 42,776 | 83 | | 47,778 | 976,289 | | | | |
| Total electric light, power, heat, water, and gas | 77 | 1,189,898 | 945,401 | 1,183 | 197,626 | 45,605 | 83 | | 47,778 | 1,142,120 | | | | |
| Miscellaneous domestic companies | 1 | 9,569 | | | | 9,569 | | | | 9,569 | | | | |
| Foreign companies | 0 | | | | | | | | | | | | | |
| Foreign governments and municipalities | 0 | | | | | | | | | | | | | |
| Grand total | 456 | 2,610,684 | 1,240,351 | 386,795 | 341,165 | 353,157 | 289,216 | 28,168 | 204,287 | 2,378,229 | 70,671 | 53,144 | 13,728 | 3,800 |

TABLE 6.—*Effective registrations under the Securities Act of 1933—Detailed statistics by industries—Fiscal year ended June 30, 1941*—Con.

[Amounts in thousands of dollars]

| Industry | Securities offered in exchange for | | | | | | To be issued for selling and distributing expenses | Total securities proposed for sale by issuer | Cost of flotation (applicable to amount proposed for sale by issuers) | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Total | Securities of issuer | Certificates of deposit | Securities of other issuers | Claims against issuer | Tangible and intangible assets | | | Total | Compensation to underwriters, agents, etc. | Expenses |
| | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| Agriculture | | | | | | | | 2,111 | 864 | 854 | 10 |
| Extractive: | | | | | | | | | | | |
| Coal mining | | | | | | | | 1,469 | 14 | | 14 |
| Metal mining | | | | | | | | 2,511 | 497 | 463 | 34 |
| Oil and gas wells | 250 | | | 250 | | | | 12,805 | 1,340 | 1,311 | 30 |
| Quarries and non-metal mining | 3,018 | | 3,018 | | | | | 3,933 | 166 | 96 | 69 |
| Total extractive | 3,268 | | 3,018 | 250 | | | | 20,718 | 2,017 | 1,871 | 147 |
| Manufacturing: | | | | | | | | | | | |
| Food and related products | 556 | 178 | 378 | | | | | 101,639 | 2,005 | 1,503 | 502 |
| Tobacco products | | | | | | | | 14,899 | 370 | 223 | 146 |
| Beverages (incl. breweries and distill.) | | | | | | | | 6,100 | 293 | 215 | 78 |
| Textiles and textile products | | | | | | | | 28,971 | 1,172 | 963 | 210 |
| Lumber and lumber products | 800 | | | 800 | | | | 773 | 86 | 68 | 18 |
| Paper and paper products | | | | | | | | 900 | 7 | | 7 |
| Printing, publishing, and allied industries | 1,676 | 1,676 | | | | | | 424 | 18 | 12 | 6 |
| Chemicals and allied products | 7,000 | 7,000 | | | | | | 72,611 | 1,913 | 1,376 | 536 |
| Petroleum refining | | | | | | | | 122,475 | 2,546 | 2,017 | 530 |
| Tire and other rubber products | | | | | | | | 49,500 | 1,283 | 1,125 | 158 |
| Building and related products | 1,410 | | | 1,107 | | 303 | | 14,878 | 401 | 288 | 114 |
| Iron and steel | | | | | | | | 128,338 | 3,683 | 2,968 | 715 |
| Non-ferrous metals | | | | | | | | 19,238 | 668 | 485 | 183 |
| Machinery and tools: | | | | | | | | | | | |
| Industrial machinery and tools | 1,350 | 1,350 | | | | | 5 | 12,072 | 1,527 | 1,315 | 212 |
| Electrical machinery and equipment | | | | | | | | 300 | 68 | 60 | 8 |
| Office machinery and equipment | | | | | | | | 1,794 | 73 | 43 | 30 |
| Miscellaneous machinery and tools | | | | | | | | 135 | 25 | 20 | 5 |
| Total machinery and tools | 1,350 | 1,350 | | | | | 5 | 14,301 | 1,693 | 1,438 | 255 |
| Transportation equipment: | | | | | | | | | | | |
| Railroad equipment | | | | | | | | 5,376 | 115 | 66 | 50 |
| Automobile parts and accessories | | | | | | | | 12,159 | 622 | 492 | 130 |
| Aircraft | 1,504 | | | 1,504 | | | 43 | 8,475 | 680 | 485 | 195 |
| Shipbuilding | 625 | 625 | | | | | | 4,130 | 373 | 322 | 51 |

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Radio | 2,302 | 2,302 | | | | | | 4,438 | 571 | 497 | 74 |
| Total transportation equipment | 4,430 | 2,927 | | 1,500 | | | 63 | 34,577 | 2,362 | 1,862 | 500 |
| Miscellaneous manufacturing | | | | | | | | 1,612 | 343 | 299 | 44 |
| Total manufacturing | 17,223 | 13,132 | 378 | 3,411 | | 303 | 68 | 611,234 | 18,843 | 14,841 | 4,002 |
| Financial and investment: | | | | | | | | | | | |
| Investment and trading: | | | | | | | | | | | |
| Closed-end management | | | | | | | | 4,030 | 116 | 90 | 26 |
| Open-end management | 26,683 | 26,683 | | | | | | 75,962 | 5,880 | 5,843 | 37 |
| Investment plans | | | | | | | | 17,162 | 1,515 | 1,352 | 163 |
| Face amount certificates | | | | | | | | 154,350 | 6,694 | 6,611 | 83 |
| Total investment and trading | 26,683 | 26,683 | | | | | | 251,504 | 14,205 | 13,896 | 309 |
| Holding companies | 56,982 | 56,982 | | | | | | | | | |
| Commercial credit, finance and mortgage | 301 | 301 | | | | | | 5,618 | 279 | 225 | 54 |
| Industrial and personal loan | | | | | | | | 13,226 | 404 | 308 | 96 |
| Insurance | | | | | | | | 9,975 | 730 | 617 | 114 |
| Other financial and investment | | | | | | | | 4,026 | 75 | 54 | 20 |
| Total financial and investment | 83,966 | 83,966 | | | | | | 284,349 | 15,692 | 15,100 | 593 |
| Merchandising | 522 | | | | 522 | | | 21,111 | 1,281 | 1,084 | 196 |
| Real estate | 1,501 | 871 | 545 | 84 | | | | | | | |
| Construction | | | | | | | | | | | |
| Transportation and communication: | | | | | | | | | | | |
| Railroads (incl. terminal and switching) | | | | | | | | | | | |
| Pipe lines | 70 | 70 | | | | | | 37,353 | 948 | 609 | 339 |
| Steam shipping | | | | | | | | 250 | 7 | 3 | 4 |
| Aviation | | | | | | | | 8,637 | 636 | 527 | 109 |
| Telephone and telegraph | | | | | | | | 59,306 | 1,159 | 869 | 290 |
| Radio | | | | | | | | | | | |
| Total transportation & communication | 70 | 70 | | | | | | 105,547 | 2,750 | 2,008 | 742 |
| Service | | | | | | | | 4,202 | 334 | 276 | 57 |
| Electric light, power, heat, water, and gas: | | | | | | | | | | | |
| Holding companies | | | | | | | | 64,106 | 1,474 | 1,106 | 368 |
| Operating-holding companies | | | | | | | | 101,725 | 2,179 | 1,813 | 366 |
| Operating companies | 120,012 | 120,012 | | | | | | 856,277 | 17,394 | 12,943 | 4,451 |
| Total electric light, power, heat, water, and gas | 120,012 | 120,012 | | | | | | 1,022,108 | 21,047 | 15,862 | 5,185 |
| Miscellaneous domestic companies | | | | | | | | 9,589 | 22 | | 22 |
| Foreign companies | | | | | | | | | | | |
| Foreign governments and municipalities | | | | | | | | | | | |
| Grand total | 226,561 | 218,051 | 3,941 | 3,745 | 522 | 303 | 48 | 2,080,949 | 62,850 | 51,895 | 10,955 |

TABLE 6.—*Effective registrations under the Securities Act of 1933—Detailed statistics by industries—Fiscal year ended June 30, 1941*—Con.

[Amounts in thousands of dollars]

| Industry | Net proceeds from amount proposed for sale by issuers | New money | | | | | Repayment of indebtedness and retirement of stock | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | Total | Plant and equipment | Working capital | Reimbursement of corporate treasuries for capital expenditures | Other new money purposes | Total | Bonds and notes | Other debt | Preferred stock |
| | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 |
| Agriculture | 1,247 | 1,247 | | 797 | | 450 | | | | |
| Extractive: | | | | | | | | | | |
| Coal mining | 1,456 | 210 | 210 | | | | 1,245 | | 1,245 | |
| Metal mining | 2,013 | 1,872 | 783 | 627 | | 462 | 54 | | 54 | |
| Oil and gas wells | 11,464 | 11,404 | 11,335 | 25 | | 104 | | | | |
| Quarries and nonmetal mining | 3,767 | 76 | | 76 | | | 3,614 | 3,614 | | |
| Total extractive | 18,700 | 13,622 | 12,328 | 728 | | 566 | 4,913 | 3,614 | 1,299 | |
| Manufacturing: | | | | | | | | | | |
| Food and related products | 99,634 | 3,010 | 1,211 | 1,799 | | | 96,307 | 82,592 | 85 | 13,630 |
| Tobacco products | 14,529 | 2,467 | 1,135 | 1,332 | | | 11,750 | | 11,750 | |
| Beverages (including breweries and distilleries) | 5,807 | 810 | 458 | 351 | | | 4,797 | 4,797 | | |
| Textiles and textile products | 27,799 | 17,249 | 1,985 | 15,264 | | | 10,550 | 10,550 | | |
| Lumber and lumber products | 687 | 537 | 196 | 341 | | | 150 | | 150 | |
| Paper and paper products | 893 | 382 | 357 | 25 | | | 511 | | 511 | |
| Printing, publishing, and allied industries | 406 | 240 | | 240 | | | 126 | | | 126 |
| Chemicals and allied products | 70,698 | 33,820 | 30,091 | 3,729 | | | 36,828 | 34,560 | 1,777 | 491 |
| Petroleum refining | 119,929 | 2,780 | 459 | 2,321 | | | 117,149 | 92,860 | 104 | 24,184 |
| Tire and other rubber products | 48,217 | 2,279 | | 2,279 | | | 45,938 | 45,938 | | |
| Building and related products | 14,476 | 3,875 | 3,510 | 365 | | | 10,601 | 10,601 | | |
| Iron and steel | 124,655 | 5,454 | 353 | 5,101 | | | 119,201 | 115,374 | 3,826 | |
| Non-ferrous metals | 18,569 | 2,963 | 1,190 | 1,772 | | | 15,607 | 15,607 | | |
| Machinery and tools: | | | | | | | | | | |
| Industrial machinery and tools | 10,545 | 7,175 | 2,780 | 4,396 | | | 2,546 | 648 | 1,002 | 896 |
| Electrical machinery and equipment | 232 | 202 | 15 | 182 | | 4 | 27 | | 27 | |
| Office machinery and equipment | 1,721 | 58 | 19 | 39 | | | 1,663 | 1,063 | 600 | |
| Miscellaneous machinery and tools | 110 | 110 | 110 | | | | | | | |
| Total machinery and tools | 12,608 | 7,545 | 2,924 | 4,617 | | 4 | 4,235 | 1,711 | 1,629 | 896 |
| Transportation equipment: | | | | | | | | | | |
| Railroad equipment | 5,260 | 5,260 | 1,900 | 3,360 | | | | | | |
| Automobile parts and accessories | 11,537 | 3,534 | 2,690 | 844 | | | 8,000 | 7,955 | 45 | |
| Aircraft | 7,795 | 4,873 | 1,313 | 3,358 | | 202 | 1,347 | | 1,347 | |
| Shipbuilding | 3,756 | 2,191 | 573 | 1,618 | | | 1,449 | 1,348 | | 101 |

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Radio | 3,867 | 1,792 | 205 | 1,562 | | 25 | 1,909 | | | 1,909 |
| Total transportation equipment | 32,215 | 17,651 | 6,681 | 10,743 | | 227 | 12,705 | 9,303 | 1,392 | 2,010 |
| Miscellaneous manufacturing | 1,269 | 1,022 | 433 | 482 | | 107 | 165 | | 120 | 45 |
| Total manufacturing | 592,391 | 102,083 | 50,983 | 50,762 | | 338 | 486,619 | 423,894 | 21,344 | 41,381 |
| Financial and investment: | | | | | | | | | | |
| Investment and trading: | | | | | | | | | | |
| Closed-end management | 3,914 | 2 | | 2 | | | 3,913 | 3,913 | | |
| Open-end management | 70,082 | | | | | | | | | |
| Investment plans | 15,647 | | | | | | | | | |
| Face amount certificates | 147,656 | | | | | | | | | |
| Total investment and trading | 237,299 | 2 | | 2 | | | 3,913 | 3,913 | | |
| Holding companies | | | | | | | | | | |
| Commercial credit, finance, and mortgage | 5,339 | 2,339 | | 2,339 | | | 2,983 | 2,501 | | 482 |
| Industrial and personal loan | 12,822 | 11,264 | | 11,264 | | | 450 | | 450 | |
| Insurance | 9,244 | 5,399 | | 5,399 | | | 3,371 | | | 3,371 |
| Other financial and investment | 3,951 | 242 | 0 | 232 | | 10 | 17 | | 17 | |
| Total financial and investment | 268,657 | 19,246 | 0 | 19,236 | | 10 | 10,734 | 6,414 | 467 | 3,853 |
| Merchandising | 19,831 | 7,453 | 288 | 7,165 | | | 12,039 | 34 | 2,200 | 9,805 |
| Real estate | | | | | | | | | | |
| Construction | | | | | | | | | | |
| Transportation and communication: | | | | | | | | | | |
| Railroads (including terminal and switching) | | | | | | | | | | |
| Pipe lines | 36,406 | 7,640 | 961 | 6,679 | | | 27,201 | 26,850 | 351 | |
| Steam shipping | 243 | | | | | | 176 | | 176 | |
| Aviation | 8,001 | 7,953 | 7,364 | 589 | | | 48 | | 48 | |
| Telephone and telegraph | 58,146 | 8,129 | 3,044 | 2,408 | 2,677 | | 50,017 | 48,125 | | 1,892 |
| Radio | | | | | | | | | | |
| Total transportation and communication | 102,797 | 23,723 | 11,370 | 9,676 | 2,677 | | 77,442 | 74,975 | 575 | 1,892 |
| Service | 3,869 | 3,791 | 2,942 | 849 | | | 54 | | 10 | 44 |
| Electric light, power, heat, water, and gas: | | | | | | | | | | |
| Holding companies | 62,632 | 35 | | 35 | | | 62,597 | 62,597 | | |
| Operating-holding companies | 99,546 | 1,272 | | 1,272 | | | 98,275 | 98,275 | | |
| Operating companies | 838,883 | 104,796 | 74,318 | 17,702 | 12,776 | | 732,367 | 716,840 | 1,355 | 14,172 |
| Total electric light, power, heat, water, and gas | 1,001,061 | 106,102 | 74,318 | 19,008 | 12,776 | | 893,239 | 877,711 | 1,355 | 14,172 |
| Miscellaneous domestic companies | 9,547 | 9,547 | | 9,547 | | | | | | |
| Foreign companies | | | | | | | | | | |
| Foreign governments and municipalities | | | | | | | | | | |
| Grand total | 2,018,099 | 286,814 | 152,228 | 117,768 | 15,453 | 1,364 | 1,485,039 | 1,386,642 | 27,250 | 71,147 |

TABLE 6.—*Effective registrations under the Securities Act of 1933—Detailed statistics by industries—Fiscal year ended June 30, 1941*—Continued

[Amounts in thousands of dollars]

| Industry | Purchase of securities | | | Purchase of other assets | Organization expense | Miscellaneous and unaccounted for |
|---|---|---|---|---|---|---|
| | Total | For investment | For affiliation | | | |
| | 36 | 37 | 38 | 39 | 40 | 41 |
| Agriculture | | | | | | |
| Extractive: | | | | | | |
| Coal mining | | | | | | |
| Metal mining | 82 | | 82 | | 1 | 5 |
| Oil and gas wells | | | | | 0 | |
| Quarries and nonmetal mining | | | | | | 77 |
| Total extractive | 82 | | 82 | | 1 | 82 |
| Manufacturing: | | | | | | |
| Food and related products | | | | | | 317 |
| Tobacco products | | | | | | 313 |
| Beverages (incl. breweries and distill.) | | | | 200 | | |
| Textiles and textile products | | | | | | |
| Lumber and lumber products | | | | | | |
| Paper and paper products | | | | | | |
| Printing, publishing and allied industries | | | | | | 41 |
| Chemicals and allied products | | | | | | 50 |
| Petroleum refining | | | | | | |
| Tire and other rubber products | | | | | | |
| Building and related products | | | | | | |
| Iron and steel | | | | | | |
| Nonferrous metals | | | | | | |
| Machinery and tools: | | | | | | |
| Industrial machinery and tools | | | | 700 | 3 | 120 |
| Electrical machinery and equipment | | | | | | 4 |
| Office machinery and equipment | | | | | | |
| Miscellaneous machinery and tools | | | | | | |
| Total machinery and tools | | | | 700 | 3 | 124 |
| Transportation equipment: | | | | | | |
| Railroad equipment | | | | | | |
| Automobile parts and accessories | | | | | | 4 |
| Aircraft | 1,524 | | 1,524 | | | 50 |
| Shipbuilding | | | | | | 116 |
| Radio | | | | | | 165 |
| Total transportation equipment | 1,524 | | 1,524 | | | 335 |
| Miscellaneous manufacturing | | | | 60 | | 22 |
| Total manufacturing | 1,524 | | 1,524 | 960 | 3 | 1,202 |
| Financial and investment: | | | | | | |
| Investment and trading: | | | | | | |
| Closed-end management | | | | | | |
| Open-end management | 70,082 | 70,082 | | | | |
| Investment plans | 15,393 | 15,393 | | | | 254 |
| Face amount certificates | 147,656 | 147,656 | | | | |
| Total investment and trading | 233,131 | 233,131 | | | | 254 |
| Holding companies | | | | | | |
| Commercial credit, finance and mortgage | 13 | | 13 | | 2 | 2 |
| Industrial and personal loan | | | | | | 1,108 |
| Insurance | 475 | 475 | | | | |
| Other financial and investment | 3,688 | 3,588 | 100 | | 5 | |
| Total financial and investment | 237,307 | 237,194 | 113 | | 7 | 1,363 |
| Merchandising | 249 | | 249 | 20 | | 70 |
| Real estate | | | | | | |
| Construction | | | | | | |

See footnote at end of table.

TABLE 6.—*Effective registrations under the Securities Act of 1933—Detailed statistics by industries—Fiscal year ended June 30, 1941*—Continued

[Amounts in thousands of dollars]

| Industry | Purchase of securities | | | Purchase of other assets | Organization expense | Miscellaneous and unaccounted for |
|---|---|---|---|---|---|---|
| | Total | For investment | For affiliation | | | |
| | 36 | 37 | 38 | 39 | 40 | 41 |
| Transportation and communication: | | | | | | |
| Railroads (incl. terminal and switching) | | | | | | |
| Pipe lines | | | | 1,564 | | 1 |
| Steam shipping | | | | | | 67 |
| Aviation | | | | | | |
| Telephone and telegraph | | | | | | |
| Radio | | | | | | |
| Total transportation and communication | | | | 1,564 | | 68 |
| Service | | | | | 24 | 0 |
| Electric light, power, heat, water, and gas: | | | | | | |
| Holding companies | | | | | | |
| Operating-holding companies | | | | | | |
| Operating companies | 537 | | 537 | 305 | 0 | 877 |
| Total electric light, power, heat, water, and gas | 537 | | 537 | 305 | 0 | 877 |
| Miscellaneous domestic companies | | | | | | |
| Foreign companies | | | | | | |
| Foreign governments and municipalities | | | | | | |
| Grand Total | 239,699 | 237,194 | 2,505 | 2,850 | 34 | 3,663 |

NOTE.—For back figures, see Sixth Annual Report, pp. 252-261; Fifth Annual Report, pp. 206-213; Fourth Annual Report, pp. 150-157; Third Annual Report, pp. 135-143; Second Annual Report, pp. 104-111; First Annual Report, pp. 76-83.

TABLE 7.—*Effective registrations under the Securities Act of 1933—Securities proposed for sale by issuers—By proposed methods of selling and by industries—Fiscal year ended June 30, 1941*

[Amounts in thousands of dollars]

| Industry | Amount distributed | | | | To security holders | | | | To public | | | | To "others" | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Grand total | By issuers | By underwriters | By agents | Total | By issuers | By underwriters | By agents | Total | By issuers | By underwriters | By agents | Total | By issuers | By underwriters | By agents |
| Agriculture | 2,111 | 671 | | 1,440 | | | | | 2,111 | 671 | | 1,440 | | | | |
| Extractive: | | | | | | | | | | | | | | | | |
| Coal mining | 1,469 | 1,469 | | | 1,469 | 1,469 | | | | | | | | | | |
| Metal mining | 2,511 | 700 | 571 | 1,240 | | | | | 2,511 | 700 | 571 | 1,240 | | | | |
| Oil and gas wells | 12,805 | 12,500 | | 305 | | | | | 12,805 | 12,500 | | 305 | | | | |
| Quarries and non-metal mining | 3,933 | | 3,933 | | | | | | 3,933 | | 3,933 | | | | | |
| Total extractive | 20,718 | 14,669 | 4,503 | 1,545 | 1,469 | 1,469 | | | 19,248 | 13,200 | 4,503 | 1,545 | | | | |
| Manufacturing: | | | | | | | | | | | | | | | | |
| Food and related products | 101,639 | | 76,450 | 25,189 | 251 | | | 251 | 101,388 | | 76,450 | 24,938 | | | | |
| Tobacco products | 14,899 | | 14,899 | | 14,899 | | 14,899 | | | | | | | | | |
| Beverages (incl. breweries and distill.) | 6,100 | 600 | 5,500 | | 600 | 600 | | | 5,500 | | 5,500 | | | | | |
| Textiles and textile products | 28,971 | 231 | 28,740 | | 231 | 231 | | | 28,740 | | 28,740 | | | | | |
| Lumber and lumber products | 773 | | 773 | | | | | | 773 | | 773 | | | | | |
| Paper and paper products | 900 | 900 | | | | | | | 900 | 900 | | | | | | |
| Printing, publishing and allied industries | 424 | | 424 | | | | | | 424 | | 424 | | | | | |
| Chemicals and allied products | 72,611 | 10,320 | 62,291 | | 14,202 | 10,320 | 3,882 | | 58,409 | | 58,409 | | | | | |
| Petroleum refining | 122,475 | | 122,300 | 175 | 20,000 | | 20,000 | | 102,475 | | 102,300 | 175 | | | | |
| Tire and other rubber products | 49,500 | | 49,500 | | | | | | 49,500 | | 49,500 | | | | | |
| Building and related products | 14,878 | | 14,828 | 50 | | | | | 14,878 | | 14,828 | 50 | | | | |
| Iron and steel | 128,338 | | 128,025 | 313 | | | | | 128,338 | | 128,025 | 313 | | | | |
| Non-ferrous metals | 19,238 | | 19,238 | | | | | | 19,238 | | 19,238 | | | | | |
| Machinery and tools: | | | | | | | | | | | | | | | | |
| Industrial machinery and tools | 12,072 | 5 | 11,531 | 535 | 5 | 5 | | | 12,066 | | 11,531 | 535 | | | | |
| Electrical machinery and equipment | 300 | | | 300 | | | | | 300 | | | 300 | | | | |
| Office machinery and equipment | 1,794 | | 1,794 | | | | | | 1,794 | | 1,794 | | | | | |
| Miscellaneous machinery and tools | 135 | | 135 | | | | | | 135 | | 135 | | | | | |

| | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Total machinery and tools | 14,301 | 5 | 13,461 | 835 | 5 | 5 | | | 14,296 | | 13,461 | 835 | | | | |
| Transportation equipment: | | | | | | | | | | | | | | | | |
| Railroad equipment | 5,376 | | 5,376 | | 5,376 | | 5,376 | | | | | | | | | |
| Automobile parts and accessories | 12,159 | | 11,221 | 938 | | | | | 12,159 | | 11,221 | 938 | | | | |
| Aircraft | 8,475 | 4,501 | 300 | 3,675 | 3,989 | 3,556 | | 433 | 4,486 | 945 | 300 | 3,242 | | | | |
| Shipbuilding | 4,130 | | 4,130 | | 1,100 | | 1,100 | | 3,030 | | 3,030 | | | | | |
| Radio | 4,438 | | 4,138 | 300 | | | | | 4,438 | | 4,138 | 300 | | | | |
| Total transportation equipment | 34,577 | 4,501 | 25,164 | 4,912 | 10,464 | 3,556 | 6,476 | 433 | 24,113 | 945 | 18,689 | 4,480 | | | | |
| Miscellaneous manufacturing | 1,612 | | 612 | 1,001 | | | | | 1,566 | | 566 | 1,001 | 46 | | 46 | |
| Total manufacturing | 611,234 | 16,557 | 562,203 | 32,474 | 60,653 | 14,712 | 45,257 | 684 | 550,535 | 1,845 | 516,900 | 31,790 | 46 | | 46 | |
| Financial and investment: | | | | | | | | | | | | | | | | |
| Investment and trading: | | | | | | | | | | | | | | | | |
| Closed-end management | 4,030 | | 4,030 | | | | | | 4,030 | | 4,030 | | | | | |
| Open-end management | 75,962 | | | 75,962 | | | | | 75,962 | | | 75,962 | | | | |
| Investment plans | 17,162 | | | 17,162 | | | | | 17,162 | | | 17,162 | | | | |
| Face amount certificates | 154,350 | | | 154,350 | | | | | 154,350 | | | 154,350 | | | | |
| Total investment and trading | 251,504 | | 4,030 | 247,474 | | | | | 251,504 | | 4,030 | 247,474 | | | | |
| Commercial credit, finance and mortgage | 5,618 | 798 | 3,483 | 1,338 | 1,285 | | 500 | 785 | 4,333 | 798 | 2,983 | 553 | | | | |
| Industrial and personal loan | 13,226 | 1,111 | 11,565 | 550 | | | | | 12,115 | | 11,565 | 550 | 1,111 | 1,111 | | |
| Insurance | 9,975 | 500 | 8,725 | 750 | 2,785 | | 2,785 | | 6,689 | | 5,939 | 750 | 500 | 500 | | |
| Other financial and investment | 4,026 | 4,026 | | | | | | | 421 | 421 | | | 3,605 | 3,605 | | |
| Total financial and investment | 284,349 | 6,435 | 27,802 | 250,112 | 4,070 | | 3,285 | 785 | 275,063 | 1,219 | 24,517 | 249,327 | 5,216 | 5,216 | | |
| Merchandising | 21,111 | 629 | 19,358 | 1,124 | 4,872 | 400 | 4,186 | 286 | 15,935 | | 15,172 | 763 | 304 | 229 | | 75 |
| Real estate | | | | | | | | | | | | | | | | |
| Construction | | | | | | | | | | | | | | | | |

TABLE 7.—*Effective registrations under the Securities Act of 1933—Securities proposed for sale by issuers—By proposed methods of selling and by industries—Fiscal year ended June 30, 1941*—Continued

[Amounts in thousands of dollars]

| Industry | Amount distributed | | | | To security holders | | | | To public | | | | To "others" | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Grand total | By issuers | By underwriters | By agents | Total | By issuers | By underwriters | By agents | Total | By issuers | By underwriters | By agents | Total | By issuers | By underwriters | By agents |
| Transportation and communication: | | | | | | | | | | | | | | | | |
| Pipe lines | 37,353 | 7,780 | 29,574 | | | | | | 29,574 | | 29,574 | | 7,780 | 7,780 | | |
| Steam shipping | 250 | | 250 | | | | | | | | | | 250 | | 250 | |
| Aviation | 8,637 | 290 | 7,548 | 800 | | | | | 8,348 | | 7,548 | 800 | 290 | 290 | | |
| Telephone and telegraph | 59,306 | 6,774 | 51,259 | 1,273 | 3,074 | 2,949 | 125 | | 52,407 | | 51,134 | 1,273 | 3,825 | 3,825 | | |
| Total transportation and communication | 105,547 | 14,843 | 88,631 | 2,073 | 3,074 | 2,949 | 125 | | 90,329 | | 88,256 | 2,073 | 12,144 | 11,894 | 250 | |
| Service | 4,202 | 2,096 | | 2,106 | 71 | | | 71 | 3,916 | 1,881 | | 2,035 | 215 | 215 | | |
| Electric light, power, heat, water and gas: | | | | | | | | | | | | | | | | |
| Holding companies | 64,106 | 2,830 | 61,276 | | | | | | 61,276 | | 61,276 | | 2,830 | 2,830 | | |
| Operating-holding companies | 101,725 | | 101,725 | | | | | | 101,725 | | 101,725 | | | | | |
| Operating companies | 856,277 | 149,988 | 704,584 | 1,705 | 5,763 | 5,727 | | 36 | 706,586 | 333 | 704,584 | 1,669 | 143,928 | [1] 143,928 | | |
| Total electric light, power, heat, water, and gas | 1,022,108 | 152,817 | 867,586 | 1,705 | 5,763 | 5,727 | | 36 | 869,588 | 333 | 867,586 | 1,669 | 146,757 | [1] 146,757 | | |
| Miscellaneous domestic companies | 9,569 | 9,569 | | | | | | | 9,569 | 9,569 | | | | | | |
| Foreign companies | | | | | | | | | | | | | | | | |
| Foreign governments and municipalities | | | | | | | | | | | | | | | | |
| Grand total | 2,080,949 | 218,287 | 1,570,083 | 292,579 | 79,973 | 25,258 | 52,853 | 1,862 | 1,836,293 | 28,718 | 1,516,934 | 290,641 | 164,683 | [1] 164,312 | 296 | 75 |

[1] Includes one issue sold directly to ultimate investor by competitive bidding, amounting to $36,814,000.

## TABLE 8, PART 1.—*New issues of securities offered for cash in the United States* [1] [2]

[Estimated gross proceeds in thousands of dollars [3]]

| Year and month | Grand total | By types of offerings | | | | | | By types of securities | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | Public | | Private [5] | | | Intrastate and unascertained | Bonds, notes, and debentures | Preferred stocks | Common stocks |
| | | Registered | Exempt [4] | Registered [6] | Exempt [6] | Other [7] | | | | |
| Total, July 1934 to June 1935 | 3,761,602 | 497,705 | 2,914,618 | ---------- | 83,474 | 261,508 | 4,298 | 3,742,560 | 12,161 | 6,881 |
| Total, July 1935 to June 1936 | 11,258,199 | 3,206,549 | 7,604,067 | 67,161 | 43,416 | 325,493 | 11,514 | 10,962,924 | 188,752 | 106,524 |
| Total, July 1936 to June 1937 | 7,601,506 | 2,989,969 | 4,173,900 | 11,814 | 105,655 | 302,590 | 17,577 | 6,772,299 | 410,019 | 419,188 |
| Total, July 1937 to June 1938 | 3,523,948 | 890,579 | 2,245,702 | 3,988 | 27,744 | 350,838 | 5,092 | 3,277,164 | 186,030 | 60,749 |
| Total, July 1938 to June 1939 | 6,830,626 | 1,659,834 | 4,322,289 | 62,836 | 106,924 | 670,988 | 7,756 | 6,650,232 | 106,650 | 73,745 |
| Total, July 1939 to June 1940 | 5,511,741 | 1,298,026 | 3,364,968 | 14,712 | 96,181 | 731,322 | 6,532 | 5,280,649 | 135,681 | 95,411 |
| Total, July 1940 to June 1941 | 9,846,600 | 1,645,628 | 7,199,716 | 148,680 | 118,353 | 724,218 | 10,005 | 9,608,345 | 172,314 | 65,941 |
| *1940* | | | | | | | | | | |
| July | 1,347,041 | 183,186 | 1,093,905 | ---------- | 5,857 | 63,219 | 874 | 1,339,761 | 2,139 | 5,141 |
| August | 298,260 | 54,918 | 164,057 | ---------- | 15,821 | 62,909 | 555 | 273,787 | 19,731 | 4,792 |
| September | 224,682 | 62,299 | 125,968 | ---------- | 1,798 | 33,888 | 678 | 218,465 | 4,105 | 2,062 |
| October | 711,870 | 276,264 | 382,700 | ---------- | 2,752 | 49,752 | 403 | 682,782 | 14,010 | 15,128 |
| November | 275,341 | 40,157 | 205,195 | ---------- | 2,922 | 26,864 | 202 | 250,990 | 13,199 | 11,152 |
| December | 1,388,815 | 349,443 | 824,541 | ---------- | 1,371 | 212,757 | 704 | 1,347,877 | 37,172 | 4,066 |
| *1941* | | | | | | | | | | |
| January | 1,149,994 | 198,701 | 892,639 | ---------- | 20,329 | 36,857 | 1,468 | 1,141,695 | 2,300 | 5,999 |
| February | 342,687 | 38,512 | 226,503 | ---------- | 39,145 | 38,276 | 151 | 335,322 | 6,577 | 687 |
| March | 1,106,608 | 123,497 | 837,972 | 103,616 | 5,100 | 34,773 | 1,650 | 1,068,909 | 33,434 | 4,266 |
| April | 950,011 | 70,040 | 807,887 | 8,000 | 100 | 63,468 | 515 | 935,485 | 10,370 | 4,156 |
| May | 1,411,167 | 156,908 | 1,187,460 | 250 | 8,857 | 55,236 | 2,456 | 1,389,433 | 17,677 | 4,057 |
| June | 640,275 | 91,704 | 450,887 | 36,814 | 14,301 | 46,219 | 350 | 624,238 | 11,600 | 4,437 |

[1] Reported as offered in the financial press or in records of the Commission. Data exclude issues having maturities of less than 1 year; issues with gross proceeds of $100,000 or less, offerings which do not appear in the financial press (largely those sold through continuous offering, such as securities of open-end investment companies); and intercorporate transactions. Revised figures through fiscal year ended June 1940. All figures subject to revision as new data are received.

[2] Rounding off figures has resulted in slight differences between the totals in the table and the actual sum of the components.

[3] Gross proceeds derived by multiplying principal amounts or numbers of units by offering prices, except for municipal issues where principal amount was used.

[4] Includes offerings by the United States Government and agencies, and by United States insular and territorial possessions, by States, municipalities, and other governmental subdivisions; by common carriers; by banks; and by charitable, religious, educational, and other non-profit institutions.

[5] Issues placed privately consist primarily of corporate securities, the amounts of noncorporate issues included in the above total being as follows, by fiscal years: 1935, $80-568,000; 1936, none; 1937, $4,500,000; 1938, $3,250,000; 1939, $52,351,000; 1940, $34,873,000; and 1941, $10,800,000.

[6] Includes issues sold directly to ultimate investors by competitive bidding in the following amounts, by fiscal years: 1935, $2,906,000; 1936, $23,917,000; 1937, $87,935,000; 1938, $21,560,000; 1939, $39,268,000; 1940, $50,523,000; and 1941, $97,366,000.

[7] Securities for which registration under the Securities Act of 1933 would be required if they were publicly offered.

TABLE 8, PART 2.—*New issues of securities offered for cash in the United States* [1] [2]

[Estimated gross proceeds in thousands of dollars] [3]

| Year and month | By types of issuers | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Corporate [4] | | | | | Noncorporate [4] | | | | |
| | Total | Public utility | Industrial | Rail | Other | Total | United States Government and Agency [5] | State and municipal [6] | Foreign government [7] | Educational, religious, and other nonprofit |
| Total, July 1934 to June 1935 | 1,162,920 | 377,605 | 328,948 | 137,404 | 318,963 | 2,598,682 | 1,572,410 | 1,020,326 | 4,978 | 968 |
| Total, July 1935 to June 1936 | 4,499,849 | 2,008,143 | 1,340,552 | 659,857 | 491,298 | 6,758,350 | 5,354,660 | 1,248,675 | 130,538 | 24,477 |
| Total, July 1936 to June 1937 | 3,730,807 | 1,637,526 | 1,203,865 | 501,036 | 388,380 | 3,870,700 | 2,589,372 | 1,060,212 | 163,239 | 57,877 |
| Total, July 1937 to June 1938 | 1,440,532 | 577,281 | 659,730 | 41,428 | 162,093 | 2,083,411 | 1,206,754 | 863,794 | 3,250 | 9,613 |
| Total, July 1938 to June 1939 | 2,522,270 | 1,365,540 | 954,950 | 106,351 | 95,428 | 4,308,357 | 2,904,127 | 1,322,048 | 66,797 | 15,385 |
| Total, July 1939 to June 1940 | 2,369,426 | 1,108,325 | 691,039 | 297,935 | 272,127 | 3,142,315 | 2,140,357 | 952,491 | 27,939 | 21,527 |
| Total, July 1940 to June 1941 | 2,991,037 | 1,517,339 | 968,291 | 375,026 | 130,381 | 6,855,563 | 5,529,808 | 1,294,579 | 4,120 | 27,055 |
| *1940* | | | | | | | | | | |
| July | 277,912 | 130,098 | 116,441 | 16,070 | 15,303 | 1,069,129 | 986,116 | 81,308 | | 1,704 |
| August | 173,158 | 43,965 | 87,442 | 40,196 | 1,555 | 125,102 | 49,411 | 75,519 | | 172 |
| September | 108,304 | 59,561 | 36,502 | 11,241 | 1,000 | 116,328 | 43,242 | 72,593 | | 492 |
| October | 373,276 | 216,782 | 107,628 | 46,857 | 2,009 | 338,594 | 160,601 | 177,142 | | 851 |
| November | 148,429 | 17,970 | 38,143 | 27,904 | 64,411 | 126,912 | 46,321 | 77,507 | | 3,084 |
| December | 577,913 | 370,043 | 175,967 | 12,210 | 19,694 | 810,902 | 607,425 | 202,531 | | 946 |
| *1941* | | | | | | | | | | |
| January | 270,104 | 124,589 | 111,325 | 32,228 | 1,961 | 879,890 | 813,755 | 63,635 | | 2,500 |
| February | 150,583 | 38,237 | 20,385 | 72,141 | 19,819 | 192,004 | 115,572 | 64,920 | | 11,512 |
| March | 267,637 | 186,062 | 72,654 | 8,221 | 700 | 838,971 | 652,654 | 179,637 | 4,120 | 2,560 |
| April | 144,786 | 71,490 | 67,533 | 2,037 | 3,725 | 805,225 | 701,716 | 101,825 | | 1,685 |
| May | 264,890 | 146,821 | 70,904 | 46,960 | 205 | 1,146,277 | 1,032,163 | 113,289 | | 825 |
| June | 234,046 | 111,719 | 63,367 | 58,959 | | 406,229 | 320,832 | 84,673 | | 724 |

[1] See footnote 1 of table 8, part 1.
[2] See footnote 2 of table 8, part 1.
[3] See footnote 3 of table 8, part 1.
[4] Corporate plus noncorporate issues, shown in table 8, part 2, are equal to grand total of issues shown in table 8, part 1.
[5] Includes only issues sold to the public; excludes "Special Series" issues and interagency sales.
[6] Source: Commercial and Financial Chronicle (includes security offerings of United States possessions).
[7] Excludes portions of issues offered abroad.

TABLE 9, PART 1.—*New issues of securities offered for cash in the United States* [1]—*Proposed uses of net proceeds from sale of corporate securities—By major industrial groups of issuers*

TOTAL CORPORATE

[Amounts in thousands of dollars]

| Year and month | Total estimated gross proceeds | Total estimated net [2] proceeds | New money | | | Repayment of indebtedness and retirement of preferred stock | | | | All other purposes [5] |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | Total [3] | Plant and equipment [4] | Working capital | Total | Funded debt | Other debt | Preferred stock | |
| Total, July 1934 to June 1935 | 1,162,920 | 1,137,226 | 112,067 | 55,795 | 56,272 | 993,981 | 893,655 | 99,661 | 665 | 31,178 |
| Total, July 1935 to June 1936 | 4,499,849 | 4,369,879 | 454,095 | 260,586 | 193,509 | 3,891,171 | 3,421,168 | 253,312 | 216,691 | 24,613 |
| Total, July 1936 to June 1937 | 3,730,807 | 3,614,525 | 1,198,207 | 561,910 | 636,297 | 2,352,271 | 2,006,536 | 91,786 | 253,949 | 64,047 |
| Total, July 1937 to June 1938 | 1,440,532 | 1,406,646 | 746,300 | 412,191 | 334,109 | 655,053 | 484,854 | 152,747 | 17,452 | 5,293 |
| Total, July 1938 to June 1939 | 2,522,270 | 2,468,180 | 642,503 | 379,370 | 263,133 | 1,811,716 | 1,510,653 | 174,461 | 126,602 | 13,961 |
| Total, July 1939 to June 1940 | 2,369,426 | 2,314,730 | 295,100 | 184,099 | 111,001 | 1,993,087 | 1,740,010 | 182,657 | 70,420 | 26,543 |
| Total, July 1940 to June 1941 | 2,991,037 | 2,931,171 | 767,989 | 599,693 | 168,296 | 2,132,152 | 1,914,420 | 80,310 | 137,421 | 31,030 |
| *1940* | | | | | | | | | | |
| July | 277,913 | 271,525 | 54,576 | 48,371 | 6,205 | 214,586 | 209,440 | 2,912 | 2,234 | 2,363 |
| August | 173,158 | 169,244 | 47,986 | 31,967 | 16,019 | 119,403 | 100,966 | 16,324 | 2,113 | 1,855 |
| September | 108,304 | 105,743 | 43,329 | 34,729 | 8,600 | 61,726 | 55,453 | 4,784 | 1,539 | 688 |
| October | 373,276 | 365,612 | 45,032 | 38,876 | 6,156 | 318,490 | 311,813 | 2,087 | 4,640 | 2,090 |
| November | 148,429 | 145,355 | 65,438 | 24,875 | 40,563 | 79,165 | 58,903 | 5,781 | 14,501 | 752 |
| December | 577,918 | 567,326 | 193,389 | 158,249 | 35,140 | 372,936 | 317,502 | 5,893 | 49,541 | 1,001 |
| *1941* | | | | | | | | | | |
| January | 270,104 | 264,732 | 47,839 | 43,488 | 4,351 | 215,655 | 183,658 | 6,286 | 25,711 | 1,238 |
| February | 150,583 | 148,114 | 29,473 | 24,913 | 4,560 | 103,416 | 101,023 | 125 | 2,268 | 15,225 |
| March | 267,637 | 263,251 | 67,228 | 55,206 | 12,022 | 193,892 | 170,727 | 14,768 | 8,397 | 2,131 |
| April | 144,786 | 142,317 | 27,113 | 18,263 | 8,850 | 113,114 | 90,445 | 1,732 | 20,937 | 2,090 |
| May | 264,890 | 258,560 | 66,304 | 51,189 | 15,165 | 192,073 | 187,825 | 4,052 | 196 | 183 |
| June | 234,046 | 229,392 | 80,282 | 69,617 | 10,665 | 147,696 | 126,665 | 15,686 | 5,344 | 1,414 |

See footnotes end of table.

TABLE 9, PART 2.—*New issues of securities offered for cash in the United States* [1]—*Proposed uses of net proceeds from sale of corporate securities—By major industrial groups of issuers*

PUBLIC UTILITY

[Amounts in thousands of dollars]

| Year and month | Total estimated gross proceeds | Total estimated net proceeds [2] | New money | | | Repayment of indebtedness and retirement of preferred stock | | | | All other purposes [5] |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | Total [3] | Plant and equipment [4] | Working capital | Total | Funded debt | Other debt | Preferred stock | |
| Total, July 1934 to June 1935 | 377,605 | 366,631 | 10,351 | 4,673 | 5,678 | 348,489 | 316,537 | 31,952 | ---- | 7,791 |
| Total, July 1935 to June 1936 | 2,008,143 | 1,955,387 | 63,863 | 43,300 | 20,563 | 1,888,828 | 1,786,965 | 33,169 | 68,694 | 2,696 |
| Total, July 1936 to June 1937 | 1,637,526 | 1,505,666 | 73,207 | 64,923 | 8,284 | 1,508,983 | 1,388,098 | 12,342 | 108,543 | 13,476 |
| Total, July 1937 to June 1938 | 577,281 | 563,894 | 151,898 | 114,885 | 37,013 | 410,704 | 327,027 | 83,219 | 458 | 1,292 |
| Total, July 1938 to June 1939 | 1,365,540 | 1,337,126 | 86,882 | 77,017 | 9,865 | 1,249,107 | 1,105,117 | 47,579 | 96,411 | 1,137 |
| Total, July 1939 to June 1940 | 1,108,325 | 1,086,454 | 65,275 | 54,556 | 10,719 | 1,012,482 | 939,338 | 35,738 | 37,406 | 8,697 |
| Total, July 1940 to June 1941 | 1,517,337 | 1,491,710 | 300,926 | 275,137 | 25,789 | 1,187,000 | 1,124,307 | 12,772 | 49,922 | 3,782 |
| *1940* | | | | | | | | | | |
| July | 130,098 | 127,272 | 26,970 | 25,167 | 1,803 | 100,299 | 99,502 | 499 | 298 | 3 |
| August | 43,965 | 43,025 | 15,668 | 15,646 | 22 | 26,333 | 25,659 | 674 | ---- | 1,024 |
| September | 59,561 | 58,487 | 10,702 | 9,760 | 942 | 47,276 | 46,860 | ---- | 416 | 509 |
| October | 216,782 | 212,541 | 9,390 | 7,756 | 1,634 | 202,251 | 197,217 | 650 | 4,384 | 900 |
| November | 17,970 | 17,555 | 785 | 700 | 85 | 16,767 | 12,390 | 1,201 | 3,176 | 3 |
| December | 370,043 | 364,741 | 143,508 | 134,961 | 8,547 | 220,918 | 209,912 | 2,097 | 8,909 | 315 |
| *1941* | | | | | | | | | | |
| January | 124,589 | 122,298 | 15,007 | 14,453 | 554 | 107,291 | 105,110 | 1,700 | 481 | ---- |
| February | 38,237 | 37,367 | 929 | 720 | 209 | 36,178 | 33,828 | 82 | 2,268 | 260 |
| March | 186,062 | 183,916 | 46,259 | 41,054 | 5,205 | 137,249 | 131,338 | 842 | 5,069 | 408 |
| April | 71,490 | 70,541 | 16,903 | 14,860 | 2,043 | 53,625 | 33,113 | 493 | 20,019 | 13 |
| May | 146,821 | 144,209 | 5,965 | 3,270 | 2,695 | 138,244 | 137,644 | 600 | ---- | ---- |
| June | 111,719 | 109,756 | 8,840 | 6,790 | 2,050 | 100,569 | 91,734 | 3,934 | 4,902 | 347 |

See footnotes end of table.

TABLE 9, PART 3.—*New issues of securities offered for cash in the United States* [1]*—Proposed uses of net proceeds from sale of corporate securities—By major industrial groups of issuers*

INDUSTRIAL

[Amounts in thousands of dollars]

| Year and month | Total estimated gross proceeds | Total estimated net proceeds [2] | New money | | | Repayment of indebtedness and retirement of preferred stock | | | | All other purposes [5] |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | Total [3] | Plant and equipment [4] | Working capital | Total | Funded debt | Other debt | Preferred stock | |
| Total, July 1934 to June 1935 | 328,948 | 321,656 | 49,900 | 19,500 | 30,400 | 251,652 | 239,139 | 11,848 | 665 | 20,104 |
| Total, July 1935 to June 1936 | 1,340,552 | 1,295,398 | 191,242 | 96,764 | 94,478 | 1,092,997 | 809,427 | 151,178 | 132,392 | 11,159 |
| Total, July 1936 to June 1937 | 1,203,865 | 1,150,608 | 602,827 | 239,994 | 362,833 | 507,499 | 334,333 | 57,772 | 115,394 | 40,282 |
| Total, July 1937 to June 1938 | 659,730 | 642,079 | 461,609 | 268,473 | 193,136 | 177,227 | 114,241 | 45,993 | 16,993 | 3,243 |
| Total, July 1938 to June 1939 | 954,950 | 933,170 | 444,029 | 253,524 | 190,505 | 478,368 | 328,521 | 126,882 | 22,965 | 10,773 |
| Total, July 1939 to June 1940 | 691,039 | 666,063 | 118,932 | 50,408 | 68,524 | 532,202 | 455,254 | 44,203 | 32,745 | 14,929 |
| Total, July 1940 to June 1941 | 968,291 | 942,092 | 171,395 | 87,503 | 83,891 | 761,087 | 631,392 | 49,052 | 80,644 | 9,611 |
| *1940* | | | | | | | | | | |
| July | 116,440 | 113,578 | 11,899 | 7,994 | 3,905 | 99,820 | 95,471 | 2,413 | 1,936 | 1,859 |
| August | 87,442 | 85,241 | 17,410 | 2,405 | 15,005 | 67,576 | 63,964 | 1,500 | 2,112 | 255 |
| September | 36,502 | 35,070 | 21,941 | 15,276 | 6,665 | 12,950 | 7,093 | 4,734 | 1,123 | 179 |
| October | 107,628 | 105,122 | 18,757 | 15,533 | 3,224 | 85,195 | 84,073 | 938 | 184 | 1,170 |
| November | 38,143 | 36,677 | 3,670 | 1,911 | 1,759 | 32,734 | 24,519 | 671 | 7,544 | 273 |
| December | 175,967 | 171,359 | 25,792 | 10,918 | 14,874 | 144,881 | 100,453 | 3,796 | 40,632 | 686 |
| *1941* | | | | | | | | | | |
| January | 111,326 | 108,405 | 5,713 | 1,916 | 3,797 | 102,556 | 72,740 | 4,586 | 25,230 | 136 |
| February | 20,385 | 19,672 | 6,777 | 3,149 | 3,628 | 12,893 | 12,849 | 44 | ---------- | 2 |
| March | 72,654 | 70,548 | 17,241 | 11,030 | 6,211 | 51,584 | 37,330 | 13,926 | 328 | 1,723 |
| April | 67,533 | 66,208 | 7,325 | 3,403 | 3,921 | 56,806 | 54,650 | 1,239 | 918 | 2,077 |
| May | 70,904 | 68,766 | 14,755 | 2,468 | 12,287 | 53,828 | 50,181 | 3,452 | 195 | 183 |
| June | 63,367 | 61,446 | 20,115 | 11,500 | 8,615 | 40,264 | 28,069 | 11,753 | 442 | 1,068 |

See footnotes end of table.

TABLE 9, PART 4.—*New issues of securities offered for cash in the United States* [1]—*Proposed uses of net proceeds from sale of corporate securities—By major industrial groups of issuers*

RAIL

[Amounts in thousands of dollars]

| Year and month | Total estimated gross proceeds | Total estimated net proceeds [2] | New money | | | Repayment of indebtedness and retirement of preferred stock | | | | All other purposes [5] |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | Total [3] | Plant and equipment [4] | Working capital | Total | Funded debt | Other debt | Preferred stock | |
| Total, July 1934 to June 1935 | 137,404 | 133,871 | 31,540 | 31,323 | 217 | 101,186 | 63,429 | 37,757 | | 1,145 |
| Total, July 1935 to June 1936 | 659,857 | 637,588 | 122,603 | 120,522 | 2,080 | 514,985 | 452,072 | 62,913 | | |
| Total, July 1936 to June 1937 | 501,036 | 489,861 | 265,753 | 256,654 | 9,099 | 224,108 | 203,891 | 16,479 | 3,738 | |
| Total, July 1937 to June 1938 | 41,428 | 40,815 | 29,328 | 28,827 | 501 | 11,487 | 11,487 | | | |
| Total, July 1938 to June 1939 | 106,351 | 104,352 | 48,778 | 48,778 | | 55,574 | 55,574 | | | |
| Total, July 1939 to June 1940 | 297,935 | 293,481 | 80,585 | 79,136 | 1,450 | 212,896 | 212,684 | 212 | | |
| Total, July 1940 to June 1941 | 375,024 | 368,981 | 236,711 | 236,711 | | 131,980 | 110,941 | 18,039 | 3,000 | 289 |
| *1940* | | | | | | | | | | |
| July | 16,070 | 15,472 | 15,210 | 15,210 | | | | | | 262 |
| August | 40,196 | 39,436 | 13,915 | 13,915 | | 25,494 | 11,344 | 14,150 | | 27 |
| September | 11,241 | 11,192 | 9,692 | 9,692 | | 1,500 | 1,500 | | | |
| October | 46,857 | 46,110 | 15,587 | 15,587 | | 30,523 | 30,523 | | | |
| November | 27,904 | 27,455 | 22,264 | 22,264 | | 5,191 | 1,302 | 3,889 | | |
| December | 12,210 | 12,027 | 12,027 | 12,027 | | | | | | |
| *1941* | | | | | | | | | | |
| January | 32,228 | 32,120 | 27,120 | 27,120 | | 5,000 | 5,000 | | | |
| February | 72,141 | 71,461 | 21,045 | 21,045 | | 50,416 | 50,416 | | | |
| March | 8,221 | 8,122 | 3,122 | 3,122 | | 5,000 | 2,000 | | 3,000 | |
| April | 2,037 | 1,994 | | | | 1,994 | 1,994 | | | |
| May | 46,960 | 45,401 | 45,401 | 45,401 | | | | | | |
| June | 58,959 | 58,191 | 51,328 | 51,328 | | 6,862 | 6,862 | | | |

See footnotes end of table.

TABLE 9, PART 5.—*New issues of securities offered for cash in the United States* [1]*—Proposed uses of net proceeds from sale of corporate securities—By major industrial groups of issuers*

OTHER

[Amounts in thousands of dollars]

| Year and month | Total estimated gross proceeds | Total estimated net [2] proceeds | New money | | | Repayment of indebtedness and retirement of preferred stock | | | | All other purposes [3] |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | Total [3] | Plant and equipment [4] | Working capital | Total | Funded debt | Other debt | Preferred stock | |
| Total, July 1934 to June 1935 | 318,963 | 315,068 | 20,276 | 300 | 19,976 | 292,655 | 274,550 | 18,105 | | 2,137 |
| Total, July 1935 to June 1936 | 491,298 | 481,506 | 76,387 | | 76,387 | 394,361 | 372,704 | 6,052 | 15,605 | 10,758 |
| Total, July 1936 to June 1937 | 388,380 | 378,389 | 256,419 | 338 | 256,081 | 111,680 | 80,214 | 5,191 | 26,275 | 10,290 |
| Total, July 1937 to June 1938 | 162,093 | 159,859 | 103,466 | 6 | 103,460 | 55,634 | 32,099 | 23,535 | | 759 |
| Total, July 1938 to June 1939 | 95,428 | 93,532 | 62,813 | 50 | 62,763 | 28,668 | 21,442 | | 7,226 | 2,051 |
| Total, July 1939 to June 1940 | 272,127 | 268,732 | 30,308 | | 30,308 | 235,507 | 132,734 | 102,504 | 269 | 2,917 |
| Total, July 1940 to June 1941 | 130,382 | 128,388 | 58,959 | 343 | 58,616 | 52,081 | 47,778 | 450 | 3,853 | 17,348 |
| *1940* | | | | | | | | | | |
| July | 15,303 | 15,202 | 497 | | 497 | 14,467 | 14,467 | | | 238 |
| August | 1,555 | 1,543 | 993 | | 993 | | | | | 550 |
| September | 1,000 | 993 | 993 | | 993 | | | | | |
| October | 2,009 | 1,838 | 1,298 | | 1,298 | 521 | | 450 | 71 | 19 |
| November | 64,411 | 63,668 | 38,719 | | 38,719 | 24,473 | 20,691 | | 3,782 | 476 |
| December | 19,694 | 19,197 | 12,061 | 343 | 11,718 | 7,136 | 7,136 | | | |
| *1941* | | | | | | | | | | |
| January | 1,961 | 1,909 | | | | 807 | 807 | | | 1,102 |
| February | 19,819 | 19,614 | 723 | | 723 | 3,929 | 3,929 | | | 14,962 |
| March | 700 | 665 | 606 | | 606 | 59 | 59 | | | |
| April | 3,725 | 3,575 | 2,886 | | 2,886 | 689 | 689 | | | |
| May | 205 | 184 | 183 | | 183 | | | | | 1 |
| June | | | | | | | | | | |

[1] See footnotes to table 8, part 1.

[2] Total estimated net proceeds are equal to total estimated gross proceeds less cost of flotation, i. e., compensation to underwriters, agents, etc., and expenses.

[3] Excludes the category "Other new money purposes" used in statistics of effective registrations under the Securities Act of 1933. The relatively small amounts involved are included under "All other purposes."

[4] Includes the category "Reimbursement of corporate treasuries for capital expenditures" used in statistics of effective registrations under Securities Act of 1933.

[5] Includes the category "Purchase of securities" used in statistics of effective registrations under the Securities Act of 1933. Because of the practical exclusion of investment companies from the statistics of new issues, the amounts involved are small.

TABLE 10.—*Ordinary transactions in stocks registered on all national securities exchanges reported by officers, directors, and principal stockholders under Section 16 (a) of the Securities Exchange Act of 1934—Monthly averages for the years 1936–40; monthly from July 1939 to June 1941*

| Year or month [1] | Number of transactions | | | Number of shares (in thousands) | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | Purchases | | | Sales | | | Balances | | |
| | Purchases | Sales | Total | All transactions | Transactions under 10,000 shares | Transactions of 10,000 shares or more | All transactions | Transactions under 10,000 shares | Transactions of 10,000 shares or more | All transactions | Transactions under 10,000 shares | Transactions of 10,000 shares or more |
| 1936 monthly average | 1,124 | 1,343 | 2,467 | 1,407 | 356 | 1,051 | 1,870 | 633 | 1,237 | −463 | −277 | −186 |
| 1937 monthly average | 1,247 | 1,295 | 2,542 | 989 | 374 | 615 | 1,823 | 657 | 1,166 | −834 | −283 | −551 |
| 1938 monthly average | 765 | 956 | 1,721 | 787 | 292 | 495 | 1,005 | 411 | 594 | −218 | −119 | −99 |
| 1939 monthly average | 882 | 629 | 1,511 | 650 | 240 | 410 | 500 | 260 | 240 | +150 | −20 | +170 |
| 1940 monthly average | 875 | 610 | 1,485 | 399 | 271 | 128 | 580 | 249 | 331 | −181 | +22 | −203 |
| 1939 | | | | | | | | | | | | |
| July | 709 | 576 | 1,285 | 503 | 215 | 288 | 475 | 208 | 267 | +28 | +7 | +21 |
| August | 868 | 402 | 1,270 | 221 | 198 | 23 | 164 | 122 | 42 | +57 | +76 | −19 |
| September | 980 | 1,189 | 2,169 | 950 | 262 | 688 | 1,536 | 683 | 853 | −586 | −421 | −165 |
| October | 861 | 815 | 1,676 | 204 | 183 | 21 | 373 | 350 | 23 | −169 | −167 | −2 |
| November | 870 | 660 | 1,530 | 300 | 220 | 80 | 373 | 259 | 114 | −73 | −39 | −34 |
| December | 1,218 | 899 | 2,117 | 521 | 377 | 144 | 516 | 347 | 169 | +5 | +30 | −25 |
| 1940 | | | | | | | | | | | | |
| January | 886 | 664 | 1,550 | 288 | 228 | 60 | 803 | 232 | 571 | −515 | −4 | −511 |
| February | 826 | 545 | 1,371 | 283 | 271 | 12 | 325 | 255 | 70 | −42 | +16 | −58 |
| March | 839 | 570 | 1,409 | 375 | 266 | 109 | 646 | 191 | 455 | −271 | +75 | −346 |
| April | 889 | 942 | 1,831 | 307 | 252 | 55 | 684 | 418 | 266 | −377 | −166 | −211 |
| May | 1,776 | 766 | 2,542 | 731 | 529 | 202 | 446 | 366 | 80 | +285 | +163 | +122 |
| June | 799 | 524 | 1,323 | 619 | 244 | 375 | 410 | 198 | 212 | +209 | +46 | +163 |
| July | 666 | 399 | 1,065 | 241 | 211 | 30 | 747 | 163 | 584 | −506 | +48 | −554 |
| August | 557 | 294 | 851 | 205 | 180 | 25 | 363 | 74 | 289 | −158 | +106 | −264 |
| September | 636 | 471 | 1,107 | 222 | 192 | 30 | 398 | 197 | 201 | −176 | −5 | −171 |
| October | 747 | 536 | 1,283 | 303 | 220 | 83 | 256 | 168 | 88 | +47 | +52 | −5 |
| November | 735 | 647 | 1,382 | 260 | 210 | 50 | 788 | 242 | 546 | −528 | −32 | −496 |
| December | 1,144 | 960 | 2,104 | 961 | 451 | 510 | 1,096 | 481 | 615 | −135 | −30 | −105 |

| 1941 | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| January | 963 | 488 | 1,451 | 882 | 318 | 564 | 547 | 139 | 408 | +335 | +179 | +156 |
| February | 882 | 320 | 1,202 | 650 | 269 | 381 | 385 | 120 | 265 | +265 | +149 | +116 |
| March | 767 | 390 | 1,157 | 394 | 226 | 168 | 226 | 156 | 70 | +168 | +70 | +98 |
| April | 840 | 358 | 1,198 | 397 | 215 | 182 | 439 | 140 | 299 | −42 | +75 | −117 |
| May | 787 | 400 | 1,187 | 544 | 231 | 313 | 444 | 162 | 282 | +100 | +69 | +31 |
| June | 663 | 518 | 1,181 | 597 | 216 | 381 | 221 | 162 | 59 | +376 | +54 | +322 |

[1] Beginning July 1938, in addition to the types of transactions previously classified as "special", the following types have also been excluded from "ordinary" transactions: acquisitions through exercise of rights, warrants, and options; transactions in securities arising from part or full payment of debt previously contracted; transfers under trust agreements; and transactions between family members and affiliated persons.

Data pertaining to periods prior to May 31, 1938, computed on basis of reports received up to July 31, 1938; data pertaining to periods between June 1, 1938, and April 30, 1939, computed on basis of reports received up to May 30, 1939; data pertaining to period after May 1, 1939, computed on the basis of reports received within the calendar month following each month reported. For descriptions of the methods of computation coverage, and limitation of data see "Selected Statistics on Securities and on Exchange Markets," pp. 83 ff.

NOTE.—For back figures, see Sixth Annual Report, table 10, p. 267.

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TABLE 11.—*Ordinary transactions in stocks listed on the New York Stock Exchange reported by officers, directors, and principal stockholders under Section 16 (a) of the Securities Exchange Act of 1934—Monthly averages for the years 1936–40; monthly from July 1939 to June 1941*

| Year or month [1] | Number of transactions | | | Number of shares (in thousands) | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | Purchases | | | Sales | | | Balances | | |
| | Purchases | Sales | Total | All transactions | Transactions under 10,000 shares | Transactions of 10,000 shares or more | All transactions | Transactions under 10,000 shares | Transactions of 10,000 shares or more | All transactions | Transactions under 10,000 shares | Transactions of 10,000 shares or more |
| 1936 monthly average | 538 | 658 | 1,196 | 370 | 162 | 208 | 559 | 282 | 277 | −189 | −120 | −69 |
| 1937 monthly average | 533 | 691 | 1,224 | 309 | 165 | 144 | 631 | 265 | 366 | −322 | −100 | −222 |
| 1938 monthly average | 258 | 546 | 804 | 155 | 69 | 86 | 375 | 236 | 139 | −220 | −167 | −53 |
| 1939 monthly average | 340 | 321 | 661 | 125 | 89 | 36 | 178 | 131 | 47 | −53 | −42 | −11 |
| 1940 monthly average | 383 | 336 | 719 | 166 | 137 | 29 | 208 | 129 | 79 | −42 | +8 | −50 |
| 1939 | | | | | | | | | | | | |
| July | 268 | 300 | 568 | 159 | 89 | 70 | 155 | 94 | 61 | +4 | −5 | +9 |
| August | 328 | 180 | 508 | 81 | 81 | 0 | 93 | 65 | 28 | −12 | +16 | −28 |
| September | 358 | 739 | 1,097 | 86 | 86 | 0 | 546 | 427 | 119 | −460 | −341 | −119 |
| October | 271 | 419 | 690 | 56 | 56 | 0 | 170 | 170 | 0 | −114 | −114 | +0 |
| November | 287 | 288 | 575 | 52 | 52 | 0 | 102 | 102 | 0 | −50 | −50 | +0 |
| December | 454 | 491 | 945 | 142 | 142 | 0 | 309 | 221 | 88 | −167 | −79 | −88 |
| 1940 | | | | | | | | | | | | |
| January | 410 | 330 | 740 | 160 | 115 | 45 | 310 | 128 | 182 | −150 | −13 | −137 |
| February | 307 | 270 | 577 | 138 | 138 | 0 | 192 | 122 | 70 | −54 | +16 | −70 |
| March | 335 | 295 | 630 | 79 | 66 | 13 | 227 | 101 | 126 | −148 | −35 | −113 |
| April | 287 | 517 | 804 | 79 | 63 | 16 | 230 | 103 | 127 | −151 | −40 | −111 |
| May | 827 | 450 | 1,277 | 367 | 305 | 62 | 266 | 250 | 16 | +101 | +55 | +46 |
| June | 374 | 317 | 691 | 206 | 149 | 57 | 114 | 101 | 13 | +92 | +48 | +44 |
| July | 280 | 219 | 499 | 127 | 127 | 0 | 193 | 76 | 117 | −66 | +51 | −117 |
| August | 254 | 126 | 380 | 96 | 96 | 0 | 198 | 33 | 165 | −102 | +63 | −165 |
| September | 291 | 271 | 562 | 98 | 98 | 0 | 90 | 90 | 0 | +8 | +8 | 0 |
| October | 343 | 267 | 610 | 115 | 115 | 0 | 85 | 85 | 0 | +30 | +30 | 0 |
| November | 348 | 402 | 750 | 116 | 116 | 0 | 176 | 146 | 30 | −60 | −30 | −30 |
| December | 542 | 573 | 1,115 | 405 | 255 | 150 | 411 | 308 | 103 | −6 | −53 | +47 |

| 1941 | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| January | 478 | 262 | 740 | 242 | 185 | 57 | 236 | 78 | 158 | +6 | +107 | −101 |
| February | 398 | 155 | 553 | 376 | 126 | 250 | 287 | 66 | 221 | +89 | +60 | +29 |
| March | 329 | 217 | 546 | 168 | 84 | 84 | 128 | 58 | 70 | +40 | +26 | +14 |
| April | 369 | 213 | 582 | 107 | 73 | 34 | 83 | 63 | 20 | +24 | +10 | +14 |
| May | 281 | 205 | 486 | 73 | 73 | 0 | 84 | 74 | 10 | −11 | −1 | −10 |
| June | 307 | 312 | 619 | 142 | 105 | 37 | 142 | 97 | 45 | 0 | +8 | −8 |

[1] Beginning July 1938, in addition to the types of transactions previously classified as "special", the following types have also been excluded from "ordinary" transactions: acquisitions through exercise of rights, warrants, and options; transactions in securities arising from part or full payment of debt previously contracted; transfer under trust agreements; and transfer between family members and affiliated persons. Data pertaining to periods prior to May 31, 1938, computed on basis of reports received up to July 31, 1938; data pertaining to periods between June 1, 1938, and April 30, 1939, computed on basis of reports received up to May 30, 1939; data pertaining to period after May 1, 1939, computed on the basis of reports received within the calendar month following each month reported. For descriptions of the methods of computation, coverage and limitation of data see "Selected Statistics on Securities and on Exchange Markets," pp. 83 ff.

NOTE.—For back figures see Sixth Annual Report, table 11, p. 268.

TABLE 12.—*Brokers and dealers registered under Section 15 of the Securities Exchange Act of 1934—Effective registrations, classified by type of organization* [1]*—Annually for the years 1935–1940; monthly from January 1939 to June 1941*

| End of— | Total | Sole proprietorships | Partnerships | Corporations | Other |
|---|---|---|---|---|---|
| 1935 [2] | 5,326 | 2,048 | 1,537 | 1,732 | 9 |
| 1936 | 6,372 | 2,640 | 1,634 | 2,086 | 12 |
| 1937 | 6,882 | 3,049 | 1,671 | 2,151 | 11 |
| 1938 | 6,815 | 3,160 | 1,586 | 2,062 | 7 |
| 1939 | 6,679 | 3,219 | 1,517 | 1,935 | 8 |
| 1940 | 6,417 | 3,170 | 1,437 | 1,802 | 8 |
| **1939** | | | | | |
| January | 6,772 | 3,148 | 1,579 | 2,038 | 7 |
| February | 6,756 | 3,158 | 1,565 | 2,026 | 7 |
| March | 6,779 | 3,187 | 1,564 | 2,021 | 7 |
| April | 6,801 | 3,217 | 1,551 | 2,026 | 7 |
| May | 6,815 | 3,242 | 1,545 | 2,021 | 7 |
| June | 6,796 | 3,247 | 1,532 | 2,010 | 7 |
| July | 6,783 | 3,254 | 1,529 | 1,993 | 7 |
| August | 6,756 | 3,256 | 1,521 | 1,972 | 7 |
| September | 6,752 | 3,254 | 1,522 | 1,969 | 7 |
| October | 6,750 | 3,258 | 1,519 | 1,966 | 7 |
| November | 6,701 | 3,228 | 1,523 | 1,942 | 8 |
| December | 6,679 | 3,219 | 1,517 | 1,935 | 8 |
| **1940** | | | | | |
| January | 6,629 | 3,192 | 1,505 | 1,924 | 8 |
| February | 6,633 | 3,206 | 1,496 | 1,923 | 8 |
| March | 6,638 | 3,221 | 1,496 | 1,913 | 8 |
| April | 6,618 | 3,224 | 1,491 | 1,896 | 7 |
| May | 6,609 | 3,234 | 1,484 | 1,885 | 6 |
| June | 6,602 | 3,238 | 1,478 | 1,880 | 6 |
| July | 6,561 | 3,215 | 1,470 | 1,870 | 6 |
| August | 6,586 | 3,229 | 1,475 | 1,875 | 7 |
| September | 6,511 | 3,210 | 1,453 | 1,840 | 8 |
| October | 6,472 | 3,197 | 1,448 | 1,819 | 8 |
| November | 6,460 | 3,193 | 1,446 | 1,813 | 8 |
| December | 6,417 | 3,170 | 1,437 | 1,802 | 8 |
| **1941** | | | | | |
| January | 6,389 | 3,157 | 1,437 | 1,787 | 8 |
| February | 6,325 | 3,132 | 1,422 | 1,763 | 8 |
| March | 6,293 | 3,112 | 1,427 | 1,746 | 8 |
| April | 6,265 | 3,095 | 1,422 | 1,740 | 8 |
| May | 6,199 | 3,058 | 1,408 | 1,725 | 8 |
| June | 6,133 | 3,020 | 1,397 | 1,708 | 8 |

[1] Includes domestic and foreign registrants.
[2] January 2, 1936.

TABLE 13.—*Brokers and dealers registered under Section 15 of the Securities Exchange Act of 1934—Monthly changes in effective registrations during the fiscal year ended June 30, 1941, classified by type of organization* [1]

| Month | Total | | | Sole proprietorships | | | Partnerships | | | Corporations [2] | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Added | Canceled | Net change | Added | Canceled | Net change | Added | Canceled | Net change | Added | Canceled | Net change |
| 1940 | | | | | | | | | | | | |
| July | 46 | 87 | −41 | 22 | 45 | −23 | 13 | 21 | −8 | 11 | 21 | −10 |
| August | 49 | 24 | +25 | 25 | 11 | +14 | 13 | 8 | +5 | 11 | 5 | +6 |
| September | 48 | 123 | −75 | 29 | 48 | −19 | 14 | 36 | −22 | 5 | 39 | −34 |
| October | 52 | 91 | −39 | 22 | 35 | −13 | 21 | 26 | −5 | 9 | 30 | −21 |
| November | 45 | 57 | −12 | 28 | 32 | −4 | 11 | 13 | −2 | 6 | 12 | −6 |
| December | 38 | 81 | −43 | 24 | 47 | −23 | 6 | 15 | −9 | 8 | 19 | −11 |
| 1941 | | | | | | | | | | | | |
| January | 73 | 101 | −28 | 38 | 51 | −13 | 25 | 25 | 0 | 10 | 25 | −15 |
| February | 82 | 146 | −64 | 31 | 56 | −25 | 40 | 55 | −15 | 11 | 35 | −24 |
| March | 59 | 91 | −32 | 24 | 44 | −20 | 25 | 20 | +5 | 10 | 27 | −17 |
| April | 57 | 85 | −28 | 29 | 46 | −17 | 19 | 24 | −5 | 9 | 15 | −6 |
| May | 67 | 133 | −66 | 23 | 60 | −37 | 28 | 42 | −14 | 16 | 31 | −15 |
| June | 47 | 113 | −66 | 23 | 61 | −38 | 17 | 28 | −11 | 7 | 24 | −17 |
| | 663 | 1,132 | −469 | 318 | 536 | −218 | 232 | 313 | −81 | 113 | 283 | −170 |

[1] Includes domestic and foreign registrants.
[2] Includes corporations and other forms of organization (except sole proprietorships and partnerships).

NOTE.—For back figures see Sixth Annual Report, p. 269, table 13.

TABLE 14.—*Brokers and dealers registered under Section 15 of the Securities Exchange Act of 1934*[1]*—Effective registrations as of June 30, 1941, classified by type of organization and by location of principal office*

| Location of principal office | Total | | | | | | | | Sole proprietorships | | | | Partnerships | | | | Corporations[2] | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Number of registrants | Number of proprietors, partners, officers, etc.[2] | Number of employees | Number of branch offices | | | | | Number of registrants | Number of proprietors[2] | Number of employees | Number of branch offices, total | Number of registrants | Number of partners, etc.[2] | Number of employees | Number of branch offices, total | Number of registrants | Number of officers, directors, etc.[2] | Number of employees | Number of branch offices, total |
| | | | | Total | Located in— | | | | | | | | | | | | | | | |
| | | | | | Home city | Home State | Other parts of continental U. S. | Abroad | | | | | | | | | | | | |
| Alabama | 25 | 56 | 79 | 5 | 0 | 5 | 0 | 0 | 11 | 11 | 17 | 1 | 5 | 16 | 26 | 4 | 9 | 29 | 36 | 0 |
| Arizona | 7 | 12 | 10 | 0 | 0 | 0 | 0 | 0 | 4 | 4 | 2 | 0 | 2 | 5 | 8 | 0 | 1 | 3 | 0 | 0 |
| Arkansas | 24 | 58 | 63 | 2 | 0 | 1 | 1 | 0 | 13 | 13 | 14 | 0 | 3 | 8 | 13 | 1 | 8 | 37 | 36 | 1 |
| California | 284 | 947 | 3,929 | 218 | 10 | 176 | 31 | 1 | 99 | 99 | 190 | 8 | 80 | 274 | 1,515 | 75 | 105 | 574 | 2,224 | 135 |
| Colorado | 98 | 227 | 333 | 7 | 0 | 4 | 3 | 0 | 56 | 56 | 65 | 1 | 8 | 24 | 77 | 4 | 34 | 147 | 191 | 2 |
| Connecticut | 60 | 187 | 674 | 22 | 0 | 19 | 3 | 0 | 20 | 20 | 71 | 2 | 18 | 59 | 300 | 7 | 22 | 108 | 303 | 13 |
| Delaware | 13 | 52 | 257 | 11 | 1 | 1 | 9 | 0 | 5 | 5 | 1 | 0 | 2 | 20 | 239 | 6 | 6 | 27 | 17 | 5 |
| District of Columbia | 113 | 298 | 836 | 8 | 0 | 1 | 7 | 0 | 62 | 62 | 87 | 1 | 12 | 49 | 250 | 4 | 39 | 187 | 499 | 3 |
| Florida | 49 | 112 | 131 | 12 | 0 | 11 | 1 | 0 | 24 | 24 | 38 | 1 | 3 | 8 | 2 | 0 | 22 | 80 | 91 | 11 |
| Georgia | 42 | 90 | 231 | 18 | 0 | 8 | 10 | 0 | 25 | 25 | 33 | 2 | 5 | 12 | 108 | 11 | 12 | 53 | 90 | 5 |
| Idaho | 14 | 32 | 39 | 2 | 0 | 2 | 0 | 0 | 6 | 6 | 6 | 0 | 2 | 4 | 5 | 0 | 6 | 22 | 28 | 2 |
| Illinois | 362 | 1,187 | 4,590 | 180 | 5 | 43 | 132 | 0 | 122 | 122 | 212 | 11 | 77 | 256 | 1,739 | 94 | 163 | 809 | 2,639 | 75 |
| Indiana | 92 | 216 | 384 | 2 | 0 | 2 | 0 | 0 | 45 | 45 | 184 | 1 | 10 | 20 | 37 | 0 | 37 | 151 | 163 | 1 |
| Iowa | 53 | 158 | 304 | 16 | 0 | 12 | 4 | 0 | 17 | 17 | 51 | 1 | 6 | 15 | 18 | 1 | 30 | 126 | 235 | 14 |
| Kansas | 67 | 154 | 179 | 11 | 0 | 5 | 6 | 0 | 47 | 47 | 29 | 1 | 5 | 11 | 25 | 1 | 15 | 96 | 125 | 9 |
| Kentucky | 18 | 64 | 166 | 3 | 0 | 2 | 1 | 0 | 6 | 6 | 12 | 0 | 4 | 26 | 95 | 3 | 8 | 32 | 59 | 0 |
| Louisiana | 72 | 169 | 261 | 15 | 0 | 1 | 14 | 0 | 37 | 37 | 57 | 1 | 18 | 55 | 118 | 11 | 17 | 77 | 86 | 3 |
| Maine | 39 | 96 | 135 | 1 | 0 | 0 | 1 | 0 | 17 | 17 | 44 | 1 | 1 | 4 | 17 | 0 | 21 | 75 | 74 | 0 |
| Maryland | 76 | 168 | 660 | 21 | 3 | 5 | 13 | 0 | 44 | 44 | 32 | 0 | 21 | 76 | 545 | 15 | 11 | 48 | 83 | 6 |
| Massachusetts | 283 | 852 | 4,370 | 130 | 5 | 33 | 92 | 0 | 147 | 147 | 398 | 8 | 53 | 242 | 2,474 | 79 | 83 | 463 | 1,498 | 43 |
| Michigan | 87 | 310 | 941 | 34 | 1 | 27 | 6 | 0 | 18 | 18 | 98 | 1 | 24 | 85 | 411 | 13 | 45 | 207 | 432 | 20 |
| Minnesota | 70 | 271 | 3,242 | 23 | 1 | 12 | 10 | 0 | 21 | 21 | 48 | 1 | 12 | 34 | 117 | 5 | 37 | 216 | 3,077 | 17 |
| Mississippi | 31 | 42 | 36 | 5 | 0 | 3 | 2 | 0 | 23 | 23 | 23 | 5 | 3 | 6 | 3 | 0 | 5 | 13 | 10 | 0 |
| Missouri | 135 | 465 | 1,274 | 59 | 1 | 11 | 46 | 1 | 40 | 40 | 58 | 1 | 34 | 135 | 555 | 21 | 61 | 290 | 661 | 37 |
| Montana | 15 | 33 | 53 | 1 | 0 | 0 | 1 | 0 | 9 | 9 | 8 | 1 | 0 | 0 | 0 | 0 | 6 | 24 | 45 | 0 |
| Nebraska | 43 | 102 | 136 | 4 | 0 | 4 | 0 | 0 | 23 | 23 | 23 | 1 | 3 | 6 | 4 | 0 | 17 | 73 | 109 | 3 |
| Nevada | 9 | 20 | 4 | 0 | 0 | 0 | 0 | 0 | 6 | 6 | 2 | 0 | 0 | 0 | 0 | 0 | 3 | 14 | 2 | 0 |
| New Hampshire | 6 | 11 | 22 | 0 | 0 | 0 | 0 | 0 | 3 | 3 | 7 | 0 | 2 | 4 | 11 | 0 | 1 | 4 | 4 | 0 |
| New Jersey | 198 | 415 | 497 | 37 | 1 | 12 | 24 | 0 | 124 | 124 | 87 | 8 | 17 | 39 | 93 | 9 | 57 | 252 | 317 | 20 |
| New Mexico | 15 | 17 | 18 | 0 | 0 | 0 | 0 | 0 | 14 | 14 | 17 | 0 | 1 | 3 | 1 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| New York (excluding New York City) | 482 | 750 | 966 | 21 | 3 | 14 | 4 | 0 | 375 | 375 | 287 | 5 | 38 | 108 | 259 | 8 | 69 | 267 | 420 | 8 |
| North Carolina | 21 | 70 | 113 | 6 | 0 | 3 | 3 | 0 | 8 | 8 | 7 | 0 | 1 | 2 | 0 | 0 | 12 | 60 | 106 | 6 |
| North Dakota | 8 | 16 | 11 | 0 | 0 | 0 | 0 | 0 | 5 | 5 | 3 | 0 | 1 | 2 | 0 | 0 | 2 | 9 | 8 | 0 |
| Ohio | 172 | 613 | 1,488 | 76 | 1 | 46 | 29 | 0 | 41 | 41 | 109 | 2 | 51 | 157 | 529 | 17 | 80 | 415 | 850 | 57 |
| Oklahoma | 202 | 285 | 635 | 5 | 0 | 2 | 3 | 0 | 175 | 175 | 148 | 2 | 6 | 19 | 9 | 0 | 21 | 91 | 478 | 3 |
| Oregon | 32 | 97 | 119 | 3 | 0 | 0 | 3 | 0 | 7 | 7 | 23 | 0 | 6 | 13 | 12 | 0 | 19 | 77 | 84 | 3 |
| Pennsylvania | 275 | 837 | 4,081 | 135 | 10 | 67 | 58 | 0 | 97 | 97 | 198 | 3 | 98 | 348 | 1,897 | 70 | 80 | 392 | 1,986 | 62 |
| Rhode Island | 40 | 81 | 201 | 5 | 0 | 0 | 5 | 0 | 21 | 21 | 43 | 1 | 12 | 34 | 99 | 0 | 7 | 26 | 59 | 4 |
| South Carolina | 33 | 77 | 78 | 5 | 0 | 2 | 3 | 0 | 13 | 13 | 14 | 1 | 6 | 16 | 15 | 0 | 14 | 48 | 49 | 4 |
| South Dakota | 8 | 15 | 10 | 0 | 0 | 0 | 0 | 0 | 5 | 5 | 6 | 0 | 1 | 2 | 0 | 0 | 2 | 8 | 4 | 0 |
| Tennessee | 62 | 180 | 404 | 20 | 0 | 11 | 9 | 0 | 27 | 27 | 21 | 0 | 10 | 29 | 70 | 7 | 25 | 124 | 313 | 13 |
| Texas | 249 | 452 | 446 | 29 | 0 | 20 | 9 | 0 | 186 | 186 | 154 | 4 | 23 | 53 | 73 | 4 | 40 | 213 | 219 | 21 |
| Utah | 30 | 92 | 159 | 8 | 0 | 3 | 5 | 0 | 14 | 14 | 10 | 1 | 5 | 28 | 112 | 6 | 11 | 50 | 37 | 1 |
| Vermont | 2 | 12 | 9 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 12 | 9 | 0 |
| Virginia | 30 | 85 | 129 | 5 | 0 | 2 | 3 | 0 | 12 | 12 | 21 | 1 | 7 | 28 | 56 | 0 | 11 | 45 | 52 | 4 |
| Washington | 141 | 294 | 521 | 11 | 1 | 9 | 1 | 0 | 88 | 88 | 102 | 2 | 12 | 25 | 18 | 0 | 41 | 181 | 401 | 9 |
| West Virginia | 12 | 33 | 38 | 3 | 0 | 2 | 1 | 0 | 6 | 6 | 7 | 0 | 4 | 16 | 27 | 3 | 2 | 11 | 4 | 0 |
| Wisconsin | 89 | 294 | 493 | 9 | 1 | 5 | 3 | 0 | 32 | 32 | 30 | 0 | 7 | 16 | 19 | 0 | 50 | 246 | 444 | 9 |
| Wyoming | 4 | 4 | 1 | 0 | 0 | 0 | 0 | 0 | 4 | 4 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total (excluding New York City) | 4,292 | 11,108 | 33,756 | 1,188 | 44 | 586 | 556 | 2 | 2,204 | 2,204 | 3,098 | 80 | 719 | 2,392 | 12,001 | 479 | 1,369 | 6,512 | 18,657 | 629 |
| New York City | 1,790 | 5,067 | 29,141 | 861 | 97 | 95 | 636 | 33 | 791 | 791 | 834 | 22 | 670 | 2,824 | 24,367 | 657 | 329 | 1,452 | 3,940 | 182 |
| Total, including New York City | 6,082 | 16,175 | 62,897 | 2,049 | 141 | 681 | 1,192 | 35 | 2,995 | 2,995 | 3,932 | 102 | 1,389 | 5,216 | 36,368 | 1,136 | 1,698 | 7,964 | 22,597 | 811 |

[1] Domestic registrants only.
[2] Includes corporations and other forms of organization (except sole proprietorships and partnerships).
[3] Includes directors, officers, trustees, and all other persons occupying similar status or performing similar functions.

NOTE.—For similar data relating to previous periods, see Sixth Annual Report, table 14, pp. 270–271.

TABLE 15.—*Brokers and dealers registered under Section 15 of the Securities Exchange Act of 1934* [1]*—Effective registrations as of June 30, 1941, classified by size of establishment (based on number of employees reported) and by location of principal executive office*

| Location of principal office | Registrants reporting | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | No. employees | | From 1 to 4 employees | | | From 5 to 9 employees | | | From 10 to 19 employees | | | From 20 to 49 employees | | | From 50 to 99 employees | | | 100 or more employees | | |
| | Number of registrants | Number of proprietors, partners, officers, etc.[2] | Number of registrants | Number of proprietors, partners, officers, etc.[2] | Number of employees | Number of registrants | Number of proprietors, partners, officers, etc.[2] | Number of employees | Number of registrants | Number of proprietors, partners, officers, etc.[2] | Number of employees | Number of registrants | Number of proprietors, partners, officers, etc.[2] | Number of employees | Number of registrants | Number of proprietors, partners, officers, etc.[2] | Number of employees | Number of registrants | Number of proprietors, partners, officers, etc.[2] | Number of employees |
| Alabama | 4 | 8 | 14 | 24 | 27 | 6 | 21 | 36 | 1 | 3 | 16 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Arizona | 3 | 5 | 4 | 7 | 10 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Arkansas | 8 | 10 | 10 | 24 | 17 | 4 | 15 | 24 | 2 | 9 | 22 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| California | 45 | 72 | 116 | 274 | 252 | 45 | 153 | 307 | 35 | 133 | 453 | 29 | 178 | 941 | 10 | 84 | 670 | 4 | 53 | 1,306 |
| Colorado | 30 | 39 | 50 | 102 | 104 | 9 | 42 | 60 | 6 | 27 | 85 | 3 | 17 | 84 | 0 | 0 | 0 | 0 | 0 | 0 |
| Connecticut | 7 | 14 | 19 | 33 | 46 | 9 | 32 | 61 | 14 | 51 | 180 | 8 | 39 | 206 | 3 | 18 | 181 | 0 | 0 | 0 |
| Delaware | 6 | 16 | 3 | 7 | 4 | 2 | 9 | 14 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 8 | 99 | 1 | 12 | 140 |
| District of Columbia | 36 | 43 | 39 | 77 | 81 | 20 | 65 | 136 | 10 | 46 | 134 | 3 | 16 | 82 | 4 | 39 | 272 | 1 | 12 | 131 |
| Florida | 11 | 14 | 29 | 71 | 59 | 6 | 15 | 40 | 3 | 12 | 32 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Georgia | 6 | 7 | 27 | 51 | 50 | 3 | 7 | 18 | 4 | 15 | 49 | 1 | 7 | 23 | 1 | 3 | 91 | 0 | 0 | 0 |
| Idaho | 2 | 2 | 10 | 22 | 20 | 1 | 3 | 9 | 1 | 5 | 10 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Illinois | 59 | 85 | 173 | 423 | 371 | 48 | 160 | 332 | 31 | 144 | 411 | 34 | 199 | 978 | 8 | 68 | 628 | 9 | 108 | 1,870 |
| Indiana | 24 | 39 | 46 | 92 | 88 | 16 | 63 | 101 | 2 | 9 | 29 | 4 | 13 | 166 | 0 | 0 | 0 | 0 | 0 | 0 |
| Iowa | 5 | 17 | 26 | 55 | 46 | 13 | 45 | 91 | 5 | 22 | 66 | 4 | 19 | 101 | 0 | 0 | 0 | 0 | 0 | 0 |
| Kansas | 33 | 33 | 21 | 46 | 44 | 9 | 41 | 55 | 2 | 8 | 29 | 2 | 26 | 51 | 0 | 0 | 0 | 0 | 0 | 0 |
| Kentucky | 2 | 2 | 8 | 23 | 24 | 2 | 5 | 10 | 3 | 11 | 37 | 3 | 23 | 95 | 0 | 0 | 0 | 0 | 0 | 0 |
| Louisiana | 15 | 20 | 41 | 83 | 85 | 10 | 39 | 62 | 4 | 14 | 47 | 2 | 13 | 67 | 0 | 0 | 0 | 0 | 0 | 0 |
| Maine | 8 | 9 | 20 | 51 | 39 | 7 | 24 | 41 | 4 | 12 | 55 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Maryland | 29 | 35 | 30 | 51 | 58 | 5 | 15 | 33 | 4 | 21 | 53 | 5 | 26 | 164 | 1 | 6 | 82 | 2 | 14 | 270 |
| Massachusetts | 56 | 104 | 120 | 218 | 271 | 37 | 91 | 249 | 29 | 92 | 366 | 28 | 164 | 890 | 4 | 30 | 242 | 9 | 153 | 2,343 |
| Michigan | 9 | 20 | 35 | 101 | 79 | 10 | 48 | 71 | 14 | 47 | 185 | 17 | 71 | 484 | 2 | 23 | 122 | 0 | 0 | 0 |
| Minnesota | 13 | 22 | 28 | 78 | 50 | 18 | 72 | 109 | 4 | 19 | 56 | 3 | 31 | 108 | 3 | 24 | 180 | 1 | 25 | 2,739 |
| Mississippi | 10 | 11 | 20 | 30 | 30 | 1 | 1 | 6 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Missouri | 22 | 44 | 52 | 123 | 113 | 26 | 88 | 172 | 14 | 63 | 193 | 16 | 112 | 487 | 5 | 35 | 309 | 0 | 0 | 0 |
| Montana | 7 | 11 | 7 | 15 | 14 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 7 | 39 | 0 | 0 | 0 | 0 | 0 | 0 |
| Nebraska | 12 | 14 | 21 | 39 | 40 | 7 | 34 | 46 | 2 | 12 | 30 | 1 | 3 | 20 | 0 | 0 | 0 | 0 | 0 | 0 |
| Nevada | 6 | 12 | 3 | 8 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| New Hampshire | 1 | 1 | 3 | 7 | 6 | 1 | 1 | 6 | 1 | 2 | 10 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| New Jersey | 99 | 119 | 66 | 167 | 144 | 24 | 90 | 154 | 6 | 20 | 73 | 2 | 12 | 65 | 1 | 7 | 61 | 0 | 0 | 0 |
| New Mexico | 8 | 8 | 6 | 8 | 7 | 0 | 0 | 0 | 1 | 1 | 11 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| New York (excl. N. Y. C.) | 263 | 291 | 169 | 282 | 335 | 29 | 74 | 182 | 13 | 56 | 181 | 7 | 36 | 203 | 1 | 11 | 65 | 0 | 0 | 0 |
| North Carolina | 4 | 7 | 12 | 27 | 23 | 2 | 6 | 13 | 1 | 5 | 10 | 2 | 25 | 67 | 0 | 0 | 0 | 0 | 0 | 0 |
| North Dakota | 4 | 5 | 3 | 5 | 6 | 1 | 6 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Ohio | 17 | 55 | 70 | 176 | 163 | 44 | 154 | 279 | 20 | 98 | 261 | 16 | 98 | 454 | 4 | 28 | 229 | 1 | 4 | 102 |
| Oklahoma | 114 | 127 | 79 | 119 | 133 | 4 | 12 | 26 | 3 | 12 | 43 | 1 | 1 | 27 | 0 | 0 | 0 | 1 | 14 | 406 |
| Oregon | 3 | 8 | 17 | 45 | 38 | 9 | 31 | 51 | 3 | 13 | 30 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Pennsylvania | 40 | 54 | 102 | 238 | 198 | 49 | 132 | 332 | 34 | 135 | 469 | 35 | 173 | 1,033 | 11 | 73 | 770 | 4 | 32 | 1,279 |
| Rhode Island | 5 | 11 | 24 | 39 | 50 | 7 | 17 | 49 | 2 | 5 | 30 | 1 | 4 | 21 | 1 | 5 | 51 | 0 | 0 | 0 |
| South Carolina | 10 | 20 | 20 | 42 | 43 | 2 | 9 | 10 | 0 | 0 | 0 | 1 | 6 | 25 | 0 | 0 | 0 | 0 | 0 | 0 |
| South Dakota | 3 | 4 | 5 | 11 | 10 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Tennessee | 20 | 25 | 23 | 51 | 51 | 9 | 33 | 53 | 5 | 23 | 62 | 3 | 19 | 84 | 2 | 29 | 154 | 0 | 0 | 0 |
| Texas | 128 | 156 | 96 | 177 | 173 | 14 | 46 | 93 | 8 | 55 | 110 | 3 | 18 | 70 | 0 | 0 | 0 | 0 | 0 | 0 |
| Utah | 8 | 8 | 17 | 49 | 33 | 3 | 14 | 24 | 0 | 0 | 0 | 1 | 17 | 28 | 1 | 4 | 74 | 0 | 0 | 0 |
| Vermont | 0 | 0 | 1 | 4 | 1 | 1 | 8 | 8 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Virginia | 4 | 10 | 19 | 40 | 41 | 3 | 12 | 19 | 3 | 17 | 44 | 1 | 6 | 25 | 0 | 0 | 0 | 0 | 0 | 0 |
| Washington | 43 | 47 | 75 | 143 | 146 | 14 | 56 | 92 | 7 | 34 | 97 | 0 | 0 | 0 | 1 | 10 | 65 | 1 | 4 | 121 |
| West Virginia | 1 | 1 | 9 | 23 | 16 | 1 | 4 | 6 | 1 | 5 | 16 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Wisconsin | 16 | 24 | 49 | 126 | 94 | 13 | 56 | 88 | 5 | 33 | 66 | 4 | 26 | 121 | 2 | 29 | 124 | 0 | 0 | 0 |
| Wyoming | 3 | 3 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total, excluding New York City | 1,262 | 1,692 | 1,838 | 3,908 | 3,738 | 544 | 1,849 | 3,573 | 307 | 1,289 | 4,051 | 241 | 1,405 | 7,218 | 66 | 534 | 4,469 | 34 | 481 | 10,707 |
| New York City | 599 | 850 | 665 | 1,380 | 1,306 | 166 | 525 | 1,089 | 117 | 451 | 1,623 | 116 | 640 | 3,633 | 63 | 443 | 4,353 | 64 | 778 | 17,137 |
| Total, including New York City | 1,861 | 2,542 | 2,503 | 5,288 | 5,044 | 710 | 2,374 | 4,662 | 424 | 1,740 | 5,674 | 357 | 2,045 | 10,851 | 129 | 977 | 8,822 | 98 | 1,209 | 27,844 |

[1] Domestic registrants only.
[2] Includes sole proprietors, partners, directors, officers, trustees, and all other persons occupying a similar status or performing similar functions.

NOTE.—For similar data relating to previous periods, see Sixth Annual Report, table, 15, pp. 272–3.

TABLE 16.—*Brokers and dealers registered under Section 15 of the Securities Exchange Act of 1934* [1]*—Effective registrations as of June 30, 1941, classified by type of credit extension and by type of business*

| Type of credit extension | Type of business | Number of registrants | Number of proprietors, partners, officers, etc.[2] | Number of employees | Average number of personnel per registrant [3] |
|---|---|---|---|---|---|
| Total, all registrants | Total | 6,082 | 16,175 | 62,897 | 13.0 |
| | Dealers | 1,009 | 2,366 | 3,984 | 6.3 |
| | Brokers | 586 | 1,330 | 5,965 | 12.4 |
| | Combination [4] | 4,448 | 12,352 | 51,966 | 14.5 |
| | Other [5] | 39 | 127 | 982 | 28.4 |
| Registrants not extending credit to customers in any form. | Total | 4,703 | 10,602 | 21,496 | 6.8 |
| | Dealers | 888 | 1,908 | 2,987 | 5.5 |
| | Brokers | 424 | 743 | 880 | 3.8 |
| | Combination [4] | 3,360 | 7,859 | 16,750 | 7.3 |
| | Other [5] | 31 | 92 | 879 | 31.3 |
| Registrants carrying margin accounts for customers, but extending no other credit facilities. | Total | 792 | 3,319 | 25,497 | 36.4 |
| | Dealers | 12 | 23 | 36 | 4.9 |
| | Brokers | 124 | 450 | 3,549 | 32.3 |
| | Combination [4] | 655 | 2,844 | 21,911 | 37.8 |
| | Other [5] | 1 | 2 | 1 | 3.0 |
| Registrants selling securities to customers on partial payment contracts, but extending no other credit facilities. | Total | 209 | 579 | 1,732 | 11.1 |
| | Dealers | 63 | 200 | 287 | 7.7 |
| | Brokers | 15 | 27 | 74 | 6.7 |
| | Combination [4] | 126 | 330 | 1,295 | 12.9 |
| | Other [5] | 5 | 22 | 76 | 19.6 |
| Registrants extending credit facilities to customers, other than through margin accounts and through sale of securities on partial payment contracts. | Total | 191 | 839 | 2,908 | 19.6 |
| | Dealers | 33 | 174 | 648 | 24.9 |
| | Brokers | 6 | 28 | 65 | 15.5 |
| | Combination [4] | 150 | 626 | 2,169 | 18.6 |
| | Other [5] | 2 | 11 | 26 | 18.5 |
| Registrants carrying margin accounts for customers and selling securities on partial payment contracts, but extending no other credit facilities. | Total | 39 | 110 | 310 | 10.8 |
| | Dealers | 2 | 3 | 1 | 2.0 |
| | Brokers | 1 | 1 | 3 | 4.0 |
| | Combination [4] | 36 | 106 | 306 | 11.4 |
| | Other [5] | 0 | 0 | 0 | 0.0 |
| Registrants extending credit to customers in all forms, except through sale of securities on partial payment contracts. | Total | 93 | 537 | 7,806 | 89.7 |
| | Dealers | 1 | 4 | 0 | 4.0 |
| | Brokers | 13 | 78 | 1,393 | 113.2 |
| | Combination [4] | 79 | 455 | 6,413 | 86.9 |
| | Other [5] | 0 | 0 | 0 | 0.0 |
| Registrants extending credit to customers in all forms, except through carrying of margin accounts. | Total | 35 | 139 | 2,971 | 88.9 |
| | Dealers | 10 | 54 | 25 | 7.9 |
| | Brokers | 2 | 2 | 1 | 1.5 |
| | Combination [4] | 23 | 83 | 2,945 | 131.7 |
| | Other [5] | 0 | 0 | 0 | 0.0 |
| Registrants extending credit to customers in all forms. | Total | 20 | 50 | 177 | 11.4 |
| | Dealers | 0 | 0 | 0 | 0.0 |
| | Brokers | 1 | 1 | 0 | 1.0 |
| | Combination [4] | 19 | 49 | 177 | 11.9 |
| | Other [5] | 0 | 0 | 0 | 0.0 |

[1] Domestic registrants only.
[2] Includes sole proprietors, partners, directors, officers, trustees, and all other persons occupying a similar status or performing similar functions.
[3] Number of proprietors, partners, officers, etc., plus number of employees, divided by number of registrants.
[4] Brokers and dealers.
[5] Registrants claiming to be neither brokers nor dealers.

NOTE.—For similar data relating to previous periods, see Sixth Annual Report, table 16, p. 274.

TABLE 17.—*Brokers and dealers registered under Section 15 of the Securities Exchange Act of 1934* [1]*—Effective registrations as of June 30, 1941, of brokers and dealers engaged in or qualified to engage in the sale of fractional oil and gas royalties and other fractional or undivided interests in oil and gas rights, classified by type of organization and by location of principal office*

| Location of principal office | Total | | | Sole proprietorships | | | Partnerships | | | Corporations [2] | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Number of registrants | Number of proprietors, partners, officers, etc. [3] | Number of employees | Number of registrants | Number of proprietors [3] | Number of employees | Number of registrants | Number of partners, etc. [3] | Number of employees | Number of registrants | Number of officers, directors, etc. [3] | Number of employees |
| Alabama | 3 | 5 | 1 | 2 | 2 | 1 | 0 | 0 | 0 | 1 | 3 | 0 |
| Arizona | 1 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Arkansas | 3 | 3 | 0 | 3 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| California | 47 | 100 | 190 | 28 | 28 | 38 | 3 | 6 | 65 | 16 | 66 | 87 |
| Colorado | 10 | 20 | 11 | 8 | 8 | 6 | 0 | 0 | 0 | 2 | 12 | 5 |
| Connecticut | 4 | 6 | 14 | 3 | 3 | 6 | 0 | 0 | 0 | 1 | 3 | 8 |
| Delaware | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| District of Columbia | 22 | 28 | 33 | 19 | 19 | 29 | 1 | 3 | 1 | 2 | 6 | 3 |
| Florida | 9 | 15 | 15 | 7 | 7 | 5 | 0 | 0 | 0 | 2 | 8 | 10 |
| Georgia | 2 | 2 | 0 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Idaho | 1 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Illinois | 30 | 48 | 83 | 24 | 24 | 15 | 2 | 8 | 35 | 4 | 16 | 33 |
| Indiana | 6 | 8 | 3 | 5 | 5 | 0 | 0 | 0 | 0 | 1 | 3 | 3 |
| Iowa | 1 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Kansas | 38 | 44 | 15 | 37 | 37 | 8 | 0 | 0 | 0 | 1 | 7 | 7 |
| Kentucky | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Louisiana | 16 | 25 | 18 | 12 | 12 | 9 | 1 | 2 | 1 | 3 | 11 | 8 |
| Maine | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Maryland | 5 | 9 | 4 | 4 | 4 | 1 | 0 | 0 | 0 | 1 | 5 | 3 |
| Massachusetts | 16 | 19 | 25 | 14 | 14 | 22 | 1 | 2 | 1 | 1 | 3 | 2 |
| Michigan | 5 | 7 | 2 | 4 | 4 | 2 | 0 | 0 | 0 | 1 | 3 | 0 |
| Minnesota | 5 | 12 | 10 | 3 | 3 | 0 | 0 | 0 | 0 | 2 | 9 | 10 |
| Mississippi | 15 | 20 | 10 | 11 | 11 | 5 | 3 | 6 | 3 | 1 | 3 | 2 |
| Missouri | 11 | 11 | 3 | 11 | 11 | 3 | 0 | 0 | 0 | 0 | 0 | 0 |
| Montana | 5 | 8 | 4 | 4 | 4 | 2 | 0 | 0 | 0 | 1 | 4 | 2 |
| Nebraska | 3 | 3 | 0 | 3 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Nevada | 3 | 5 | 1 | 2 | 2 | 1 | 0 | 0 | 0 | 1 | 3 | 0 |
| New Hampshire | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| New Jersey | 35 | 41 | 27 | 32 | 32 | 17 | 0 | 0 | 0 | 3 | 9 | 10 |
| New Mexico | 10 | 10 | 5 | 10 | 10 | 5 | 0 | 0 | 0 | 0 | 0 | 0 |
| New York (excluding New York City) | 114 | 155 | 143 | 95 | 95 | 58 | 7 | 17 | 24 | 12 | 43 | 61 |
| North Carolina | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| North Dakota | 4 | 9 | 5 | 3 | 3 | 0 | 0 | 0 | 0 | 1 | 6 | 5 |
| Ohio | 5 | 9 | 9 | 4 | 4 | 4 | 0 | 0 | 0 | 1 | 5 | 5 |
| Oklahoma | 190 | 259 | 607 | 167 | 167 | 142 | 5 | 17 | 8 | 18 | 75 | 457 |
| Oregon | 3 | 11 | 14 | 1 | 1 | 8 | 0 | 0 | 0 | 2 | 10 | 6 |
| Pennsylvania | 19 | 36 | 74 | 10 | 10 | 28 | 5 | 14 | 33 | 4 | 12 | 13 |
| Rhode Island | 3 | 3 | 13 | 3 | 3 | 13 | 0 | 0 | 0 | 0 | 0 | 0 |
| South Carolina | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| South Dakota | 2 | 2 | 0 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Tennessee | 13 | 13 | 5 | 13 | 13 | 5 | 0 | 0 | 0 | 0 | 0 | 0 |
| Texas | 141 | 217 | 180 | 122 | 122 | 85 | 7 | 17 | 8 | 12 | 78 | 87 |
| Utah | 3 | 8 | 11 | 0 | 0 | 0 | 2 | 5 | 8 | 1 | 3 | 3 |
| Vermont | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Virginia | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Washington | 12 | 12 | 11 | 12 | 12 | 11 | 0 | 0 | 0 | 0 | 0 | 0 |
| West Virginia | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Wisconsin | 1 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Wyoming | 1 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total, excluding New York City | 817 | 1,188 | 1,546 | 685 | 685 | 529 | 37 | 97 | 187 | 95 | 466 | 830 |
| New York City | 140 | 238 | 266 | 99 | 99 | 101 | 9 | 22 | 33 | 32 | 117 | 132 |
| Total, including New York City | 957 | 1,426 | 1,812 | 784 | 784 | 630 | 46 | 119 | 220 | 127 | 523 | 962 |

[1] Domestic registrants only.
[2] Includes corporations and other forms of organization (except sole proprietorships and partnerships).
[3] Includes directors, officers, trustees, and all other persons occupying a similar status or performing similar functions.

NOTE.—For similar data relating to previous periods, see Sixth Annual Report, table 17, p. 275.

TABLE 18.—*Market value and volume of sales on all registered securities exchanges* [1]*—grand totals, by exchanges, for the year ended June 30, 1941*

| | Totals | Stocks [2] | | Bonds [3] | | Rights and warrants | |
|---|---|---|---|---|---|---|---|
| | Market value (thousands of dollars) | Market value (thousands of dollars) | Number of shares (thousands) | Market value (thousands of dollars) | Principal amount (thousands of dollars) | Market value (thousands of dollars) | Number of units (thousands) |
| Total all registered exchanges | 7,204,495 | 5,897,410 | 260,457 | 1,303,559 | 2,312,275 | 3,526 | 3,864 |
| Baltimore Stock Exchange | 5,810 | 5,021 | 283 | 789 | 1,870 | | |
| Boston Stock Exchange | 129,005 | 127,930 | 3,623 | 1,075 | 2,341 | (5) | 6 |
| Chicago Board of Trade [4] | 18 | 18 | 15 | 0 | 0 | | |
| Chicago Stock Exchange [4] | 127,607 | 127,490 | 5,598 | 116 | 99 | 1 | 76 |
| Cincinnati Stock Exchange | 7,156 | 6,850 | 277 | 101 | 109 | 205 | 71 |
| Cleveland Stock Exchange | 11,639 | 11,512 | 479 | 0 | 0 | 127 | 35 |
| Detroit Stock Exchange | 22,525 | 22,524 | 2,296 | | | 1 | (6) |
| Los Angeles Stock Exchange | 31,047 | 31,044 | 3,207 | 0 | 0 | 3 | 21 |
| New Orleans Stock Exchange | 379 | 320 | 56 | 59 | 56 | | |
| New York Curb Exchange | 656,065 | 429,870 | 31,510 | 224,928 | 266,260 | 1,267 | 1,405 |
| New York Real Estate Securities Exchange [4] | 7 | 0 | 0 | 7 | 16 | | |
| New York Stock Exchange | 6,079,320 | 5,001,700 | 196,076 | 1,075,735 | 2,040,310 | 1,885 | 2,207 |
| Philadelphia Stock Exchange | 56,704 | 56,703 | 2,730 | 1 | 1 | (5) | 3 |
| Pittsburgh Stock Exchange | 12,765 | 12,762 | 929 | 3 | 3 | | |
| St. Louis Stock Exchange | 3,383 | 3,042 | 210 | 327 | 732 | 14 | 13 |
| Salt Lake Stock Exchange | 915 | 915 | 6,257 | | | | |
| San Francisco Mining Exchange | 107 | 107 | 2,097 | | | | |
| San Francisco Stock Exchange | 58,985 | 58,869 | 4,088 | 93 | 170 | 23 | 27 |
| Standard Stock Exchange of Spokane | 168 | 168 | 712 | | | | |
| Washington Stock Exchange | 890 | 565 | 14 | 325 | 308 | | |

[1] The rounding off of monthly figures results in some slight discrepancies between totals contained in this table and totals derived by adding the monthly figures in the succeeding tables.

[2] "Stocks" include voting-trust certificates, American depository receipts, and certificates of deposit for stocks.

[3] "Bonds" include mortgage certificates and certificates of deposit for bonds.

[4] Trading suspended by the exchange in all issues May 14, 1941, and the exchange closed June 16, 1941.

[5] $500 or less.

[6] 500 units or less.

NOTE.—Value and volume of sales on registered securities exchanges are reported in connection with fees paid under sec. 31 of the Securities Exchange Act of 1934. For most exchanges the figures represent transactions cleared during the calendar month. Figures in this and other tables differ in some cases from comparable figures in the monthly releases due to revision of data by exchanges. For earlier data see the Sixth Annual Report of the Commission, pp. 276–283; the Fifth Annual Report, pp. 222–227; the Fourth Annual Report, pp. 166–171; the Third Annual Report, insert facing p. 156; the Second Annual Report, insert facing p. 116; and the First Annual Report, pp. 87–91.

TABLE 19.—*Market value of total sales on all registered securities exchanges, monthly, July 1940 to June 1941, inclusive*

[Thousands of dollars]

| | 1940 | | | | | | 1941 | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | July | August | September | October | November | December | January | February | March | April | May | June |
| Total all registered exchanges | 402,249 | 387,970 | 567,442 | 706,584 | 991,058 | 831,615 | 760,828 | 494,820 | 502,199 | 549,948 | 503,714 | 506,067 |
| Baltimore Stock Exchange | 354 | 324 | 300 | 415 | 570 | 655 | 529 | 548 | 503 | 609 | 599 | 405 |
| Boston Stock Exchange | 8,946 | 8,609 | 10,141 | 12,159 | 16,441 | 14,924 | 11,900 | 9,022 | 9,054 | 9,633 | 9,523 | 8,654 |
| Chicago Board of Trade | 1 | 1 | (1) | 3 | (1) | 1 | 2 | 1 | 1 | 1 | 2 | 4 |
| Chicago Stock Exchange | 6,632 | 7,045 | 10,124 | 13,195 | 16,973 | 14,343 | 12,641 | 10,403 | 8,923 | 9,880 | 8,626 | 7,822 |
| Cincinnati Stock Exchange | 487 | 366 | 451 | 682 | 797 | 657 | 746 | 669 | 404 | 542 | 686 | 719 |
| Cleveland Stock Exchange | 508 | 567 | 864 | 1,198 | 1,909 | 1,491 | 1,259 | 648 | 696 | 702 | 518 | 1,279 |
| Detroit Stock Exchange | 1,356 | 1,561 | 2,133 | 2,243 | 3,079 | 2,476 | 2,387 | 1,644 | 1,378 | 1,719 | 1,303 | 1,248 |
| Los Angeles Stock Exchange | 2,556 | 1,945 | 2,324 | 2,571 | 3,697 | 3,230 | 3,215 | 2,153 | 2,272 | 2,705 | 2,372 | 2,006 |
| New Orleans Stock Exchange | 15 | 14 | 20 | 44 | 55 | 31 | 39 | 16 | 18 | 39 | 46 | 43 |
| New York Curb Exchange | 43,674 | 35,400 | 46,472 | 63,538 | 72,752 | 78,258 | 67,951 | 46,342 | 53,975 | 55,486 | 45,989 | 46,277 |
| New York Real Estate Securities Exchange | 0 | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 |
| New York Stock Exchange | 329,882 | 324,042 | 485,822 | 598,725 | 858,982 | 700,050 | 644,450 | 412,503 | 414,912 | 457,577 | 424,462 | 428,412 |
| Philadelphia Stock Exchange | 3,007 | 3,280 | 4,033 | 5,167 | 6,241 | 6,996 | 5,981 | 4,824 | 4,370 | 5,228 | 4,000 | 3,576 |
| Pittsburgh Stock Exchange | 616 | 701 | 826 | 1,177 | 1,865 | 1,725 | 1,434 | 897 | 842 | 1,040 | 739 | 903 |
| St. Louis Stock Exchange | 203 | 207 | 276 | 278 | 328 | 450 | 370 | 243 | 234 | 261 | 266 | 269 |
| Salt Lake Stock Exchange | 43 | 46 | 48 | 61 | 201 | 96 | 61 | 76 | 72 | 76 | 66 | 66 |
| San Francisco Mining Exchange | 21 | 11 | 6 | 7 | 6 | 13 | 8 | 6 | 6 | 10 | 6 | 5 |
| San Francisco Stock Exchange | 3,867 | 3,799 | 3,999 | 5,029 | 7,067 | 6,103 | 6,790 | 4,758 | 4,446 | 4,320 | 3,522 | 4,284 |
| Standard Stock Exchange of Spokane | 3 | 5 | 18 | 10 | 14 | 8 | 9 | 19 | 32 | 14 | 23 | 14 |
| Washington Stock Exchange | 78 | 47 | 81 | 82 | 81 | 108 | 56 | 48 | 58 | 106 | 66 | 81 |

[1] $500 or less.

TABLE 20.—*Market value of stock sales on all registered securities exchanges, monthly, July 1940 to June 1941, inclusive*

[Thousands of dollars]

| | 1940 | | | | | | 1941 | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | July | August | September | October | November | December | January | February | March | April | May | June |
| Total all registered exchanges | 320,803 | 320,811 | 471,641 | 590,735 | 876,129 | 706,105 | 613,053 | 403,250 | 383,266 | 416,582 | 384,360 | 410,776 |
| Baltimore Stock Exchange | 300 | 291 | 247 | 343 | 496 | 596 | 438 | 480 | 443 | 533 | 513 | 342 |
| Boston Stock Exchange | 8,785 | 8,425 | 10,050 | 12,074 | 16,383 | 14,828 | 11,820 | 8,985 | 8,897 | 9,589 | 9,475 | 8,610 |
| Chicago Board of Trade | 1 | 1 | (1) | 3 | (1) | 1 | 2 | 1 | 1 | 1 | 2 | 4 |
| Chicago Stock Exchange | 6,632 | 7,040 | 10,124 | 13,170 | 18,905 | 14,327 | 13,641 | 10,403 | 8,921 | 9,880 | 8,626 | 7,822 |
| Cincinnati Stock Exchange | 482 | 358 | 446 | 672 | 788 | 636 | 742 | 664 | 404 | 537 | 576 | 545 |
| Cleveland Stock Exchange | 508 | 567 | 772 | 1,163 | 1,909 | 1,491 | 1,259 | 648 | 696 | 702 | 518 | 1,279 |
| Detroit Stock Exchange | 1,356 | 1,561 | 2,133 | 2,242 | 3,079 | 2,476 | 2,387 | 1,644 | 1,378 | 1,719 | 1,303 | 1,248 |
| Los Angeles Stock Exchange | 2,556 | 1,944 | 2,324 | 2,571 | 3,697 | 3,230 | 3,215 | 2,153 | 2,272 | 2,705 | 2,371 | 2,006 |
| New Orleans Stock Exchange | 8 | 13 | 10 | 40 | 49 | 22 | 24 | 16 | 18 | 34 | 45 | 42 |
| New York Curb Exchange | 28,052 | 22,079 | 30,320 | 42,343 | 53,597 | 56,267 | 45,518 | 30,942 | 31,493 | 32,185 | 27,423 | 29,651 |
| New York Real Estate Securities Exchange | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| New York Stock Exchange | 264,352 | 270,471 | 405,915 | 504,383 | 763,482 | 596,796 | 519,344 | 336,483 | 318,785 | 347,707 | 323,885 | 350,146 |
| Philadelphia Stock Exchange | 3,007 | 3,280 | 4,033 | 5,167 | 6,241 | 6,995 | 5,981 | 4,824 | 4,370 | 5,228 | 4,000 | 3,576 |
| Pittsburgh Stock Exchange | 616 | 701 | 826 | 1,177 | 1,865 | 1,724 | 1,434 | 896 | 842 | 1,039 | 739 | 903 |
| St. Louis Stock Exchange | 188 | 183 | 250 | 244 | 290 | 430 | 344 | 233 | 204 | 237 | 244 | 196 |
| Salt Lake Stock Exchange | 43 | 46 | 48 | 61 | 201 | 96 | 61 | 76 | 72 | 76 | 66 | 66 |
| San Francisco Mining Exchange | 21 | 11 | 6 | 7 | 6 | 13 | 8 | 6 | 6 | 10 | 6 | 5 |
| San Francisco Stock Exchange | 3,865 | 3,797 | 3,980 | 5,005 | 7,059 | 6,093 | 6,781 | 4,746 | 4,439 | 4,311 | 4,509 | 4,284 |
| Standard Stock Exchange of Spokane | 3 | 5 | 18 | 10 | 14 | 8 | 9 | 19 | 32 | 14 | 23 | 14 |
| Washington Stock Exchange | 28 | 38 | 39 | 60 | 68 | 66 | 45 | 31 | 43 | 75 | 36 | 37 |

[1] $500 or less.

TABLE 21.—*Volume of stock sales on all registered securities exchanges, monthly, July 1940 to June 1941, inclusive*

[Thousands of shares]

| | 1940 | | | | | | 1941 | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | July | August | September | October | November | December | January | February | March | April | May | June |
| Total all registered exchanges | 15,117 | 14,144 | 20,378 | 23,721 | 36,827 | 32,309 | 25,723 | 18,169 | 18,442 | 20,113 | 17,564 | 17,951 |
| Baltimore Stock Exchange | 22 | 15 | 20 | 23 | 30 | 33 | 20 | 34 | 21 | 26 | 27 | 14 |
| Boston Stock Exchange | 215 | 218 | 268 | 315 | 474 | 483 | 333 | 249 | 253 | 301 | 264 | 249 |
| Chicago Board of Trade | 2 | 2 | 1 | 2 | 1 | 1 | 2 | 1 | 1 | 1 | 2 | 1 |
| Chicago Stock Exchange | 280 | 308 | 434 | 553 | 690 | 717 | 566 | 438 | 401 | 438 | 395 | 377 |
| Cincinnati Stock Exchange | 17 | 13 | 23 | 24 | 37 | 30 | 27 | 25 | 22 | 22 | 19 | 19 |
| Cleveland Stock Exchange | 24 | 25 | 34 | 49 | 69 | 59 | 52 | 27 | 32 | 34 | 28 | 45 |
| Detroit Stock Exchange | 159 | 134 | 205 | 196 | 297 | 236 | 217 | 173 | 199 | 184 | 151 | 145 |
| Los Angeles Stock Exchange | 196 | 289 | 258 | 265 | 290 | 380 | 399 | 207 | 290 | 277 | 178 | 178 |
| New Orleans Stock Exchange | 1 | 3 | 2 | 10 | 10 | 5 | 5 | 4 | 2 | 6 | 7 | 2 |
| New York Curb Exchange | 2,335 | 1,661 | 2,102 | 2,615 | 4,010 | 4,842 | 3,137 | 2,395 | 2,271 | 2,111 | 1,979 | 2,052 |
| New York Real Estate Securities Exchange | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| New York Stock Exchange | 10,828 | 10,420 | 15,923 | 18,309 | 29,040 | 23,690 | 19,367 | 13,147 | 13,073 | 15,343 | 13,194 | 13,740 |
| Philadelphia Stock Exchange | 138 | 156 | 180 | 231 | 337 | 369 | 264 | 224 | 189 | 243 | 182 | 167 |
| Pittsburgh Stock Exchange | 46 | 46 | 58 | 86 | 88 | 148 | 144 | 80 | 78 | 56 | 47 | 53 |
| St. Louis Stock Exchange | 13 | 13 | 17 | 17 | 23 | 29 | 22 | 14 | 14 | 16 | 17 | 13 |
| Salt Lake Stock Exchange | 341 | 385 | 306 | 394 | 808 | 430 | 411 | 664 | 892 | 565 | 596 | 465 |
| San Francisco Mining Exchange | 226 | 137 | 125 | 167 | 87 | 355 | 268 | 124 | 228 | 134 | 155 | 90 |
| San Francisco Stock Exchange | 257 | 307 | 358 | 362 | 464 | 452 | 431 | 289 | 297 | 296 | 303 | 273 |
| Standard Stock Exchange of Spokane | 16 | 11 | 63 | 52 | 70 | 49 | 57 | 73 | 178 | 58 | 19 | 67 |
| Washington Stock Exchange | 1 | 1 | 1 | 1 | 2 | 1 | 1 | 1 | 1 | 2 | 1 | 1 |

TABLE 22.—*Market value of bond sales on all registered securities exchanges, monthly, July 1940 to June 1941, inclusive*

[Thousands of dollars]

| | 1940 | | | | | | 1941 | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | July | August | September | October | November | December | January | February | March | April | May | June |
| Total all registered exchanges | 81,388 | 67,057 | 94,701 | 114,881 | 114,606 | 125,383 | 147,634 | 91,476 | 118,851 | 133,274 | 119,252 | 95,055 |
| Baltimore Stock Exchange | 54 | 33 | 53 | 72 | 74 | 59 | 91 | 68 | 60 | 76 | 86 | 63 |
| Boston Stock Exchange | 161 | 184 | 91 | 85 | 58 | 86 | 80 | 37 | 157 | 44 | 48 | 44 |
| Chicago Board of Trade | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Chicago Stock Exchange | 0 | 5 | 0 | 25 | 68 | 16 | 0 | 0 | 2 | 0 | 0 | 0 |
| Cincinnati Stock Exchange | 5 | 8 | 5 | 10 | 9 | 21 | 4 | 5 | 0 | 5 | 19 | 10 |
| Cleveland Stock Exchange | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Los Angeles Stock Exchange | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| New Orleans Stock Exchange | 7 | 1 | 10 | 4 | 6 | 9 | 15 | 0 | 0 | 5 | 1 | 1 |
| New York Curb Exchange | 15,565 | 13,221 | 16,067 | 21,082 | 18,837 | 21,876 | 22,311 | 15,330 | 22,416 | 23,213 | 18,456 | 16,554 |
| New York Real Estate Securities Exchange | 0 | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 |
| New York Stock Exchange | 65,530 | 53,571 | 78,397 | 93,532 | 95,500 | 103,243 | 125,090 | 75,999 | 96,182 | 109,887 | 100,577 | 78,266 |
| Philadelphia Stock Exchange | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| Pittsburgh Stock Exchange | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 0 |
| St. Louis Stock Exchange | 14 | 24 | 25 | 34 | 33 | 19 | 23 | 7 | 29 | 23 | 22 | 73 |
| San Francisco Stock Exchange | 2 | 1 | 7 | 15 | 8 | 10 | 9 | 12 | 7 | 9 | 13 | 0 |
| Washington Stock Exchange | 50 | 9 | 42 | 22 | 13 | 42 | 11 | 17 | 15 | 31 | 30 | 44 |

TABLE 23.—*Principal amount of bond sales on all registered securities exchanges, monthly, July 1940 to June 1941, inclusive*

[Thousands of dollars]

| | 1940 | | | | | | 1941 | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | July | August | September | October | November | December | January | February | March | April | May | June |
| Total all registered exchanges | 121,857 | 99,101 | 148,956 | 185,154 | 186,432 | 248,906 | 276,042 | 148,219 | 235,872 | 269,892 | 218,628 | 173,216 |
| Baltimore Stock Exchange | 143 | 99 | 152 | 183 | 177 | 139 | 208 | 163 | 127 | 155 | 187 | 138 |
| Boston Stock Exchange | 330 | 477 | 195 | 150 | 84 | 130 | 172 | 82 | 381 | 115 | 127 | 97 |
| Chicago Board of Trade | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Chicago Stock Exchange | 0 | 4 | 0 | 21 | 59 | 14 | 0 | 0 | 2 | 0 | 0 | 0 |
| Cincinnati Stock Exchange | 5 | 8 | 6 | 11 | 10 | 23 | 5 | 5 | 0 | 5 | 20 | 11 |
| Cleveland Stock Exchange | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Los Angeles Stock Exchange | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| New Orleans Stock Exchange | 7 | 1 | 9 | 4 | 6 | 8 | 14 | 0 | 0 | 5 | 1 | 1 |
| New York Curb Exchange | 19,062 | 16,040 | 19,257 | 24,966 | 21,929 | 27,000 | 26,850 | 17,848 | 25,894 | 26,794 | 21,238 | 19,381 |
| New York Real Estate Securities Exchange | 0 | 0 | 8 | 0 | 0 | 0 | 0 | 0 | 8 | 0 | 0 | 0 |
| New York Stock Exchange | 102,228 | 82,424 | 129,205 | 159,704 | 164,080 | 221,475 | 248,732 | 130,068 | 209,379 | 242,720 | 196,932 | 153,363 |
| Philadelphia Stock Exchange | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| Pittsburgh Stock Exchange | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 0 |
| St. Louis Stock Exchange | 30 | 39 | 72 | 62 | 62 | 59 | 32 | 14 | 53 | 50 | 75 | 184 |
| San Francisco Stock Exchange | 4 | 1 | 11 | 32 | 12 | 17 | 20 | 21 | 14 | 18 | 20 | 0 |
| Washington Stock Exchange | 48 | 8 | 41 | 21 | 13 | 39 | 9 | 17 | 14 | 29 | 28 | 41 |

TABLE 24.—*Market value of right and warrant sales on all registered securities exchanges, monthly, July 1940 to June 1941, inclusive*

[Thousands of dollars]

| | 1940 | | | | | | 1941 | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | July | August | September | October | November | December | January | February | March | April | May | June |
| Total all registered exchanges | 58 | 102 | 1,200 | 968 | 323 | 127 | 141 | 94 | 82 | 92 | 102 | 236 |
| Boston Stock Exchange | 0 | 0 | 0 | 0 | 0 | 0 | (1) | 0 | (1) | 0 | 0 | 0 |
| Chicago Stock Exchange | 0 | 0 | 0 | 0 | 0 | 0 | 0 | (1) | (1) | 0 | 0 | 0 |
| Cincinnati Stock Exchange | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 41 | 164 |
| Cleveland Stock Exchange | 0 | 0 | 92 | 35 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Detroit Stock Exchange | 0 | 0 | (1) | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Los Angeles Stock Exchange | (1) | 1 | (1) | 0 | (1) | (1) | (1) | (1) | 0 | 0 | 1 | 0 |
| New York Curb Exchange | 57 | 100 | 85 | 113 | 318 | 115 | 122 | 70 | 66 | 88 | 60 | 72 |
| New York Stock Exchange | 0 | 0 | 1,010 | 810 | 0 | 11 | 16 | 21 | 15 | 3 | 0 | 0 |
| Philadelphia Stock Exchange | 0 | 0 | 0 | 0 | 0 | 0 | (1) | 0 | 0 | 0 | 0 | 0 |
| St. Louis Stock Exchange | 1 | (1) | 1 | (1) | 5 | 1 | 3 | 3 | 1 | 1 | 0 | (1) |
| San Francisco Stock Exchange | (1) | 1 | 12 | 9 | 0 | (1) | (1) | (1) | (1) | 0 | (1) | 0 |

[1] $500 or less.

TABLE 25.—*Volume of right and warrant sales on all registered securities exchanges, monthly, July 1940 to June 1941, inclusive*

[Thousands of units]

| | 1940 | | | | | | 1941 | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | July | August | September | October | November | December | January | February | March | April | May | June |
| Total all registered exchanges | 74 | 70 | 350 | 285 | 195 | 694 | 822 | 387 | 727 | 105 | 55 | 101 |
| Boston Stock Exchange | 0 | 0 | 0 | 0 | 0 | 0 | 6 | 0 | (1) | 0 | 0 | 0 |
| Chicago Stock Exchange | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4 | 71 | 0 | 0 | 0 |
| Cincinnati Stock Exchange | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 14 | 57 |
| Cleveland Stock Exchange | 0 | 0 | 27 | 9 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Detroit Stock Exchange | 0 | 0 | (1) | (1) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Los Angeles Stock Exchange | 1 | 17 | (1) | 0 | (1) | (1) | (1) | (1) | 0 | 0 | 1 | 0 |
| New York Curb Exchange | 71 | 41 | 35 | 60 | 191 | 640 | 114 | 45 | 34 | 91 | 40 | 43 |
| New York Stock Exchange | 0 | 0 | 283 | 213 | 0 | 53 | 697 | 334 | 616 | 13 | 0 | 0 |
| Philadelphia Stock Exchange | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 |
| St. Louis Stock Exchange | 1 | (1) | 1 | (1) | 4 | (1) | 2 | 2 | 1 | 1 | 0 | 1 |
| San Francisco Stock Exchange | 1 | 12 | 4 | 3 | 0 | 1 | (1) | 2 | 5 | 0 | (1) | 0 |

[1] 500 units or less.

TABLE 26.—*Round-lot stock transactions* [1] *on the New York Stock Exchange for the account of members and nonmembers, by weeks, July 1, 1940, to June 28, 1941*

[Thousands of shares]

| Week ended Saturday | All round-lot sales | | Round-lot transactions for the account of members [2] | | | | | | | | | | | | Round-lot transactions for the account of nonmembers | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Transactions of specialists in stocks in which they are registered | | | Transactions for the odd-lot accounts of specialists and odd-lot dealers | | | Other transactions initiated on the floor | | | Other transactions initiated off the floor | | | | | |
| | Total | Short [3] | Purchases | Sales | | Purchases | Sales | | Purchases | Sales | | Purchases | Sales | | Purchases | Sales | |
| | | | | Total | Short [3] | | Total | Short [3] | | Total | Short [3] | | Total | Short [3] | | Total | Short [3] |
| *1940* | | | | | | | | | | | | | | | | | |
| July 6 | 1,483 | 60 | 136 | 133 | 27 | 65 | 36 | (4) | 82 | 73 | 9 | 42 | 50 | 7 | 1,158 | 1,191 | 17 |
| 13 | 1,601 | 64 | 138 | 145 | 29 | 67 | 47 | (4) | 67 | 74 | 11 | 57 | 46 | 5 | 1,272 | 1,289 | 19 |
| 20 | 1,724 | 67 | 180 | 176 | 31 | 74 | 50 | (4) | 85 | 87 | 12 | 50 | 69 | 9 | 1,335 | 1,342 | 15 |
| 27 | 1,326 | 55 | 112 | 113 | 23 | 59 | 46 | (4) | 45 | 52 | 10 | 42 | 61 | 4 | 1,068 | 1,054 | 18 |
| Aug. 3 | 2,358 | 102 | 277 | 262 | 46 | 87 | 69 | (4) | 155 | 133 | 15 | 91 | 78 | 8 | 1,748 | 1,816 | 33 |
| 10 | 1,584 | 51 | 151 | 133 | 22 | 70 | 55 | (4) | 71 | 64 | 7 | 87 | 52 | 5 | 1,205 | 1,280 | 17 |
| 17 | 1,950 | 86 | 173 | 208 | 27 | 77 | 65 | 0 | 98 | 117 | 13 | 58 | 68 | 10 | 1,544 | 1,492 | 36 |
| 24 | 1,820 | 86 | 190 | 183 | 30 | 47 | 58 | (4) | 118 | 104 | 15 | 68 | 65 | 10 | 1,197 | 1,210 | 31 |
| 31 | 2,050 | 79 | 231 | 200 | 33 | 63 | 72 | (4) | 163 | 121 | 10 | 74 | 90 | 10 | 1,519 | 1,567 | 26 |
| Sept. 7 | 3,754 | 143 | 435 | 423 | 63 | 111 | 84 | (4) | 284 | 288 | 24 | 110 | 131 | 8 | 2,814 | 2,828 | 48 |
| 14 | 2,356 | 83 | 266 | 264 | 29 | 71 | 78 | (4) | 140 | 150 | 10 | 80 | 68 | 7 | 1,799 | 1,796 | 37 |
| 21 | 2,401 | 92 | 243 | 242 | 36 | 71 | 84 | (4) | 159 | 145 | 18 | 90 | 94 | 5 | 1,838 | 1,836 | 33 |
| 28 | 3,722 | 138 | 376 | 401 | 59 | 105 | 121 | (4) | 196 | 215 | 26 | 114 | 133 | 12 | 2,931 | 2,852 | 41 |
| Oct. 5 | 3,552 | 158 | 394 | 389 | 55 | 95 | 125 | (4) | 254 | 221 | 27 | 122 | 160 | 28 | 2,787 | 2,757 | 48 |
| 12 | 2,265 | 85 | 205 | 205 | 38 | 74 | 91 | (4) | 105 | 123 | 16 | 61 | 86 | 12 | 1,820 | 1,760 | 19 |
| 19 | 3,280 | 124 | 341 | 316 | 52 | 92 | 120 | (4) | 242 | 190 | 23 | 111 | 109 | 14 | 2,494 | 2,545 | 35 |
| 26 | 3,401 | 100 | 326 | 307 | 43 | 104 | 107 | (4) | 177 | 189 | 16 | 95 | 100 | 11 | 2,699 | 2,698 | 30 |
| Nov. 2 | 5,204 | 166 | 464 | 466 | 72 | 142 | 134 | (4) | 263 | 296 | 31 | 140 | 158 | 25 | 4,195 | 4,150 | 38 |
| 9 | 8,124 | 303 | 800 | 855 | 130 | 238 | 130 | (4) | 489 | 514 | 56 | 210 | 239 | 23 | 6,387 | 6,386 | 94 |
| 16 | 5,942 | 190 | 586 | 614 | 99 | 204 | 97 | (4) | 468 | 454 | 40 | 130 | 179 | 10 | 4,554 | 4,598 | 41 |
| 23 | 3,283 | 99 | 320 | 329 | 46 | 123 | 90 | (4) | 198 | 210 | 18 | 73 | 97 | 5 | 2,569 | 2,557 | 30 |
| 30 | 3,528 | 113 | 287 | 287 | 49 | 133 | 94 | (4) | 168 | 186 | 19 | 94 | 116 | 8 | 2,846 | 2,845 | 37 |
| Dec. 7 | 3,381 | 82 | 279 | 229 | 41 | 123 | 96 | (4) | 149 | 134 | 13 | 89 | 144 | 12 | 2,741 | 2,778 | 16 |
| 14 | 4,579 | 87 | 356 | 322 | 52 | 155 | 121 | (4) | 190 | 174 | 13 | 141 | 134 | 10 | 3,737 | 3,828 | 12 |
| 21 | 4,654 | 91 | 289 | 288 | 45 | 156 | 129 | (4) | 133 | 125 | 12 | 120 | 134 | 17 | 3,956 | 3,978 | 17 |
| 28 | 5,240 | 85 | 386 | 292 | 47 | 180 | 126 | (4) | 158 | 108 | 7 | 143 | 184 | 25 | 4,373 | 4,530 | 6 |

| 1941 | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Jan. 4 | 3,997 | 109 | 326 | 368 | 59 | 185 | 109 | (4) | | 164 | 181 | 12 | 96 | 159 | 22 | 3,226 | 3,180 | 16 |
| 11 | 4,107 | 140 | 378 | 426 | 60 | 182 | 102 | (4) | | 227 | 263 | 26 | 143 | 163 | 23 | 3,177 | 3,153 | 31 |
| 18 | 2,971 | 107 | 244 | 276 | 49 | 133 | 79 | (4) | | 117 | 138 | 13 | 93 | 112 | 13 | 2,384 | 2,366 | 32 |
| 25 | 2,744 | 109 | 274 | 251 | 47 | 114 | 79 | (4) | | 160 | 142 | 21 | 100 | 93 | 12 | 2,096 | 2,179 | 29 |
| Feb. 1 | 3,203 | 112 | 252 | 281 | 47 | 130 | 113 | (4) | | 115 | 157 | 16 | 76 | 118 | 11 | 2,630 | 2,534 | 38 |
| 8 | 2,403 | 119 | 236 | 223 | 45 | 95 | 97 | (4) | | 121 | 113 | 25 | 92 | 66 | 13 | 1,859 | 1,904 | 36 |
| 15 | 2,389 | 95 | 208 | 242 | 38 | 95 | 90 | (4) | | 98 | 98 | 15 | 74 | 97 | 11 | 2,414 | 2,362 | 31 |
| 22 | 2,020 | 122 | 182 | 187 | 48 | 75 | 73 | (4) | | 81 | 76 | 20 | 58 | 88 | 13 | 1,624 | 1,596 | 41 |
| Mar. 1 | 2,057 | 122 | 219 | 220 | 53 | 82 | 70 | (4) | | 124 | 120 | 23 | 60 | 66 | 8 | 1,572 | 1,581 | 38 |
| 8 | 2,005 | 92 | 220 | 192 | 41 | 75 | 68 | (4) | | 132 | 122 | 15 | 71 | 88 | 6 | 1,507 | 1,535 | 30 |
| 15 | 2,693 | 95 | 293 | 293 | 42 | 100 | 84 | (4) | | 213 | 199 | 18 | 81 | 134 | 8 | 2,006 | 1,983 | 27 |
| 22 | 2,739 | 111 | 222 | 257 | 40 | 115 | 91 | (4) | | 155 | 193 | 27 | 74 | 103 | 12 | 2,173 | 2,095 | 32 |
| 29 | 2,766 | 94 | 202 | 192 | 34 | 101 | 109 | (4) | | 156 | 140 | 25 | 86 | 102 | 9 | 2,221 | 2,223 | 26 |
| Apr. 5 | 3,413 | 104 | 302 | 299 | 44 | 109 | 119 | (4) | | 206 | 199 | 20 | 100 | 129 | 8 | 2,696 | 2,667 | 32 |
| 12 | 2,499 | 75 | 197 | 212 | 27 | 91 | 85 | (4) | | 108 | 129 | 11 | 81 | 87 | 4 | 2,022 | 1,986 | 33 |
| 19 | 2,628 | 109 | 218 | 226 | 43 | 94 | 90 | (4) | | 139 | 147 | 14 | 67 | 86 | 6 | 2,110 | 2,079 | 46 |
| 26 | 2,543 | 104 | 222 | 217 | 41 | 81 | 112 | (4) | | 133 | 126 | 18 | 63 | 74 | 9 | 2,044 | 2,014 | 36 |
| May 3 | 2,280 | 94 | 195 | 197 | 35 | 74 | 98 | (4) | | 113 | 113 | 21 | 82 | 70 | 7 | 1,816 | 1,802 | 31 |
| 10 | 3,340 | 114 | 292 | 263 | 51 | 97 | 110 | (4) | | 226 | 206 | 24 | 118 | 118 | 7 | 2,607 | 2,643 | 32 |
| 17 | 2,252 | 81 | 173 | 189 | 34 | 83 | 79 | 0 | | 107 | 133 | 18 | 53 | 78 | 6 | 1,836 | 1,773 | 23 |
| 24 | 2,174 | 74 | 190 | 176 | 30 | 59 | 100 | (4) | | 121 | 112 | 14 | 62 | 65 | 8 | 1,742 | 1,721 | 22 |
| 31 | 1,565 | 48 | 135 | 133 | 21 | 46 | 79 | (4) | | 82 | 73 | 8 | 36 | 46 | 3 | 1,266 | 1,234 | 16 |
| June 7 | 2,311 | 72 | 199 | 196 | 33 | 70 | 103 | (4) | | 139 | 131 | 16 | 100 | 81 | 6 | 1,803 | 1,800 | 17 |
| 14 | 3,163 | 110 | 323 | 311 | 50 | 84 | 117 | (4) | | 197 | 190 | 24 | 102 | 101 | 6 | 2,457 | 2,444 | 30 |
| 21 | 2,376 | 65 | 194 | 203 | 34 | 87 | 90 | (4) | | 114 | 106 | 10 | 81 | 61 | 5 | 1,900 | 1,916 | 16 |
| 28 | 2,870 | 93 | 261 | 252 | 45 | 77 | 96 | (4) | | 169 | 166 | 26 | 78 | 86 | 4 | 2,285 | 2,270 | 18 |

[1] Round-lot transactions are transactions in the unit of trading or multiples thereof; the unit of trading on the New York Stock Exchange is 100 shares for most stocks, and 10 shares for certain inactive stocks.

[2] The term "members" includes all members, their firms and their partners.

[3] Round-lot short sales which are exempted from restriction by the Commission's and Exchange's rules are not included in these figures.

[4] 500 shares or less. For the 52-week period figures in this column totaled 4,000 shares.

NOTE.—For earlier data see the Sixth Annual Report of the Commission, p. 283; the Fifth Annual Report, p. 228; the Fourth Annual Report, p. 162; and the Third Annual Report, p. 152.

TABLE 27.—*Round-lot and odd-lot stock transactions* [1] *on the New York Curb Exchange for the account of members and nonmembers, by weeks, July 1, 1940–June 28, 1941*

[Thousands of shares]

| Week ended Saturday | All round-lot sales | | Round-lot transactions for the account of members [2] | | | | | | | | | Round-lot transactions for the account of nonmembers | | | Odd-lot transactions for the account of customers [2] | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Transactions of specialists in stocks in which they are registered [3] | | | Other transactions initiated on the floor | | | Other transactions initated off the floor | | | | | | | | |
| | Total | Short [4] | Purchases | Sales | | Purchases | Sales | | Purchases | Sales | | Purchases | Sales | | Purchases | Sales | |
| | | | | Total | Short [4] | | Total | Short [4] | | Total | Short [4] | | Total | Short [4] | | Total | Short [4] |
| *1940* | | | | | | | | | | | | | | | | | |
| July 6 | 333 | 2 | 31 | 38 | 1 | 6 | 4 | (5) | 10 | 13 | (5) | 286 | 278 | 1 | 15 | 21 | 0 |
| 13 | 465 | 5 | 41 | 59 | 2 | 11 | 8 | 1 | 16 | 14 | 1 | 397 | 384 | 1 | 18 | 36 | 0 |
| 20 | 346 | 3 | 41 | 49 | 2 | 9 | 11 | 1 | 14 | 16 | (5) | 282 | 270 | (5) | 16 | 32 | 0 |
| 27 | 353 | 3 | 34 | 51 | 2 | 6 | 4 | (5) | 8 | 18 | 1 | 305 | 280 | (5) | 16 | 29 | (5) |
| Aug. 3 | 400 | 4 | 53 | 57 | 3 | 13 | 14 | (5) | 14 | 16 | 1 | 320 | 313 | (5) | 18 | 33 | 0 |
| 10 | 322 | 4 | 27 | 43 | 2 | 5 | 8 | 1 | 12 | 9 | 1 | 278 | 262 | (5) | 17 | 29 | 0 |
| 17 | 342 | 2 | 32 | 53 | 1 | 6 | 9 | (5) | 8 | 12 | 1 | 296 | 268 | 0 | 18 | 28 | (5) |
| 24 | 284 | 3 | 36 | 37 | 2 | 8 | 6 | (5) | 12 | 15 | 1 | 228 | 226 | (5) | 13 | 26 | 0 |
| 31 | 267 | 3 | 28 | 48 | 2 | 7 | 7 | 1 | 7 | 12 | (5) | 225 | 200 | (5) | 15 | 30 | (5) |
| Sept. 7 | 504 | 4 | 50 | 80 | 3 | 19 | 18 | (5) | 23 | 14 | (5) | 412 | 392 | 1 | 23 | 43 | 0 |
| 14 | 343 | 4 | 36 | 62 | 3 | 6 | 6 | 0 | 11 | 15 | 1 | 290 | 260 | (5) | 20 | 32 | 0 |
| 21 | 407 | 5 | 48 | 54 | 4 | 10 | 8 | (5) | 14 | 16 | (5) | 335 | 329 | 1 | 19 | 40 | (5) |
| 28 | 493 | 4 | 62 | 80 | 3 | 11 | 11 | (5) | 12 | 16 | 1 | 408 | 386 | (5) | 26 | 45 | (5) |
| Oct. 5 | 488 | 6 | 48 | 71 | 4 | 16 | 13 | 1 | 15 | 19 | (5) | 409 | 385 | (5) | 23 | 45 | 0 |
| 12 | 421 | 5 | 33 | 75 | 4 | 9 | 10 | (5) | 14 | 11 | (5) | 365 | 325 | 1 | 18 | 39 | (5) |
| 19 | 503 | 7 | 63 | 63 | 5 | 17 | 15 | 1 | 19 | 19 | (5) | 404 | 406 | 1 | 23 | 46 | (5) |
| 26 | 534 | 7 | 59 | 73 | 3 | 15 | 12 | 1 | 21 | 22 | 2 | 439 | 427 | 1 | 28 | 49 | 0 |
| Nov. 2 | 769 | 10 | 74 | 95 | 5 | 22 | 29 | 1 | 20 | 24 | 4 | 653 | 621 | (5) | 38 | 60 | 0 |
| 9 | 1,206 | 18 | 126 | 149 | 10 | 39 | 40 | 2 | 25 | 43 | 2 | 1,016 | 974 | 4 | 51 | 64 | 0 |
| 16 | 857 | 16 | 83 | 111 | 11 | 29 | 32 | 3 | 22 | 34 | 1 | 723 | 680 | 1 | 45 | 52 | (5) |
| 23 | 524 | 10 | 65 | 65 | 9 | 15 | 10 | (5) | 13 | 15 | (5) | 431 | 434 | 1 | 27 | 42 | 0 |
| 30 | 767 | 9 | 70 | 108 | 7 | 13 | 14 | 1 | 19 | 27 | 1 | 665 | 618 | (5) | 33 | 54 | (5) |
| Dec. 7 | 751 | 4 | 75 | 78 | 3 | 16 | 7 | 0 | 18 | 20 | 1 | 642 | 646 | 0 | 32 | 55 | 0 |
| 14 | 910 | 7 | 76 | 92 | 4 | 19 | 13 | 1 | 23 | 29 | 1 | 792 | 776 | 1 | 34 | 75 | 0 |
| 21 | 1,049 | 6 | 71 | 110 | 5 | 21 | 13 | (5) | 27 | 26 | 1 | 930 | 900 | (5) | 37 | 74 | (5) |
| 28 | 1,117 | 7 | 77 | 87 | 7 | 20 | 9 | (5) | 31 | 31 | (5) | 989 | 990 | (5) | 35 | 79 | (5) |
| *1941* | | | | | | | | | | | | | | | | | |
| Jan. 4 | 783 | 6 | 76 | 95 | 4 | 19 | 24 | 1 | 24 | 31 | 1 | 664 | 633 | (5) | 33 | 57 | 0 |
| 11 | 652 | 6 | 70 | 92 | 3 | 14 | 16 | 1 | 33 | 29 | 1 | 535 | 515 | 1 | 37 | 44 | (5) |

| | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 18 | 546 | 8 | 51 | 99 | 6 | 10 | 17 | (5) | | 35 | 25 | 2 | 450 | 405 | (5) | | 30 | 39 | | 0 |
| | 25 | 497 | 6 | 51 | 60 | 4 | 10 | 19 | | 1 | 23 | 21 | 1 | 413 | 397 | (5) | | 27 | 41 | (5) | |
| Feb. | 1 | 580 | 5 | 51 | 85 | 4 | 7 | 12 | | 0 | 29 | 24 | 1 | 493 | 459 | (5) | | 30 | 44 | (5) | |
| | 8 | 455 | 4 | 47 | 58 | 3 | 8 | 8 | (5) | | 12 | 14 | 1 | 388 | 375 | (5) | | 24 | 38 | | 0 |
| | 15 | 734 | 13 | 44 | 98 | 7 | 19 | 26 | | 5 | 22 | 21 | (5) | 649 | 589 | | 1 | 29 | 39 | | 0 |
| | 22 | 429 | 6 | 36 | 46 | 4 | 10 | 9 | | 2 | 13 | 13 | (5) | 370 | 361 | (5) | | 18 | 28 | | 0 |
| Mar. | 1 | 417 | 6 | 44 | 46 | 5 | 16 | 9 | (5) | | 20 | 15 | 1 | 337 | 347 | (5) | | 18 | 33 | | 0 |
| | 8 | 373 | 3 | 36 | 50 | 2 | 7 | 10 | | 0 | 21 | 10 | 1 | 309 | 303 | (5) | | 15 | 30 | (5) | |
| | 15 | 555 | 4 | 52 | 69 | 3 | 18 | 21 | | 1 | 51 | 28 | (5) | 434 | 437 | (5) | | 20 | 40 | | 0 |
| | 22 | 479 | 4 | 48 | 65 | 3 | 13 | 10 | (5) | | 20 | 14 | 1 | 398 | 390 | (5) | | 27 | 37 | | 0 |
| | 29 | 504 | 5 | 39 | 61 | 4 | 8 | 11 | | 0 | 8 | 12 | (5) | 449 | 420 | | 1 | 22 | 38 | (5) | |
| Apr. | 5 | 501 | 8 | 54 | 60 | 5 | 11 | 7 | | 0 | 19 | 14 | 1 | 417 | 420 | | 2 | 23 | 39 | | 0 |
| | 12 | 367 | 5 | 31 | 51 | 2 | 5 | 6 | | 0 | 11 | 19 | 2 | 320 | 291 | | 1 | 21 | 29 | (5) | |
| | 19 | 390 | 6 | 28 | 62 | 4 | 3 | 8 | (5) | | 14 | 8 | 1 | 345 | 312 | | 1 | 18 | 34 | | 0 |
| | 26 | 390 | 3 | 36 | 43 | 3 | 3 | 1 | (5) | | 12 | 9 | (5) | 339 | 337 | (5) | | 18 | 36 | | 0 |
| May | 3 | 388 | 2 | 33 | 50 | 2 | 6 | 7 | (5) | | 17 | 11 | 0 | 332 | 320 | | 0 | 17 | 38 | | 0 |
| | 10 | 442 | 5 | 44 | 58 | 4 | 8 | 6 | (5) | | 23 | 16 | (5) | 367 | 362 | | 1 | 21 | 40 | | 0 |
| | 17 | 446 | 4 | 31 | 56 | 3 | 7 | 4 | (5) | | 25 | 14 | (5) | 383 | 372 | | 1 | 18 | 33 | (5) | |
| | 24 | 373 | 6 | 33 | 52 | 4 | 6 | 6 | | 1 | 13 | 7 | (5) | 321 | 308 | | 1 | 17 | 33 | | 0 |
| | 31 | 239 | 2 | 21 | 29 | 2 | 4 | 4 | (5) | | 8 | 11 | (5) | 206 | 195 | (5) | | 11 | 26 | | 0 |
| June | 7 | 464 | 7 | 43 | 50 | 4 | 15 | 9 | (5) | | 15 | 15 | 2 | 391 | 390 | | 1 | 20 | 36 | (5) | |
| | 14 | 497 | 6 | 48 | 59 | 3 | 10 | 10 | (5) | | 12 | 15 | 2 | 427 | 413 | | 1 | 22 | 37 | | 0 |
| | 21 | 380 | 4 | 33 | 53 | 3 | 4 | 5 | | 0 | 10 | 12 | 0 | 333 | 310 | | 1 | 17 | 33 | | 0 |
| | 28 | 462 | 7 | 48 | 60 | 5 | 7 | 5 | (5) | | 13 | 12 | 1 | 394 | 385 | | 1 | 22 | 36 | | 0 |

[1] Round-lot transactions are transactions in the unit of trading or multiples thereof, while odd-lot transactions are transactions involving less than the unit of trading. The unit of trading on the New York Curb Exchange is not the same in all stocks, but ranges from 10 to 100 shares. Transactions in rights and warrants are not included in these data, although ticker volumes for the New York Curb Exchange include such transactions

[2] The term "members" includes all regular and associate members, their firms, and their partners.

[3] On the New York Curb Exchange odd-lot transactions are handled solely by specialists in stocks in which they are registered and the round-lot transactions of specialists resulting from such odd-lot transactions are not segregated from the specialists' other round-lot trades. However, on the New York Stock Exchange all but a fraction of the odd-lot transactions are effected by dealers engaged solely in the odd-lot business. As a result, the round-lot transactions of specialists in stocks in which they are registered are not directly comparable on the 2 exchanges.

[4] Short sales which are exempted from restriction by the Commission's and Exchange's rules are not included in these figures.

[5] 500 shares or less.

NOTE.—For earlier data see the Sixth Annual Report of the Commission, p 285; the Fifth Annual Report, p. 230; the Fourth Annual Report, p. 164; and the Third Annual Report, p. 154.

TABLE 28.—*Odd-lot stock transactions on the New York Stock Exchange for the odd-lot account of odd-lot dealers and specialists, by weeks, July 1, 1940 to June 28, 1941*

| Week ended Saturday | Purchases by customers from odd-lot dealers and specialists | | | Sales by customers to odd-lot dealers and specialists | | | | |
|---|---|---|---|---|---|---|---|---|
| | | | | Total | | | Customers' short sales [1] | |
| | Number of orders | Shares | Market value | Number of orders | Shares | Market value | Number of orders | Shares |
| *1940* | | | | | | | | |
| July 6 | 9,574 | 237,421 | 8,513,425 | 8,175 | 200,272 | 6,711,069 | 190 | 6,323 |
| 13 | 10,063 | 250,161 | 9,247,444 | 10,452 | 249,407 | 8,422,499 | 255 | 5,939 |
| 20 | 10,744 | 274,640 | 10,301,448 | 10,385 | 248,675 | 8,388,961 | 190 | 4,968 |
| 27 | 8,451 | 208,636 | 7,869,378 | 9,115 | 215,081 | 6,887,670 | 279 | 7,596 |
| Aug. 3 | 12,465 | 328,513 | 12,239,493 | 12,624 | 314,920 | 10,303,117 | 292 | 8,118 |
| 10 | 9,939 | 249,865 | 9,314,210 | 10,196 | 240,372 | 7,737,309 | 177 | 5,192 |
| 17 | 12,077 | 302,196 | 11,130,666 | 12,474 | 307,396 | 10,296,852 | 417 | 11,492 |
| 24 | 8,812 | 220,877 | 7,891,117 | 10,319 | 245,443 | 7,755,083 | 379 | 9,610 |
| 31 | 10,130 | 268,272 | 9,361,358 | 11,953 | 287,331 | 8,655,030 | 301 | 6,847 |
| Sept. 7 | 17,566 | 482,717 | 15,857,806 | 17,400 | 446,361 | 13,690,270 | 384 | 10,690 |
| 14 | 12,663 | 324,883 | 12,075,238 | 13,937 | 347,087 | 11,735,707 | 374 | 8,823 |
| 21 | 11,444 | 299,818 | 11,439,338 | 13,183 | 308,590 | 10,540,118 | 346 | 9,935 |
| 28 | 17,034 | 464,726 | 16,872,105 | 19,298 | 487,068 | 15,781,337 | 482 | 12,627 |
| Oct. 5 | 16,386 | 439,630 | 16,571,884 | 18,865 | 476,997 | 16,014,271 | 406 | 11,503 |
| 12 | 11,985 | 310,912 | 13,041,021 | 14,151 | 350,216 | 12,790,642 | 274 | 6,640 |
| 19 | 14,230 | 385,144 | 16,108,616 | 16,297 | 415,081 | 14,670,591 | 287 | 8,312 |
| 26 | 15,330 | 419,021 | 16,479,946 | 16,740 | 423,581 | 14,591,902 | 321 | 7,834 |
| Nov. 2 | 23,971 | 655,212 | 24,888,024 | 23,382 | 609,717 | 20,936,474 | 390 | 10,248 |
| 9 | 32,667 | 951,024 | 33,438,578 | 29,507 | 813,196 | 26,895,644 | 874 | 22,158 |
| 16 | 25,945 | 731,302 | 25,892,339 | 22,951 | 617,219 | 20,103,409 | 392 | 10,819 |
| 23 | 16,482 | 438,711 | 17,491,016 | 15,994 | 416,408 | 15,197,368 | 217 | 7,315 |
| 30 | 17,077 | 471,966 | 18,053,366 | 17,026 | 446,156 | 15,320,432 | 369 | 9,773 |
| Dec. 7 | 15,722 | 415,451 | 16,442,887 | 15,890 | 399,721 | 13,301,610 | 234 | 4,312 |
| 14 | 19,001 | 515,778 | 20,563,333 | 19,704 | 497,019 | 16,640,201 | 204 | 4,931 |
| 21 | 19,456 | 544,471 | 20,352,993 | 19,862 | 517,858 | 16,410,735 | 229 | 5,204 |
| 28 | 20,126 | 566,673 | 20,398,259 | 18,327 | 536,030 | 15,791,963 | 68 | 2,198 |
| *1941* | | | | | | | | |
| Jan. 4 | 20,718 | 554,911 | 20,519,651 | 15,878 | 419,767 | 13,121,352 | 220 | 5,107 |
| 11 | 20,844 | 558,155 | 21,277,610 | 18,353 | 462,837 | 15,477,971 | 336 | 6,118 |
| 18 | 17,420 | 456,738 | 18,033,465 | 16,465 | 409,450 | 14,487,010 | 246 | 6,520 |
| 25 | 15,371 | 397,263 | 16,177,699 | 15,225 | 379,857 | 13,653,695 | 256 | 6,427 |
| Feb. 1 | 17,993 | 469,709 | 18,040,846 | 17,990 | 470,179 | 16,200,564 | 343 | 9,527 |
| 8 | 14,816 | 370,216 | 15,226,628 | 14,315 | 343,415 | 11,810,220 | 349 | 9,197 |
| 15 | 16,291 | 417,674 | 15,444,485 | 16,303 | 411,533 | 13,490,263 | 245 | 6,742 |
| 22 | 12,706 | 313,808 | 11,510,878 | 12,566 | 310,455 | 10,161,311 | 422 | 11,717 |
| Mar. 1 | 11,809 | 300,156 | 11,228,494 | 12,817 | 300,540 | 9,741,059 | 345 | 8,496 |
| 8 | 11,545 | 292,459 | 11,722,289 | 11,758 | 283,845 | 9,388,796 | 266 | 5,773 |
| 15 | 13,649 | 358,811 | 13,412,460 | 13,367 | 332,517 | 10,389,636 | 267 | 6,422 |
| 22 | 13,818 | 358,233 | 13,171,202 | 13,046 | 326,543 | 9,935,725 | 270 | 7,269 |
| 29 | 12,281 | 312,199 | 11,985,113 | 13,914 | 338,670 | 10,154,550 | 233 | 5,584 |
| Apr. 5 | 14,884 | 394,182 | 13,936,687 | 15,828 | 407,617 | 11,701,438 | 199 | 6,372 |
| 12 | 13,455 | 344,267 | 12,088,800 | 14,154 | 361,545 | 11,393,038 | 313 | 9,778 |
| 19 | 14,046 | 354,967 | 12,748,792 | 14,329 | 360,091 | 11,092,050 | 390 | 12,336 |
| 26 | 12,681 | 330,175 | 12,248,017 | 14,840 | 370,332 | 11,299,109 | 332 | 9,764 |
| May 3 | 12,182 | 311,099 | 12,486,637 | 13,445 | 317,723 | 10,619,400 | 240 | 7,293 |
| 10 | 14,998 | 391,830 | 13,663,776 | 16,551 | 402,924 | 12,314,169 | 294 | 7,927 |
| 17 | 11,848 | 304,836 | 11,329,046 | 12,692 | 311,220 | 9,793,130 | 266 | 6,646 |
| 24 | 9,914 | 258,634 | 10,142,040 | 12,893 | 310,576 | 9,938,941 | 211 | 5,451 |
| 31 | 8,277 | 207,781 | 8,514,316 | 10,629 | 250,896 | 8,271,264 | 144 | 3,331 |
| June 7 | 11,119 | 289,260 | 11,274,440 | 13,481 | 320,127 | 10,302,544 | 193 | 4,711 |
| 14 | 15,125 | 377,674 | 14,441,585 | 16,037 | 400,915 | 13,152,108 | 240 | 7,112 |
| 21 | 11,326 | 301,818 | 11,863,008 | 13,232 | 317,088 | 10,482,595 | 190 | 4,788 |
| 28 | 11,570 | 307,620 | 12,244,914 | 14,184 | 348,422 | 10,789,509 | 144 | 4,196 |

[1] Short sales which are exempted from restriction by the Commission's and Exchange's rules are not included in these figures.

NOTE.—For earlier data see Sixth Annual Report of the Commission, p. 287; Fifth Annual Report, p. 232; and "Selected Statistics on Securities and on Exchange Markets," table 66.

TABLE 29.—*Basic forms used by issuers in registering securities on national securities exchanges and, for each form, the number of securities registered and issuers involved as of June 30, 1940, and June 30, 1941*

| Form | Description | As of June 30, 1940 | | As of June 30, 1941 | |
|---|---|---|---|---|---|
| | | Securities registered | Issuers involved | Securities registered | Issuers involved |
| 7 | Provisional registration form | 4 | 4 | 5 | 3 |
| 10 | General corporations | 2,660 | 1,796 | 2,584 | 1,749 |
| 11 | Unincorporated issuers | 25 | 14 | 24 | 14 |
| 12 | Issuers making annual reports under Section 20 of the Interstate Commerce Act, as amended, or under Section 219 of the Communications Act of 1934 | 667 | 183 | 649 | 183 |
| 12-A | Issuers in receivership or bankruptcy and making annual reports under Section 20 of the Interstate Commerce Act, as amended, or under Section 219 of the Communications Act of 1934 | 115 | 25 | 101 | 22 |
| 13 | Insurance companies other than life and title insurance companies | 15 | 15 | 15 | 15 |
| 14 | Certificates of deposit issued by a committee | 46 | 30 | 42 | 27 |
| 15 | Incorporated investment companies | 94 | 57 | 92 | 57 |
| 16 | Voting trust certificates and underlying securities | 33 | 27 | 28 | 25 |
| 17 | Unincorporated issuers engaged primarily in the business of investing or trading in securities | 10 | 7 | 8 | 5 |
| 18 | Foreign governments and political subdivisions thereof | 203 | 86 | 200 | 85 |
| 19 | American certificates issued against foreign securities and for the underlying securities | 11 | 10 | 11 | 10 |
| 20 | Securities other than bonds of foreign private issuers | 2 | 1 | 2 | 1 |
| 21 | Bonds of foreign private issuers | 89 | 50 | 81 | 48 |
| 22 | Securities of issuers reorganized in insolvency proceedings or their successors | 91 | 47 | 101 | 51 |
| 23 | Securities of successor issuers other than those succeeding insolvent issuers | 89 | 58 | 89 | 57 |
| 24 | Bank holding companies | 4 | 4 | 4 | 4 |
| | Total | 4,158 | [1] 2,414 | 4,036 | [2] 2,356 |

[1] Includes 6 issuers having securities registered on 2 basic forms.
[2] Includes 4 issuers having securities registered on 2 basic forms and 1 issuer having securities registered on 3 basic forms.

TABLE 30.—*Classification, by industries, of issuers having securities registered on national securities exchanges as of June 30, 1940, and June 30, 1941*

| Industry | Number of issuers | |
|---|---|---|
| | As of June 30, 1940 | As of June 30, 1941 |
| Transportation and communication (railroads, telephone, etc.) | 311 | 303 |
| Mining, other than coal | 258 | 248 |
| Machinery and tools | 204 | 200 |
| Transportation equipment (automobiles, aircraft, parts, accessories, etc.) | 166 | 166 |
| Merchandising (chain stores, department stores, etc.) | 163 | 162 |
| Financial and investment (investment trusts, fire insurance, etc.) | 136 | 129 |
| Food and related products | 101 | 100 |
| Utility operating (electric, gas, and water) | 87 | 86 |
| Miscellaneous manufacturing | 83 | 80 |
| Building and related companies (including lumber, building materials and construction) | 78 | 76 |
| Oil and gas wells | 79 | 75 |
| Chemicals and allied products | 73 | 72 |
| Textiles and their products | 56 | 55 |
| Beverages (breweries, distilleries, etc.) | 57 | 54 |
| Iron and steel (excluding machinery) | 52 | 54 |
| Services (including advertising, amusements, hotels, etc.) | 54 | 48 |
| Utility holding (electric, gas, and water) | 50 | 47 |
| Oil refining and distributing | 40 | 40 |
| Paper and paper products | 37 | 39 |
| Rubber and leather products (tires, shoes, etc.) | 34 | 34 |
| Printing, publishing, and allied industries | 25 | 26 |
| Coal mining | 27 | 25 |
| Real estate | 24 | 23 |
| Agriculture | 20 | 20 |
| Tobacco products | 21 | 19 |
| Utility operating-holding (electric, gas, and water) | 17 | 16 |
| Miscellaneous domestic companies | 10 | 11 |
| Foreign private issuers, other than Canadian and Cuban | 60 | 58 |
| Foreign governments and political subdivisions | 85 | 84 |
| Total | 2,408 | 2,350 |

TABLE 31.—*Number of securities, separately for stocks and bonds, classified according to basis for admission to dealing, on all exchanges as of June 30, 1941. (The number of shares of stock and the principal amount of bonds are shown for securities other than those admitted to unlisted trading privileges)*

STOCKS

| Basis for admission to dealing | Column I [1] | | | Column II [2] | | |
|---|---|---|---|---|---|---|
| | Issues | Number of shares listed | Number of shares authorized for addition to list | Issues | Number of shares listed | Number of shares authorized for addition to list |
| Registered | [3] 2,694 | 2,270,335,923 | 213,910,562 | [3] 2,694 | 2,270,335,923 | 213,910,562 |
| Temporarily exempted from registration | [5] 43 | 8,899,969 | 843,935 | [5] 43 | 8,899,969 | 843,935 |
| Listed on exempted exchanges | 130 | 33,949,483 | 210,148 | 174 | 101,794,774 | 2,080,118 |
| Admitted to unlisted trading privileges on national exchanges | 505 | | | 1,077 | | |
| Admitted to unlisted trading privileges on exempted exchanges | 66 | | | 91 | | |
| Total | [3] 3,438 | 2,313,185,375 | 214,964,645 | | | |

BONDS

| Basis for admission to dealing | Issues | Principal amount listed | Principal amount authorized for addition to list | Issues | Principal amount listed | Principal amount authorized for addition to list |
|---|---|---|---|---|---|---|
| Registered | [4] 1,342 | $22,522,766,945 | $1,019,018,498 | [4] 1,342 | $22,522,766,945 | $1,019,018,498 |
| Temporarily exempted from registration | [5] 35 | 562,706,847 | 0 | [5] 35 | 562,706,847 | 0 |
| Listed on exempted exchanges | 10 | 13,113,000 | 2,600,000 | 10 | 13,113,000 | 2,600,000 |
| Admitted to unlisted trading privileges on national exchanges | 222 | | | 252 | | |
| Admitted to unlisted trading privileges on exempted exchanges | 4 | | | 4 | | |
| Total | [4] 1,613 | 23,098,586,792 | 1,021,618,498 | | | |

[1] Duplications in this column have been eliminated both as to exchanges and bases for admission to dealing, e. g., if a security is registered on more than one national securities exchange, listed on an exempted exchange and also unlisted on another national securities exchange, it is counted only once under "Registered." Thus, the totals for this column are the totals of securities admitted to trading on all exchanges after elimination of *all* duplications.

[2] Duplications in this column have been eliminated *only* as to exchanges, e. g., if a security is listed on more than one exempted exchange, it is counted only once under such status.

[3] Includes 1 stock issue in pounds sterling in the amount of £499,393 listed. This amount is excluded from the number of shares shown above.

[4] Includes 8 bond issues in pounds sterling and 2 bond issues in French francs in the amounts of £30,734,840 and 65,370,000 French francs listed. These amounts are excluded from the principal amount in dollars shown above.

[5] Includes certain securities resulting from modifications of previously listed securities, securities of certain banks, and securities of certain issuers in bankruptcy or receivership or in the process of reorganization under the Bankruptcy Act. These securities have been temporarily exempted from the operation of Section 12 (a) of the Securities Exchange Act of 1934 upon specified terms and conditions and for stated periods pursuant to rules and regulations of the Commission.

TABLE 32.—*Number of securities, separately for stocks and bonds, registered and admitted to unlisted trading privileges on one, or more than one, national securities exchange as of June 30, 1941*

STOCKS

| Classification | | (See footnote for explanation of column headings) | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) |
| Total stock issues registered | 2,694 | 1,784 | 0 | 358 | 0 | 266 | 145 | 60 | 81 |
| Total stock issues admitted to unlisted trading privileges on national exchanges | 1,077 | 0 | 506 | 0 | 19 | 266 | 145 | 60 | 81 |

BONDS

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Total bond issues registered | 1,342 | 1,176 | 0 | 136 | 0 | 29 | 0 | 1 | 0 |
| Total bond issues admitted to unlisted trading privileges on national exchanges | 252 | 0 | 222 | 0 | 0 | 29 | 0 | 1 | 0 |

Unduplicated total of stock issues registered and admitted to unlisted trading privileges on national exchanges 3,219

Unduplicated total of stock issues registered and admitted to unlisted trading privileges on national exchanges which were admitted to dealings on more than 1 such exchange 929—28.86% of unduplicated total

Unduplicated total of bond issues registered and admitted to unlisted trading privileges on national exchanges 1,564

Unduplicated total of bond issues registered and admitted to unlisted trading privileges on national exchanges which were admitted to dealings on more than 1 such exchange 166—10.61% of unduplicated total

[1] Registered on 1 exchange only.
[2] Admitted to unlisted trading privileges on 1 exchange only.
[3] Registered on more than 1 exchange.
[4] Admitted to unlisted trading privileges on more than 1 exchange.
[5] Registered on 1 exchange and admitted to unlisted trading privileges on 1 exchange.
[6] Registered on 1 exchange and admitted to unlisted trading privileges on more than 1 exchange.
[7] Registered on more than 1 exchange and admitted to unlisted trading privileges on 1 exchange.
[8] Registered on more than 1 exchange and admitted to unlisted trading privileges on more than 1 exchange.

TABLE 33.—*Number of issuers having securities admitted to dealings on all exchanges as of June 30, 1941, classified according to basis for admission of their securities to dealings*

| Basis of admission of securities to dealing | Column I[1] | Column II[2] |
|---|---|---|
| | Number of issuers | Number of issuers |
| Issuers having securities registered | 2,350 | 2,350 |
| Issuers having securities temporarily exempted from registration | 39 | 48 |
| Issuers having securities listed on exempted exchanges | 112 | 152 |
| Issuers having securities admitted to unlisted trading privileges on national exchanges | 438 | 1,013 |
| Issuers having securities admitted to unlisted trading privileges on exempted exchanges | 55 | 77 |
| Total issuers | 2,994 | |

[1] Duplications in this column have been eliminated both as to exchanges and bases for admission of the issuers' securities to dealing, e. g., if an issuer has securities registered on more than one national exchange, listed on an exempted exchange, and also admitted to unlisted trading privileges on other exchanges, the issuer is counted only once as having securities registered. Thus, the total of this column is the total number of issuers having securities admitted to trading on all exchanges after elimination of all duplications.

[2] Duplications in this column have been eliminated only as to exchanges, e. g., if an issuer has securities admitted to unlisted trading privileges on more than one exchange, the issuer is counted only once under such status.

TABLE 34.—*Number of issuers having stocks only, bonds only, and both stocks and bonds, admitted to dealings on all exchanges as of June 30, 1941*

| Classification | Number of issuers | Percent of total issuers |
|---|---|---|
| 1. Issuers having only stocks admitted to trading on exchanges | 2,219 | 74.12 |
| 2. Issuers having only bonds admitted to trading on exchanges | 436 | 14.56 |
| 3. Issuers having both stocks and bonds admitted to trading on exchanges | 339 | 11.32 |
| Total issuers | 2,994 | 100.00 |
| 4. Issuers having stocks admitted to trading on exchanges (classification 1 plus 3) | 2,558 | 85.44 |
| 5. Issuers having bonds admitted to trading on exchanges (classification 2 plus 3) | 775 | 25.88 |

TABLE 35.—*Number of issuers and securities, basis for admission to dealings, and the percentage of stocks and bonds, for each exchange, admitted to dealings on one or more other exchanges as of June 30, 1941*

| Name of exchange | Total issuers | Total issues | Stocks | | | | | | Percent traded on 1 or more other exchanges | Bonds | | | | | | Percent traded on 1 or more other exchanges |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | R | X | U | XL | XU | Total | | R | X | U | XL | XU | Total | |
| Baltimore | 72 | 106 | 45 | 4 | 23 | | | 72 | 50.0 | 24 | 1 | 9 | | | 34 | 44.1 |
| Boston | 352 | 444 | 155 | | 216 | | | 371 | 80.3 | 73 | | | | | 73 | 64.4 |
| Chicago Board of Trade | 36 | 41 | 35 | | 5 | | | 40 | 50.0 | 1 | | | | | 1 | 00.0 |
| Chicago Stock Exchange | 258 | 350 | 304 | 14 | | | | 318 | 58.5 | 21 | 11 | | | | 32 | 37.5 |
| Cincinnati | 69 | 109 | 93 | 2 | 5 | | | 100 | 23.0 | 8 | 1 | | | | 9 | 66.7 |
| Cleveland | 88 | 102 | 83 | | 18 | | | 101 | 52.5 | 1 | | | | | 1 | 00.0 |
| Colorado Springs [1] | 14 | 15 | | | | 15 | | 15 | 26.7 | | | | | | 0 | 00.0 |
| Detroit | 132 | 142 | 112 | | 30 | | | 142 | 71.8 | | | | | | 0 | 00.0 |
| Honolulu [1] | 99 | 126 | | | | 60 | 54 | 114 | 23.7 | | | | 8 | 4 | 12 | 00.0 |
| Los Angeles | 182 | 218 | 132 | 1 | 70 | | | 203 | 80.3 | 15 | | | | | 15 | 86.7 |
| Minneapolis-St. Paul [1] | 19 | 26 | | | | 23 | 3 | 26 | 50.0 | | | | | | 0 | 00.0 |
| New Orleans | 15 | 31 | 2 | | 16 | | | 18 | 16.7 | 10 | | 3 | | | 13 | 30.8 |
| New York Curb | 961 | 1,320 | 486 | | 559 | | | 1,045 | 25.5 | 36 | | 239 | | | 275 | 9.5 |
| New York Stock | 1,210 | 2,441 | 1,237 | 3 | | | | 1,240 | 51.7 | 1,176 | 25 | | | | 1,201 | 11.9 |
| Philadelphia | 418 | 526 | 65 | 1 | 382 | | | 448 | 96.0 | 77 | 1 | | | | 78 | 69.2 |
| Pittsburgh | 96 | 114 | 62 | 2 | 48 | | | 112 | 68.8 | 2 | | | | | 2 | 00.0 |
| Richmond [1] | 26 | 35 | | | | 34 | | 34 | 17.6 | | | | 1 | | 1 | 00.0 |
| St. Louis | 52 | 90 | 78 | | | | | 78 | 23.1 | 12 | | | | | 12 | 75.0 |
| Salt Lake | 99 | 101 | 95 | | 6 | | | 101 | 8.9 | | | | | | 0 | 00.0 |
| San Francisco Mining | 50 | 50 | 50 | | | | | 50 | 12.0 | | | | | | 0 | 00.0 |
| San Francisco Stock | 273 | 342 | 169 | 4 | 144 | | | 317 | 66.6 | 24 | | 1 | | | 25 | 84.0 |
| Seattle [1] | 46 | 49 | | | | 21 | 27 | 48 | 47.9 | | | | 1 | | 1 | 00.0 |
| Spokane | 32 | 34 | 23 | | 11 | | | 34 | 55.9 | | | | | | 0 | 00.0 |
| Washington, D. C. | 33 | 50 | 28 | 12 | | | | 40 | 10.0 | 10 | | | | | 10 | 20.0 |
| Wheeling [1] | 23 | 27 | | | | 22 | 5 | 27 | 44.4 | | | | | | 0 | 00.0 |

[1] Exempted from registration as a national securities exchange.

R, registered; X, temporarily exempted from registration; U, admitted to unlisted trading privileges on a national securities exchange; XL, listed on an exempted exchange; and XU, admitted to unlisted trading privileges on an exempted exchange.

TABLE 36.— *Disposition, from May 27, 1936 (date on which Section 12 (f) of the Act was amended) to June 30, 1941, of applications filed by national securities exchanges for the extension of unlisted trading privileges to securities pursuant to clause (2) of Section 12 (f) of the Securities Exchange Act of 1934, as amended*

| Exchange | Stocks | | | | | | | | Bonds | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Number filed | Granted odd lots and round lots | Granted odd lots only | Granted round lots only | Denied | Decision reserved | Withdrawn | Pending | Number filed | Granted | Denied | Withdraw | Pending |
| Boston Stock | 56 | 18 | [a] 15 | [b] 6 | 13 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 |
| Chicago Stock | 20 | 0 | 0 | 0 | 0 | 0 | 0 | 20 | 0 | 0 | 0 | 0 | 0 |
| Cincinnati Stock | 6 | 5 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Cleveland Stock | 18 | 18 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Detroit Stock | 19 | 15 | 0 | 0 | 3 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| Los Angeles Stock | 31 | 24 | 0 | 0 | 4 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 |
| New York Curb | 3 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 5 | [c] 3 | 2 | 0 | 0 |
| Philadelphia Stock | 41 | 22 | [d] 4 | [b] 3 | 7 | 0 | 5 | 0 | 0 | 0 | 0 | 0 | 0 |
| Pittsburgh Stock | 53 | 23 | [e] 8 | 0 | 21 | 0 | 1 | 0 | 6 | 0 | 4 | 2 | 0 |
| San Francisco Stock [f] | 11 | 5 | 0 | 0 | 6 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 258 | 133 | 27 | 9 | 55 | 2 | 11 | 21 | 11 | 3 | 6 | 2 | 0 |

[a] 2 of these issues were subsequently removed. 6 of the remaining 13 issues were granted round-lot trading privileges on July 17, 1939.
[b] Odd-lot trading privileges were previously granted to these issues.
[c] 1 of these issues was subsequently removed.
[d] 3 of these issues were granted round-lot trading privileges on Sept. 7, 1939.
[e] 2 of these issues were subsequently removed.
[f] San Francisco Curb Exchange merged with San Francisco Stock Exchange on Apr. 30, 1938. 7 applications filed by the San Francisco Curb Exchange prior to that date are included herein.

TABLE 37.— *Disposition, from May 27, 1936 (date on which Section 12 (f) of the Act was amended) to June 30, 1941, of applications filed by national securities exchanges for the extension of unlisted trading privileges to securities pursuant to clause (3) of Section 12 (f) of the Securities Exchange Act of 1934, as amended*

| Exchange | Stocks | | | | | | | | Bonds | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Number filed | Granted odd lots and round lots | Granted odd lots only | Granted round lots only | Denied | Decision reserved | Withdrawn | Pending | Number filed | Granted | Denied | Withdrawn | Pending |
| New York Curb | 6 | 4 | 0 | 0 | 0 | 0 | 1 | 1 | 49 | [a] 35 | 6 | 4 | 4 |

[a] 6 of these issues were subsequently removed.

TABLE 38.—*Reorganization cases instituted under Chapter X and Section 77B in which the Commission filed a notice of appearance during the fiscal year ended June 30, 1941—Distribution of debtors by type of industry*

| Industry | Number of debtors | | Total assets | | Total indebtedness | |
|---|---|---|---|---|---|---|
| | Principal | Subsidiary | Amount (thousands of dollars) | Percent of grand total | Amount (thousands of dollars) | Percent of grand total |
| Agriculture | | | | | | |
| Mining and other extractive | 4 | 2 | 16,893 | 12.5 | 7,055 | 7.2 |
| Manufacturing | 9 | | 26,355 | 19.6 | 15,501 | 15.9 |
| Financial and investment | 7 | 1 | 27,757 | 20.6 | 23,092 | 23.7 |
| Merchandising | | 1 | 9 | (1) | 17 | (1) |
| Real estate | 16 | | 47,354 | 35.1 | 41,920 | 42.9 |
| Construction | | | | | | |
| Transportation and communication | 1 | 1 | 9,346 | 6 9 | 3,871 | 4.0 |
| Service | 2 | | 2,764 | 2.1 | 2,648 | 2.7 |
| Electric light, power and gas | 1 | | 4,335 | 3 2 | 3,517 | 3.6 |
| Grand total | 40 | 5 | 134 813 | 100.0 | 97,621 | 100.00 |

[1] Less than 0.05 percent.

TABLE 39.—*Reorganization cases instituted under Chapter X and Section 77B in which the Commission filed a notice of appearance during the fiscal year ended June 30, 1941—Distribution of debtors by amount of individual indebtedness*

| Amount of individual indebtedness in dollars | Number of debtors | | Total indebtedness | |
|---|---|---|---|---|
| | Principal | Subsidiary | Amount (thousands of dollars) | Percent of grand total |
| Less than 100,000 | 2 | 1 | 69 | 0.1 |
| 100,000–249,999 | 6 | | 1,039 | 1.1 |
| 250,000–499,999 | 6 | 2 | 3,232 | 3.3 |
| 500,000–999,999 | 8 | | 5,287 | 5 4 |
| 1,000,000–1,999,999 | 6 | 1 | 8,793 | 9.0 |
| 2,000,000–2,999,999 | 6 | 1 | 16,846 | 17.3 |
| 3,000,000–9,999,999 | 4 | | 21,037 | 21 5 |
| 10,000,000–24,999,999 | 2 | | 41,318 | 42.3 |
| Grand total | 40 | 5 | 97,621 | 100.0 |

TABLE 40.—*Reorganization cases instituted under Chapter X and Section 77B in which the Commission filed a notice of appearance and in which the Commission was actively interested in the proceedings as of June 30, 1941—Distribution of debtors by type of industry*

| Industry | Number of debtors | | Total assets | | Total indebtedness | |
|---|---|---|---|---|---|---|
| | Principal | Subsidiary | Amount (thousands of dollars) | Percent of grand total | Amount (thousands of dollars) | Percent of grand total |
| Agriculture | 1 | | 1,100 | 0.1 | 100 | (1) |
| Mining and other extractive | 11 | 9 | 143,457 | 7.6 | 94,561 | 7.8 |
| Manufacturing | 25 | 1 | 222,296 | 11.7 | 161,174 | 13 4 |
| Financial and investment | 9 | 1 | 50,884 | 2.7 | 41,193 | 3.4 |
| Merchandising | 2 | 1 | 72,232 | 3.8 | 42,812 | 3.6 |
| Real estate | 45 | 7 | 203,478 | 10.7 | 220,117 | 18.3 |
| Construction | 2 | | 28,377 | 1.5 | 13,851 | 1.2 |
| Transportation and communication | 3 | 2 | 39,662 | 2.1 | 44,143 | 3.7 |
| Service | 4 | | 5,872 | 0.3 | 3,023 | 0.3 |
| Electric light, power and gas | 12 | 6 | [2] 1,126,969 | 59.5 | [2] 580,808 | 48.3 |
| Grand total | 114 | 27 | 1,894,327 | 100.0 | 1,201,782 | 100.0 |

[1] Less than 0.05 percent.
[2] Approximately $800,000,000 of assets and $400,000,000 of indebtedness were accounted for by 2 large utility companies, one a subsidiary of the other.

TABLE 41.—*Reorganization cases instituted under Chapter X and Section 77B in which the Commission filed a notice of appearance and in which the Commission was actively interested as of June 30, 1941—Distribution of debtors by amount of individual indebtedness*

| Amount of individual indebtedness in dollars | Number of debtors | | Total indebtedness | |
|---|---|---|---|---|
| | Principal | Subsidiary | Amount (thousands of dollars) | Percent of grand total |
| Less than 100,000 | 4 | 4 | 283 | [1] |
| 100,000–249,999 | 14 | 5 | 3,193 | 0.3 |
| 250,000–499,999 | 15 | 5 | 8,054 | 0.7 |
| 500,000–999,999 | 13 | 3 | 11,507 | 1.0 |
| 1,000,000–1,999,999 | 19 | 3 | 29,944 | 2.5 |
| 2,000,000–2,999,999 | 10 | 2 | 29,721 | 2.5 |
| 3,000,000–9,999,999 | 23 | 1 | 129,803 | 10.8 |
| 10,000,000–24,999,999 | 8 | 1 | 152,542 | 12.7 |
| 25,000,000–49,999,999 | 4 | 1 | 159,412 | 13.2 |
| 50,000,000 and over | 4 | 2 | [2] 677,323 | 56.3 |
| Grand total | 114 | 27 | 1,201,782 | 100.0 |

[1] Less than 0.05 percent.
[2] Approximately $400,000,000 was accounted for by 2 large utility companies, one a subsidiary of the other.

TABLE 42.—*Status, with reference to confirmation of plan, of reorganization proceedings in which the Commission was actively interested, as of June 30, 1941, and June 30, 1940—By indebtedness size groups*

| Status | Amount of individual indebtedness | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Over $3,000,000 | | | | $250,000 to $3,000,000 | | | | Under $250,000 | | | |
| | Number of companies | | Total indebtedness (thousands of dollars) | | Number of companies | | Total indebtedness (thousands of dollars) | | Number of companies | | Total indebtedness (thousands of dollars) | |
| | 1941 | 1940 | 1941 | 1940 | 1941 | 1940 | 1941 | 1940 | 1941 | 1940 | 1941 | 1940 |
| Pre-confirmation | 32 | 36 | 842,940 | 963,037 | 50 | 43 | 61,154 | 43,836 | 19 | 18 | 2,330 | 2,628 |
| Post-confirmation | 12 | 9 | 276,140 | 223,325 | 20 | 15 | 18,072 | 22,525 | 8 | 10 | 1,146 | 1,385 |
| Total | 44 | 45 | 1,119,080 | 1,186,362 | 70 | 58 | 79,226 | 66,361 | 27 | 28 | 3,476 | 4,013 |

TABLE 43.—*Number of applications under Section 11 (e) of the Public Utility Holding Company Act of 1935, relating to plans for the simplification of registered holding companies or subsidiaries thereof, received and disposed of during the fiscal year ended June 30, 1941*

| | Number received | Number approved | Number withdrawn or dismissed | Number denied | Number pending at close of fiscal year |
|---|---|---|---|---|---|
| To June 30, 1940 | 24 | 7 | 4 | 0 | 13 |
| July 1, 1940, to June 30, 1941 | 13 | 7 | 4 | 1 | 14 |
| Total | 37 | 14 | 8 | 1 | |

TABLE 44.—*Number of applications under Sections 11 (f), 11 (g), and 12 (e) of the Public Utility Holding Company Act of 1935, relating to plans for the reorganization and simplification of registered holding companies or their subsidiaries, received and disposed of during the fiscal year ended June 30, 1941*

| | Number received | Number approved | Number withdrawn or dismissed | Number denied | Number pending at close of fiscal year |
|---|---|---|---|---|---|
| To June 30, 1940 | 60 | 21 | 17 | 5 | 17 |
| July 1, 1940, to June 30, 1941 | 9 | 3 | 4 | 0 | 19 |
| Total | 69 | 24 | 21 | 5 | |

TABLE 45.—*Number of applications under Section 11 (f) and Rule U-11F-2 of the Public Utility Holding Company Act of 1935, relating to fees and expenses, received and disposed of during the fiscal year ended June 30, 1941*

| | Number received | Number approved | Number withdrawn or dismissed | Number denied | Number pending at close of fiscal year |
|---|---|---|---|---|---|
| To June 30, 1940 | 85 | 20 | 5 | 1 | 59 |
| July 1, 1940, to June 30, 1941 | 0 | 40 | 0 | 0 | 19 |
| Total | 85 | 60 | 5 | 1 | |

TABLE 46.—*Number of applications under Section 12 (c) of the Public Utility Holding Company Act of 1935, and Rules U-12C-2 and U-12C-3 thereunder, relating to the payment of dividends out of capital or unearned surplus, received and disposed of during the fiscal year ended June 30, 1941*

| | Number filed | Number approved | Number dismissed or withdrawn | Number denied | Number pending |
|---|---|---|---|---|---|
| To June 30, 1940 | 45 | 29 | 0 | 4 | 12 |
| July 1, 1940, to June 30, 1941 | 11 | 11 | 1 | 1 | 10 |
| Total | 56 | 40 | 1 | 5 | |

TABLE 47.—*Number of applications under Section 12 (c) of the Public Utility Holding Company Act of 1935 and Rule U-12C-1 thereunder, relating to the acquisition of securities by the issuer, received and disposed of during the fiscal year ended June 30, 1941*

| | Number received | Number exempt by rule or approved | Number withdrawn or dismissed | Number denied | Number pending at close of fiscal year |
|---|---|---|---|---|---|
| To June 30, 1940 | 97 | 58 | 6 | 0 | 33 |
| July 1, 1940, to June 30, 1941 | 123 | 96 | 15 | 3 | 42 |
| Total | 220 | 154 | 21 | 3 | |

TABLE 48.—*Number of declarations and applications under Section 12 of the Public Utility Holding Company Act of 1935, relating to mutual and subsidiary service companies, received and disposed of during the fiscal year ended June 30, 1941*

| | Number received | Number approved | Number exempted | Number denied or revoked | Number withdrawn or dismissed | Number pending at close of fiscal year |
|---|---|---|---|---|---|---|
| To June 30, 1940 | 54 | 29 | 4 | 1 | 5 | 15 |
| July 1, 1940, to June 30, 1941 | [1] 10 | 1 | 2 | 0 | 2 | 20 |
| Total | 64 | 30 | 6 | 1 | 7 | |

[1] 7 reopened.

TABLE 49.—*Number of applications under Sections 2 and 3 of the Public Utility Holding Company Act of 1935, relating to exemption from the provisions of the Act, received and disposed of during the fiscal year ended June 30, 1941*

| | Number received | Number reopened | Number granted | Number denied | Number withdrawn | Number pending at close of fiscal year |
|---|---|---|---|---|---|---|
| To June 30, 1940 | 487 | 2 | 121 | 16 | 282 | 70 |
| July 1, 1940, to June 30, 1941 | 29 | 5 | 16 | 17 | 15 | 56 |
| Total | 516 | 7 | 137 | 33 | 297 | |

TABLE 50.—*Number of applications under Section 10 of the Public Utility Holding Company Act of 1935, relating to the acquisition of securities or other assets, received and disposed of during the fiscal year ended June 30, 1941*

| | Number filed | Number exempt by rule or approved | Number dismissed or withdrawn | Number denied | Number pending at close of fiscal year |
|---|---|---|---|---|---|
| To June 30, 1940 | 310 | 200 | 45 | 2 | 63 |
| July 1, 1940, to June 30, 1941 | [1] 174 | 117 | 19 | 9 | 92 |
| Total | 484 | 317 | 64 | 11 | |

[1] 3 reopened.

TABLE 51.—*Number of applications under Sections 12 (f) and 12 (d) of the Public Utility Holding Company Act of 1935, relating to the sale of securities and utility assets, received and disposed of during the fiscal year ended June 30, 1941*

| | Number filed | Number approved | Number dismissed or withdrawn | Number denied | Number pending at close of fiscal year |
|---|---|---|---|---|---|
| To June 30, 1940 | 191 | 123 | 25 | 1 | 42 |
| July 1, 1940, to June 30, 1941 | 142 | 95 | 12 | 6 | 71 |
| Total | 333 | 218 | 37 | 7 | |

TABLE 52.—*Investment advisers registered under Sec. 203 (c) of the Investment Advisers Act of 1940—Status of registration applications filed with the Commission from Nov. 1, 1940, to June 30, 1941, classified by type of organization*

| Period | Applications filed | | | | Applications withdrawn | | | | Registrations withdrawn | | | | Registrations canceled | | | | Registrations effective end of period [1] | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Sole proprietors | Partnerships | Corporations | Total | Sole proprietors | Partnerships | Corporations | Total | Sole proprietors | Partnerships | Corporations | Total | Sole proprietors | Partnerships | Corporations | Total | Sole proprietors | Partnerships | Corporations | Total |
| As of Nov. 1, 1940 | 320 | 112 | 181 | 613 | 0 | 2 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 314 | 110 | 181 | 605 |
| Nov. 2-30 | 32 | 8 | 19 | 59 | 0 | 0 | 0 | 0 | 2 | 2 | 0 | 4 | 0 | 0 | 0 | 0 | 311 | 108 | 182 | 601 |
| December | 24 | 4 | 10 | 38 | 1 | 0 | 0 | 1 | 0 | 1 | 1 | 2 | 0 | 0 | 0 | 0 | 354 | 116 | 201 | 671 |
| January 1941 | 15 | 2 | 2 | 19 | 1 | 0 | 0 | 1 | 0 | 2 | 0 | 2 | 1 | 0 | 0 | 1 | 373 | 116 | 210 | 699 |
| February | 12 | 2 | 2 | 16 | 0 | 0 | 0 | 0 | 3 | 0 | 1 | 4 | 0 | 0 | 0 | 0 | 385 | 117 | 211 | 713 |
| March | 8 | 10 | 8 | 26 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 3 | 0 | 4 | 0 | 4 | 396 | 118 | 214 | 728 |
| April | 13 | 2 | 1 | 16 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 2 | 0 | 4 | 1 | 5 | 403 | 121 | 218 | 742 |
| May | 11 | 2 | 2 | 15 | 0 | 0 | 0 | 0 | 3 | 0 | 1 | 4 | 0 | 0 | 2 | 2 | 416 | 122 | 217 | 755 |
| June | 6 | 3 | 1 | 10 | 0 | 0 | 0 | 0 | 2 | 1 | 5 | 8 | 2 | 2 | 3 | 7 | 420 | 123 | 210 | 753 |
| Total, June 30, 1941 | 441 | 145 | 226 | 812 | 2 | 2 | 0 | 4 | 11 | 8 | 10 | 29 | 3 | 10 | 6 | 19 | ------- | ------- | ------- | ------- |

[1] Application was denied; 6 applications were pending as at June 30, 1941.

TABLE 53.—*Investment advisers registered under Section 203 (c) of the Investment Advisers Act of 1940—Effective registrations as of June 30, 1941, classified by type of organization and by location of principal office*

| Location of principal office | Total | | | | | | | | Sole proprietors | | | | Partnerships | | | | Corporations | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Number of registrants | Number of full-time personnel in home office [1] | Number of part-time personnel in home office [1] | Total home office personnel [1] | Number of branch offices [2 3] | Number of sales offices [2 3] | Total branch and sales office personnel [1 3] | Number of correspondent firms [3] | Number of registrants | Number of home office personnel [1] | Number of branch and sales offices [1 2 3] | Number of branch and sales office personnel [1 3] | Number of registrants | Number of home office personnel [1] | Number of branch and sales offices [1 2 3] | Number of branch and sales office personnel [1 3] | Number of registrants | Number of home office personnel [1] | Number of branch and sales offices [1 2 3] | Number of branch and sales office personnel [1 3] |
| Alabama | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Arizona | 1 | 1 | 1 | 2 | 0 | 0 | 0 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Arkansas | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| California | 90 | 254 | 280 | 534 | 9 | 0 | 21 | 6 | 49 | 85 | 0 | 0 | 17 | 183 | 1 | 3 | 24 | 266 | 8 | 18 |
| Colorado | 6 | 13 | 8 | 21 | 0 | 0 | 0 | 0 | 2 | 3 | 0 | 0 | 1 | 6 | 0 | 0 | 3 | 12 | 0 | 0 |
| Connecticut | 6 | 18 | 11 | 29 | 0 | 0 | 0 | 1 | 3 | 5 | 0 | 0 | 2 | 18 | 0 | 0 | 1 | 6 | 0 | 0 |
| Delaware | 2 | 5 | 1 | 6 | 0 | 0 | 0 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 4 | 0 | 0 |
| District of Columbia | 4 | 25 | 6 | 31 | 3 | 0 | 11 | 0 | 1 | 3 | 0 | 0 | 1 | 16 | 2 | 7 | 2 | 12 | 1 | 4 |
| Florida | 3 | 4 | 1 | 5 | 0 | 0 | 0 | 1 | 3 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Georgia | 6 | 12 | 3 | 15 | 0 | 0 | 0 | 0 | 5 | 12 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 3 | 0 | 0 |
| Idaho | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Illinois | 53 | 203 | 130 | 333 | 3 | 0 | 8 | 1 | 26 | 57 | 1 | 2 | 12 | 82 | 0 | 0 | 15 | 194 | 2 | 6 |
| Indiana | 5 | 1 | 11 | 12 | 0 | 0 | 0 | 0 | 4 | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 5 | 0 | 0 |
| Iowa | 4 | 6 | 2 | 8 | 0 | 0 | 0 | 0 | 4 | 8 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Kansas | 1 | 1 | 1 | 2 | 0 | 0 | 0 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Kentucky | 4 | 6 | 1 | 7 | 0 | 0 | 0 | 0 | 4 | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Louisiana | 4 | 17 | 7 | 24 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 3 | 18 | 0 | 0 | 1 | 6 | 0 | 0 |
| Maine | 1 | 0 | 2 | 2 | 0 | 0 | 0 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Maryland | 8 | 30 | 18 | 48 | 2 | 1 | 3 | 0 | 4 | 7 | 0 | 0 | 4 | 41 | 3 | 3 | 0 | 0 | 0 | 0 |
| Massachusetts | 84 | 814 | 264 | 1,078 | 10 | 19 | 96 | 5 | 37 | 81 | 0 | 0 | 9 | 317 | 4 | 36 | 38 | 680 | 25 | 60 |
| Michigan | 17 | 89 | 28 | 117 | 0 | 1 | 1 | 0 | 7 | 27 | 0 | 0 | 2 | 13 | 0 | 0 | 8 | 77 | 1 | 1 |
| Minnesota | 15 | 20 | 71 | 91 | 1 | 2 | 7 | 0 | 8 | 16 | 0 | 0 | 0 | 0 | 0 | 0 | 7 | 75 | 3 | 7 |
| Mississippi | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Missouri | 19 | 35 | 26 | 61 | 0 | 0 | 0 | 0 | 14 | 31 | 0 | 0 | 0 | 0 | 0 | 0 | 5 | 30 | 0 | 0 |
| Montana | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Nebraska | 1 | 0 | 2 | 2 | 0 | 0 | 0 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Nevada | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| New Hampshire | 1 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| New Jersey | 24 | 110 | 44 | 154 | 4 | 4 | 72 | 0 | 19 | 41 | 0 | 0 | 1 | 2 | 0 | 0 | 4 | 111 | 8 | 72 |
| New Mexico | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| New York | 305 | 1,564 | 1,451 | 3,015 | 35 | 32 | 210 | 19 | 166 | 382 | 6 | 19 | 57 | 537 | 13 | 39 | 82 | 2,096 | 48 | 152 |
| North Carolina | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| North Dakota | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Ohio | 22 | 55 | 29 | 84 | 1 | 0 | 2 | 1 | 18 | 38 | 0 | 0 | 2 | 26 | 1 | 2 | 2 | 20 | 0 | 0 |

| | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Oklahoma | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Oregon | 2 | 10 | 2 | 12 | 0 | 0 | 0 | 0 | 1 | 10 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 2 | 0 | 0 | 0 |
| Pennsylvania | 42 | 146 | 70 | 216 | 1 | 0 | 1 | 2 | 28 | 62 | 0 | 0 | 7 | 58 | 0 | 0 | 7 | 96 | 1 | 1 | 0 |
| Rhode Island | 2 | 4 | 51 | 55 | 0 | 3 | 10 | 0 | 0 | 0 | 0 | 0 | 1 | 4 | 0 | 0 | 1 | 51 | 3 | 10 | 0 |
| South Carolina | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| South Dakota | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Tennessee | 1 | 2 | 0 | 2 | 0 | 0 | 0 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Texas | 4 | 5 | 6 | 11 | 0 | 0 | 0 | 0 | 2 | 4 | 0 | 0 | 1 | 4 | 0 | 0 | 1 | 3 | 0 | 0 | 0 |
| Utah | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Vermont | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Virginia | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Washington | 5 | 5 | 8 | 13 | 0 | 0 | 0 | 0 | 4 | 11 | 0 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| West Virginia | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Wisconsin | 10 | 34 | 11 | 45 | 1 | 0 | 2 | 0 | 3 | 5 | 0 | 0 | 2 | 10 | 0 | 0 | 5 | 30 | 1 | 2 | 0 |
| Wyoming | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 753 | 3,490 | 2,547 | 6,037 | 70 | 62 | 444 | 37 | 420 | 921 | 7 | 21 | 123 | 1,337 | 24 | 90 | 210 | 3,779 | 101 | 333 | 0 |

[1] Includes sole proprietors, partners, and officers; does not include directors.
[2] Only those branch or sales offices engaged in investment adviser activities.
[3] These offices or firms are related to the home office, and do not necessarily mean that these branch or sales offices, or correspondent firms are located in these States.

# APPENDIX III

## STATISTICAL ANALYSIS OF REORGANIZATION PROCEEDINGS INSTITUTED UNDER CHAPTER X OF THE BANKRUPTCY ACT, AS AMENDED, DURING THE FISCAL YEAR ENDED JUNE 30, 1941

During the fiscal year ended June 30, 1941, 291 companies were made the subject of reorganization proceedings instituted under Chapter X of the Bankruptcy Act, as amended. The listed assets of these companies had an aggregate stated value of approximately $162,000,000; corresponding listed indebtedness was $144,000,000.[1] The tables below show the distribution of the companies by type of industry, location of principal assets, location of principal place of business, Federal judicial district having jurisdiction, amount of individual indebtedness, and by type of petition and month when instituted.

**Industrial Classification.**

Approximately two-thirds of the 291 companies involved were engaged either in manufacturing, real estate,[2] or merchandising. The manufacturing group led with 102 companies, while the totals in the real estate and merchandising groups were 57 and 47, respectively. The mining and other extractive classification with 27 and service companies with 24 were the only other groups accounting for more than 20 companies each. Real estate companies had the greatest aggregate stated value of assets with $55,000,000, or 34 percent of the grand total, and largest aggregate indebtedness with $57,700,000, or 40 percent of the grand total. The manufacturing group was second largest in amount of assets with $35,700,000, or 22 percent of the grand total, and third in indebtedness with $22,400,000, or 16 percent of the grand total. The 8 companies in the financial and investment group, with aggregate assets of $27,100,000, or 17 percent, and combined indebtedness of $22,700,000, or 16 percent of the total, ranked second in amount of indebtedness and third in amount of assets.[1] Although the merchandising companies were third in number, this group accounted for only 6 percent each of the total stated assets and indebtedness.

**Geographical Distribution.**

Chapter X proceedings were instituted in 57 different judicial districts during the fiscal year while 37 States were named as the location of the principal assets and 36 States as the location of the principal place of business of one or more of the 291 companies

[1] The values of assets and amounts of indebtedness in almost all cases were taken from balance sheets, schedules, and allegations found in the petitions and other documents filed in reorganization proceedings. Estimates were made of the assets of 20 companies and the indebtedness of 9 companies, figures for which were not available from these sources. The totals appearing in the text and in the following tables include unpledged assets and direct operating indebtedness of one of the investment companies, but do not include outstanding face amount certificates on which the company's net cash liability was approximately $23,000,000, against which were deposited securities having a market value, as of June 30, 1941, of approximately $20,000,000.

[2] In this classification are included, among others, companies owning apartment houses, hotel buildings, and office buildings.

involved.[3] Approximately one-half of the companies, however, were concentrated in five States. New York, with 40 and 42 companies, respectively, led both in location of principal assets and principal place of business, followed by Illinois with 36 in each classification, Pennsylvania with 28 and 27, New Jersey with 22 and 23, and California with 22 in each classification. The 40 companies having principal assets in New York accounted for $43,400,000, or 27 percent of the total stated value of assets of all 291 companies, and the 42 companies with principal place of business in New York listed aggregate assets of $43,700,000, or 27 percent, and aggregate indebtedness of $44,500,000, or 31 percent of the grand total. New Jersey ranked second in each classification. The 22 companies with principal assets in that State had a total of $30,100,000 stated assets; while the 23 companies with principal place of business therein had combined assets of $34,500,000 and total indebtedness of $28,100,000.

The Federal District Court for the Northern District of Illinois took jurisdiction over proceedings for the reorganization of 31 companies. Other districts with at least 12 companies were: The District of New Jersey with 22; the Southern District of New York with 18; and the Southern District of California, the District of Massachusetts, and the Eastern District of Missouri, each with 14. The proceedings filed in the Southern District of New York, which involved total assets and indebtedness of $38,600,000 and $41,500,000, respectively, together with those in the District of New Jersey, with corresponding figures of $34,400,000 and $28,000,000, accounted for over 40 percent of the respective grand totals of stated assets and indebtedness.

**Amount of Indebtedness.**

Of the total of 291 companies, 219 listed indebtedness of less than $250,000 each[4] but their combined indebtedness was only 13 percent of the total. An additional 37 percent of the total was accounted for by the 63 companies with indebtedness of at least $250,000 but less than $3,000,000 each. The remaining 50 percent of the aggregate indebtedness was accounted for by 9 companies having individual indebtedness of $3,000,000[5] or more.

**Type of Petition.**

Cases instituted by debtor petitions involved 250 companies with $133,600,000 aggregate stated assets, and combined indebtedness of $112,700,000. An additional 35 companies with combined assets of $26,600,000 and indebtedness of $29,500,000 were made the subject of reorganization proceedings by creditors' petitions. Indenture trustees filed the petitions which instituted proceedings for the 6 remaining companies whose assets and indebtedness totaled $1,800,000 and $1,700,000, respectively.

[3] Section 128 under Chapter X permits a petition to be filed in the Federal district court in whose territorial jurisdiction the company has either its principal place of business or its principal assets.

[4] Section 156 of Chapter X provides that in all cases involving indebtedness of $250,000 or over, disinterested trustees shall be appointed to perform certain functions set out in the statute. In cases involving indebtedness of less than $250,000, the court may continue the debtor company in possession or appoint trustees.

[5] Section 172 of Chapter X provides that in all cases involving indebtedness of more than $3,000,000, the proposed plans of reorganization deemed worthy of consideration by the judge shall be submitted to the Commission for advisory reports whereas in the remaining cases, proposed plans of reorganization may be, but are not required to be, submitted to the Commission for such reports.

TABLE 1.—*Distribution of cases by type of industry—Total assets and total indebtedness of companies entering into reorganization proceedings during the fiscal year ended June 30, 1941*

| Industry | Number of companies | Total assets | | Total indebtedness | |
|---|---|---|---|---|---|
| | | Amount (thousands of dollars) | Percent of grand total | Amount (thousands of dollars) | Percent of grand total |
| Agriculture | 3 | 318 | 0.20 | 203 | 0.14 |
| Mining and other extractive | 27 | 17,387 | 10.73 | 12,673 | 8.81 |
| Manufacturing | 102 | 35,677 | 22.01 | 22,401 | 15.57 |
| Financial and investment | 8 | 27,095 | 16.72 | 22,730 | 15.80 |
| Merchandising | 47 | 10,115 | 6.24 | 7,915 | 5.50 |
| Real estate | 57 | 55,004 | 33.94 | 57,650 | 40.07 |
| Construction and allied | 3 | 274 | .17 | 299 | .21 |
| Transportation and communication | 11 | 5,044 | 3.11 | 10,078 | 7.01 |
| Service | 24 | 5,124 | 3.16 | 5,013 | 3.49 |
| Electric light, power, and gas | 3 | 4,769 | 2.94 | 3,787 | 2.63 |
| Charitable, religious, etc | 6 | 1,258 | .78 | 1,111 | .77 |
| Grand total | 291 | 162,065 | 100.00 | 143,860 | 100.00 |

TABLE 2.—*Geographical distribution of cases in accordance with location of principal assets—Total assets of companies entering into reorganization proceedings during the fiscal year ended June 30, 1941*

| State or territorial possession | Number of companies | Total assets [1] | | State or territorial possession | Number of companies | Total assets [1] | |
|---|---|---|---|---|---|---|---|
| | | Amount (thousands of dollars) | Percent of grand total | | | Amount (thousands of dollars) | Percent of grand total |
| Alabama | 1 | 600 | 0.37 | New Hampshire | 1 | 472 | 0.29 |
| Arkansas | 1 | 50 | .03 | New Jersey | 22 | 30,115 | 18.58 |
| California | 22 | 4,605 | 2.84 | New York | 40 | 43,362 | 26.76 |
| Colorado | 1 | 150 | .09 | North Carolina | 1 | 5 | [2] |
| Connecticut | 3 | 471 | .29 | Ohio | 12 | 4,902 | 3.03 |
| Dist. of Columbia | 1 | 174 | .11 | Oklahoma | 4 | 872 | .54 |
| Florida | 4 | 2,296 | 1.42 | Oregon | 1 | 13 | .01 |
| Georgia | 4 | 248 | .15 | Pennsylvania | 28 | 7,459 | 4.60 |
| Illinois | 36 | 15,088 | 9.31 | South Carolina | 1 | 181 | .11 |
| Indiana | 13 | 6,527 | 4.03 | Tennessee | 1 | 51 | .03 |
| Iowa | 2 | 107 | .07 | Texas | 15 | 6,965 | 4.30 |
| Kansas | 5 | 789 | .49 | Utah | 1 | 250 | .15 |
| Kentucky | 3 | 484 | .30 | Vermont | 1 | 80 | .05 |
| Maryland | 1 | 409 | .25 | Virginia | 2 | 588 | .36 |
| Massachusetts | 14 | 4,298 | 2.65 | Washington | 1 | 72 | .04 |
| Michigan | 12 | 11,243 | 6.94 | West Virginia | 5 | 12,411 | 7.66 |
| Minnesota | 5 | 1,544 | .95 | Wisconsin | 6 | 2,288 | 1.41 |
| Missouri | 18 | 2,517 | 1.55 | | | | |
| Nebraska | 1 | 316 | .20 | Grand total | 291 | 162,065 | 100.00 |
| Nevada | 2 | 63 | .04 | | | | |

[1] In most cases the total assets of the companies were located in one State. A few companies had assets in more than one State. The figures in this table include the total amount of the assets (not the amount of principal assets) of each individual company in the figures for the State in which its principal assets were located.

[2] Less than 0.005 percent.

TABLE 3.—*Geographical distribution of cases in accordance with location of principal place of business—Total assets and total indebtedness of companies entering into reorganization proceedings during the fiscal year ended June 30, 1941*

| State or territorial possession | Number of companies | Total assets | | Total indebtedness | |
|---|---|---|---|---|---|
| | | Amount (thousands of dollars) | Percent of grand total | Amount (thousands of dollars) | Percent of grand total |
| Alabama | 1 | 600 | 0.37 | 592 | 0.41 |
| Arkansas | 1 | 50 | .03 | 50 | .03 |
| California | 22 | 4,605 | 2.84 | 2,987 | 2.08 |
| Connecticut | 3 | 471 | .29 | 395 | .27 |
| District of Columbia | 1 | 174 | .11 | 120 | .08 |
| Florida | 4 | 2,296 | 1.42 | 2,432 | 1.69 |
| Georgia | 4 | 248 | .15 | 276 | .19 |
| Illinois | 36 | 13,855 | 8.55 | 14,076 | 9.79 |
| Indiana | 13 | 6,527 | 4.03 | 11,719 | 8.15 |
| Iowa | 2 | 107 | .07 | 92 | .06 |
| Kansas | 5 | 789 | .49 | 376 | .26 |
| Kentucky | 3 | 484 | .30 | 415 | .29 |
| Maryland | 1 | 409 | .25 | 445 | .31 |
| Massachusetts | 14 | 4,298 | 2.65 | 3,500 | 2.43 |
| Michigan | 11 | 7,347 | 4.53 | 4,844 | 3.37 |
| Minnesota | 5 | 1,544 | .95 | 1,008 | .70 |
| Missouri | 19 | 3,763 | 2.32 | 2,523 | 1.75 |
| Nebraska | 1 | 316 | .20 | 269 | .19 |
| Nevada | 1 | 50 | .03 | 50 | .03 |
| New Hampshire | 1 | 472 | .29 | 352 | .24 |
| New Jersey | 23 | 34,450 | 21.26 | 28,067 | 19.51 |
| New York | 42 | 43,693 | 26.96 | 44,547 | 30.97 |
| North Carolina | 1 | 5 | (1) | 3 | (1) |
| Ohio | 13 | 8,798 | 5.43 | 6,880 | 4.79 |
| Oklahoma | 4 | 872 | .54 | 1,016 | .71 |
| Oregon | 1 | 13 | .01 | 12 | .01 |
| Pennsylvania | 27 | 7,278 | 4.50 | 5,591 | 3.89 |
| South Carolina | 1 | 181 | .11 | 146 | .10 |
| Tennessee | 1 | 51 | .03 | 19 | .01 |
| Texas | 15 | 6,965 | 4.30 | 8,168 | 5.68 |
| Utah | 1 | 250 | .15 | 27 | .02 |
| Vermont | 1 | 80 | .05 | 139 | .10 |
| Virginia | 2 | 588 | .36 | 352 | .24 |
| Washington | 1 | 72 | .04 | 45 | .03 |
| West Virginia | 4 | 8,076 | 4.98 | 1,394 | .97 |
| Wisconsin | 6 | 2,288 | 1.41 | 933 | .65 |
| Grand total | 291 | 162,065 | 100.00 | 143,860 | 100.00 |

[1] Less than 0.005 percent.

TABLE 4.—*Distribution of cases by Federal judicial districts—Total assets and total indebtedness of companies entering into reorganization proceedings during the fiscal year ended June 30, 1941*

| Judicial district | Number of companies | Total assets | | Total indebtedness | |
|---|---|---|---|---|---|
| | | Amount (thousands of dollars) | Percent of grand total | Amount (thousands of dollars) | Percent of grand total |
| Alabama: Northern | 1 | 600 | 0.37 | 592 | 0.41 |
| Arkansas: Western | 1 | 50 | .03 | 50 | .03 |
| California: | | | | | |
| Northern | 8 | 930 | .57 | 629 | .44 |
| Southern | 14 | 3,675 | 2.27 | 2,358 | 1.64 |
| Connecticut | 3 | 471 | .29 | 395 | .27 |
| Delaware | [1] 1 | 3,921 | 2.42 | 8,820 | 6.13 |
| Florida: Southern | 4 | 2,296 | 1.42 | 2,432 | 1.69 |
| Georgia: | | | | | |
| Northern | 3 | 230 | .14 | 268 | .18 |
| Middle | 1 | 18 | .01 | 8 | .01 |
| Illinois: | | | | | |
| Northern | 31 | 12,365 | 7.63 | 13,135 | 9.13 |
| Eastern | 6 | 2,755 | 1.70 | 2,067 | 1.44 |
| Southern | 1 | 5 | [2] | 8 | .01 |
| Indiana: | | | | | |
| Northern | [1] 9 | 2,247 | 1.39 | 2,587 | 1.80 |
| Southern | 3 | 359 | .22 | 312 | .22 |
| Iowa: | | | | | |
| Northern | 1 | 22 | .01 | 7 | [2] |
| Southern | 1 | 85 | .06 | 85 | .06 |
| Kansas | 5 | 789 | .49 | 376 | .26 |
| Kentucky: | | | | | |
| Eastern | 1 | 50 | .03 | 180 | .13 |
| Western | 2 | 434 | .27 | 235 | .16 |
| Maryland | 1 | 409 | .25 | 445 | .31 |
| Massachusetts | 14 | 4,298 | 2.65 | 3,500 | 2.43 |
| Michigan: | | | | | |
| Eastern | 6 | 4,514 | 2.79 | 1,955 | 1.36 |
| Southern | 1 | 73 | .05 | 78 | .05 |
| Western | 3 | 2,736 | 1.69 | 2,706 | 1.88 |
| Minnesota | 5 | 1,544 | .95 | 1,008 | .70 |
| Missouri: | | | | | |
| Eastern | 14 | 2,335 | 1.44 | 1,320 | .92 |
| Western | 4 | 182 | .11 | 174 | .12 |
| Nebraska | 1 | 316 | .20 | 269 | .19 |
| Nevada | 1 | 50 | .03 | 50 | .03 |
| New Hampshire | 1 | 472 | .29 | 352 | .24 |
| New Jersey | 22 | 34,421 | 21.24 | 28,028 | 19.48 |
| New York: | | | | | |
| Northern | 11 | 2,667 | 1.65 | 1,397 | .97 |
| Eastern | 8 | 1,737 | 1.07 | 1,272 | .88 |
| Southern | 18 | 38,592 | 23.81 | 41,508 | 28.85 |
| Western | 7 | 900 | .56 | 529 | .37 |
| North Carolina: Western | 1 | 5 | [2] | 3 | [2] |
| Ohio: | | | | | |
| Northern | 9 | 8,056 | 4.97 | 6,098 | 4.24 |
| Southern | 4 | 742 | .46 | 782 | .55 |
| Oklahoma: | | | | | |
| Northern | 2 | 110 | .07 | 53 | .04 |
| Eastern | 2 | 762 | .47 | 963 | .67 |
| Oregon | 1 | 13 | .01 | 12 | .01 |
| Pennsylvania: | | | | | |
| Eastern | 8 | 2,118 | 1.31 | 1,595 | 1.11 |
| Western | 11 | 3,844 | 2.37 | 3,157 | 2.20 |
| Middle | 8 | 1,316 | .81 | 839 | .58 |
| South Carolina: Eastern | 1 | 181 | .11 | 146 | .10 |
| Tennessee: Middle | 1 | 51 | .03 | 19 | .01 |
| Texas: | | | | | |
| Northern | 11 | 4,439 | 2.74 | 6,111 | 4.25 |
| Eastern | 2 | 1,239 | .77 | 813 | .57 |
| Southern | 1 | 732 | .45 | 938 | .66 |
| Western | 1 | 555 | .34 | 306 | .21 |
| Utah | 1 | 250 | .15 | 27 | .02 |
| Vermont | 1 | 80 | .05 | 139 | .10 |
| Virginia: Eastern | 2 | 588 | .36 | 352 | .24 |
| Washington: Eastern | 1 | 72 | .04 | 45 | .03 |
| West Virginia: | | | | | |
| Northern | 1 | 380 | .23 | 80 | .06 |
| Southern | 3 | 7,696 | 4.75 | 1,314 | .91 |
| Wisconsin: Eastern | 6 | 2,288 | 1.41 | 933 | .65 |
| Grand total | 291 | 162,065 | 100.00 | 143,860 | 100.00 |

[1] One debtor which had both its principal place of business and principal place of assets in Indiana filed its petition in the district of Delaware where the proceeding for the reorganization of its parent was pending.
[2] Less than 0.005 percent.

TABLE 5.—*Distribution of cases by amount of individual indebtedness—Total indebtedness of companies entering into reorganization proceedings during the fiscal year ended June 30, 1941*

| Amount of individual indebtedness in dollars | Number of companies | Total indebtedness | |
|---|---|---|---|
| | | Amount (thousands of dollars) | Percent of grand total |
| Less than 10,000 | 12 | 78 | 0.05 |
| 10,000 to 24,999 | 25 | 421 | .29 |
| 25,000 to 49,000 | 37 | 1,372 | .95 |
| 50,000 to 99,999 | 69 | 5,080 | 3.53 |
| 100,000 to 249,999 | 76 | 11,678 | 8.12 |
| 250,000 to 499,999 | 31 | 11,458 | 7.97 |
| 500,000 to 999,999 | 16 | 10,899 | 7.58 |
| 1,000,000 to 1,999,999 | 7 | 8,661 | 6.02 |
| 2,000,000 to 2,999,999 | 9 | 21,740 | 15.11 |
| 3,000,000 and over | 9 | 72,473 | 50.38 |
| Grand total | 291 | 143,860 | 100.00 |

TABLE 6.—*Distribution of cases in accordance with type of petition and month when instituted—Total assets and total indebtedness of companies entering into reorganization proceedings during the fiscal year ended June 30, 1941*

| Month | Type of petition | Number of companies | Total assets (thousands of dollars) | Total indebtedness (thousands of dollars) |
|---|---|---|---|---|
| *1940* | | | | |
| July | Debtor | 14 | 10,099 | 3,057 |
| | Creditor | 4 | 1,993 | 1,218 |
| | Trustee | | | |
| | Total | 18 | 12,092 | 4,275 |
| August | Debtor | 24 | 6,860 | 4,377 |
| | Creditor | 5 | 5,858 | 8,922 |
| | Trustee | 1 | 305 | 162 |
| | Total | 30 | 13,023 | 13,461 |
| September | Debtor | 22 | 6,779 | 5,359 |
| | Creditor | 1 | 150 | 57 |
| | Trustee | | | |
| | Total | 23 | 6,929 | 5,416 |
| October | Debtor | 29 | 10,896 | 9,689 |
| | Creditor | 2 | 2,390 | 3,961 |
| | Trustee | 1 | 225 | 104 |
| | Total | 32 | 13,511 | 13,754 |
| November | Debtor | 31 | 7,452 | 7,288 |
| | Creditor | 5 | 2,564 | 2,738 |
| | Trustee | | | |
| | Total | 36 | 10,016 | 10,026 |
| December | Debtor | 19 | 2,875 | 2,110 |
| | Creditor | 5 | 4,992 | 3,802 |
| | Trustee | 2 | 441 | 372 |
| | Total | 26 | 8,308 | 6,284 |

TABLE 6.—*Distribution of cases in accordance with type of petition and month when instituted—Total assets and total indebtedness of companies entering into reorganization proceedings during the fiscal year ended June 30, 1941*—Continued

| Month | Type of petition | Number of companies | Total assets (thousands of dollars) | Total indebtedness (thousands of dollars) |
|---|---|---|---|---|
| *1941* | | | | |
| January | Debtor | 21 | 10,906 | 9,842 |
| | Creditor | 2 | 1,495 | 1,992 |
| | Trustee | 1 | 732 | 938 |
| | Total | 24 | 13,133 | 12,772 |
| February | Debtor | 19 | 28,270 | 23,263 |
| | Creditor | | | |
| | Trustee | 1 | 83 | 85 |
| | Total | 20 | 28,353 | 23,348 |
| March | Debtor | 15 | 5,514 | 10,179 |
| | Creditor | 2 | 1,548 | 2,402 |
| | Trustee | | | |
| | Total | 17 | 7,062 | 12,581 |
| April | Debtor | 17 | 31,566 | 28,341 |
| | Creditor | 4 | 915 | 712 |
| | Trustee | | | |
| | Total | 21 | 32,481 | 29,053 |
| May | Debtor | 16 | 2,237 | 2,058 |
| | Creditor | 1 | 50 | 180 |
| | Trustee | | | |
| | Total | 17 | 2,287 | 2,238 |
| June | Debtor | 23 | 10,181 | 7,159 |
| | Creditor | 4 | 4,689 | 3,493 |
| | Trustee | | | |
| | Total | 27 | 14,870 | 10,652 |
| Fiscal year ended June 30, 1941. | Debtor | 250 | 133,635 | 112,722 |
| | Creditor | 35 | 26,644 | 29,477 |
| | Trustee | 6 | 1,786 | 1,661 |
| | Total | 291 | 162,065 | 143,860 |

# APPENDIX IV

## LITIGATION INVOLVING STATUTES ADMINISTERED BY THE COMMISSION

TABLE I.—*Injunctive proceedings brought by Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Public Utility Holding Company Act of 1935, which were pending during the fiscal year ended June 30, 1941*

| Principal defendants | Number of defendants | United States District Court | Initiating papers filed | Alleged violations | Status of case |
|---|---|---|---|---|---|
| Adams, Claude D., et al | 3 | Southern District of California. | Apr. 25, 1941 | Secs. 5 (a) (1) and (2) and 17 (a) (2) of 1933 act. | Permanent injunction by stipulation May 15, 1941, enjoining Claude D. Adams, Claude D. Adams doing business as Claude Adams Organization, Stella J. Adams, and Southwestern Drilling, Inc., from violating secs. 5 (a) (1) and (2) of 1933 act. Count 2 of the complaint which charged violation of sec. 17 (a) (2) of 1933 act was dismissed by stipulation. |
| Alaska Gold Mines, Inc., et al. | 2 | Western District of Oklahoma. | June 12, 1941 | Secs. 5 (a) (1) and (2) and 17 (a) (2) of 1933 act. | Permanent injunction by consent June 12, 1941, as to Alaska Gold Mines, Inc., and C. E. Harrell. |
| Alpine Mining Company, Inc., et al. | 2 | Western District of Texas. | July 12, 1940 | Secs. 5 (a) (1) and (2) of 1933 act. | Permanent injunction by consent July 12, 1940, as to Alpine Mining Company, Inc., and A. C. Stone. |
| Atwood (Wm. E.) & Co., Inc. | 1 | Maine | June 26, 1940 | Sec. 17 (a) (3) of 1933 act and sec. 15 (c) (1) of 1934 act. | Permanent injunction by consent July 2, 1940. |
| Automatic Telephone Dialer, Inc. | 1 | New Jersey | Mar. 3, 1941 | Secs. 5 (a) (1) and (2) of 1933 act. | Permanent injunction by consent Mar. 3, 1941. |
| Bagold Corporation et al | 10 | Southern District of New York. | May 10, 1940 | Sec. 17 (a) (2) of 1933 act | Suit dismissed by stipulation on court order Aug. 23, 1940, as to all defendants. |
| Blue Bucket Mining Company (a corporation) et al. | 2 | Western District of Washington. | Nov. 19, 1940 | Secs. 5 (a) (1) and (2) of 1933 act. | Permanent injunction by consent Nov. 26, 1940, as to Blue Bucket Mining Company, a corporation, and R. H. Russell. |
| Burel & Company, a corporation, et al. | 5 | Northern District of Illinois. | June 28, 1940 | Secs. 5 (a) (1) and (2) and 17 (a) (2) of 1933 act. | Permanent injunction by consent July 11, 1940, as to Burel & Company, a corporation, E. J. Burel, Aloise Burel, Fred Lorch, and Ed Schwartz. |
| Casa-Massa, Mario, et al | 3 | Northern District of Illinois. | Feb. 21, 1941 | Secs. 5 (a) (1) and (2) and 17 (a) (2) of 1933 act. | Permanent injunction by consent Mar. 19, 1941, as to Mario Casa-Massa, individually and as trustee of Connell, Ltd., a trust, and Posito Development, Ltd., a trust, Bianca Casa-Massa, individually and as trustee of Posito Development, Ltd., a trust, and Philip D. Clark. |

TABLE I.—*Injunctive proceedings brought by Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Public Utility Holding Company Act of 1935, which were pending during the fiscal year ended June 30, 1941*—Continued

| Principal defendants | Number of defendants | United States District Court | Initiating papers filed | Alleged violations | Status of case |
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| Chinese Consolidated Benevolent Association, Inc. | 1 | Southern District of New York. | June 12, 1940 | Secs. 5 (a) (1) and (2) of 1933 act. | Opinion rendered by district court on Aug. 26, 1940, denying the Commission's motion for judgment on the pleadings and granting defendant's motion to dismiss the complaint. The Commission appealed; on June 6, 1941, the Circuit Court of Appeals for the Second Circuit reversed judgment of district court and held that the defendant had violated sec. 5 (a) of 1933 act. On July 16, 1941, an order was entered staying the mandate of the circuit court of appeals to and including Aug. 8, 1941. |
| Cole, John F | 1 | Northern District of Illinois. | Mar. 27, 1941 | Secs. 17 (a) (1), (2), and (3) of 1933 act and sec. 15 (a) of 1934 act. | Permanent injunction by default June 6, 1941, as to John F. Cole, doing business as Fulton, Cole & Roe. |
| Conservative Securities Company (The), a corporation, et al. | 2 | Nebraska | July 15, 1940 | Secs. 17 (a) (1) and (3) of 1933 act and sec. 15 (c) of 1934 act. | Permanent injunction by consent July 25, 1940, as to The Conservative Securities Company, a corporation, and Hermann E. Gebers. |
| Davenport Mining and Reduction Company et al. | 3 | Nevada | June 12, 1941 | Sec. 17 (a) (2) of 1933 act | Permanent injunction by consent June 12, 1941, as to Davenport Mining and Reduction Company, a corporation, Ogden C. Chase, and Vilas F. Adams. |
| Fairbanks, Harry W | 1 | Southern District of California. | June 23, 1941 | Secs 5 (b) (1) and (2) and 17 (a) (2) of 1933 act. | Permanent injunction by consent June 23, 1941, as to Harry W. Fairbanks individually and doing business as H. W. Fairbanks Co. |
| Ferguson (Julian H.), Inc., et al. | 6 | Eastern District of Pennsylvania. | Jan. 27, 1938 | Secs. 5 (a) and (b) and 17 (a) of 1933 act. | Permanent injunction by consent Jan. 27, 1938, against all defendants except J. H. Ferguson. Pending as to him. |
| Gardner (Frank W.) Company et al. | 5 | Massachusetts | Aug. 14, 1940 | Secs. 17 (a) (2) and (3) of 1933 act and sec. 15 (c) (1) of 1934 act. | Permanent injunction by consent Aug. 16, 1940, as to Frank W. Gardner Company, Frank W. Gardner, Lou K. Dichter, Hiram Winston, and Frederick E. Dunlap. |
| Gilbert, M. L., et al. | 2 | Southern District of Ohio | May 8, 1939 | Secs. 5 (a) (1) and (2) of 1933 act. | Permanent injunction by consent July 9, 1940, as to M. L. Gilbert and Christian W. Beck. |
| Gillham Mining Company, Inc., et al. | 2 | Western District of Arkansas. | July 25, 1940 | do | Permanent injunction by consent July 25, 1940, as to Gillham Mining Company, Inc., and George J. Werner. |
| Hewitt, Arthur C | 1 | Eastern District of Michigan. | Dec. 4, 1940 | do | Permanent injunction by consent Dec. 4, 1940. |
| Kanaka Gold Placers, Inc., et al. | 2 | Western District of Washington. | Sept. 9, 1940 | do | Permanent injunction by consent Sept. 9, 1940, as to Kanaka Gold Placers, Inc., and R. G. McLeod. |
| Lakeland Oil Corporation | 1 | Western District of Michigan. | Feb. 4, 1941 | do | Permanent injunction by consent Feb. 27, 1941. |

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| Larson, Arthur Lewis | 1 | Eastern District of Michigan. | June 12, 1940 | Secs. 5 (a) (1) and (2) and 17 (a) (2) and (3) of 1933 act and secs. 15 (a) and (c) of 1934 act. | Upon motion of Commission for summary judgment, permanent injunction was entered Jan. 13, 1941, as to Arthur Lewis Larson, individually and doing business as Geophysical Testing and Developing Company. |
| Lauer, Albert, et al | 7 | Northern District of Illinois. | June 24, 1941 | Secs. 15 (a) and (c) of 1934 act | Pending. |
| McBride Drilling Corporation (The) et al. | 3 | Western District of Oklahoma. | July 15, 1940 | Secs. 17 (a) (1), (2), and (3) of 1933 act. | Permanent injunction granted by court July 17, 1940, as to The McBride Drilling Corporation, J. M. McBride, and E. A. Keller; judgment entered July 24, 1940. |
| McComb, C. L., et al | 2 | Nevada | Nov. 6, 1940 | Secs. 5 (a) (1) and (2) and 17 (a) (2) of 1933 act. | Permanent injunction by consent Nov. 6, 1940, as to C. L. McComb, C. L. McComb, Trustee of the Avenal Trust, and Avenal Corporation. |
| Mesel, W. W., Jr., et al | 2 | Western District of Michigan. | June 2, 1941 | Secs. 5 (a) (1) and (2) of 1933 act. | Answer filed June 30, 1941, on behalf of both defendants. Pending. |
| Modern Aircraft Company et al. | 3 | Colorado | May 12, 1941 | Sec. 5 (a) (1) of 1933 act | Permanent injunction by consent May 16, 1941, as to Modern Aircraft Company, H. M. Little, and L. M. Sells. |
| Mon-Ark Mining Company, Inc., et al. | 2 | Western District of Missouri. | Mar. 26, 1941 | Sec. 17 (a) (2) of 1933 act | Permanent injunction by consent Apr. 16, 1941, as to Mon-Ark Mining Company, Inc., and R. F. Harris. |
| Orler, Jordan S., et al | 2 | Massachusetts | May 27, 1940 | do | Permanent injunction by consent Sept. 26, 1940, as to Jordan S. Orler, individually and as trustee of General Credit and Finance Company, and as to Charles A. Jordan. |
| Overman, James A | 1 | Western District of Washington. | June 26, 1941 | Secs. 5 (b) (1) and (2) and 17 (a) (2) of 1933 act. | Permanent injunction by consent June 26, 1941, as to James A. Overman, individually and doing business as James A. Overman Co. |
| Parker Methods, Inc. (The) et al. | 18 | Western District of Louisiana. | May 14, 1941 | Secs. 5 (a) (1) and (2) and 17 (a) (1), (2), and (3) of 1933 act. | Preliminary injunction entered June 4, 1941, restraining Colorado River Magnetic Black Sand Company, a corporation, Darrell C. Walters, and Joseph E. Parker from violating secs. 5 (a) (1) and (2) and 17 (a) (1), (2), and (3) of 1933 act; and restraining The Parker Methods, Inc., Magnetic Gold Mining Company, a corporation, Parker Patents Corporation, Western Black Sand Company, Inc., Western Patent Brokerage Corporation, Malcolm H. Sneed, Mrs. Hugh M. Sneed, Hugh M. Sneed, N. C. Watts, and Mrs. Lenora Wilkerson Watts from violating secs. 17 (a) (1), (2), and (3) of 1933 act. Pending. |
| Payne, Louis | 1 | Southern District of New York. | June 29, 1939 | Secs. 5 (a) (1) and (2) of 1933 act. | Opinion rendered Nov. 15, 1940, granting the motion of the Commission for summary judgment to enjoin Louis Payne, doing business as Louis Payne Diversified Fur Farms, from violating secs. 5 (a) (1) and (2) of 1933 act. Order in accordance with opinion entered Dec. 2, 1940. |
| Pyne, Leo C., et al | 3 | Massachusetts | Apr. 9, 1940 | Secs. 5 (a) (1) and 17 (a) (2) and (3) of 1933 act. | Opinion rendered June 16, 1941, granting permanent injunction as to Leo C. Pyne, doing business as Central Wharf Fishing Company, Carl L. Edgerly, and Curtis L. Jones. Order in accordance with opinion entered July 12, 1941. |
| Ridge & Company et al | 2 | Utah | Sept. 26, 1940 | Sec. 15 (a) of 1934 act | Permanent injunction by consent Sept. 27, 1940, as to Ridge & Company and Harry Armstrong Thompson. |

TABLE I.—*Injunctive proceedings brought by Commission under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Public Utility Holding Company Act of 1935, which were pending during the fiscal year ended June 30, 1941*—Continued

| Principal defendants | Number of defendants | United States District Court | Initiating papers filed | Alleged violations | Status of case |
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| Ryan-Florida Corporation et al | 2 | Southern District of Florida. | May 3, 1938 | Sec. 15 (a) of 1934 act | Trial of this case has been postponed pending outcome of criminal case. |
| Sentenal Corporation (The) et al | 4 | Southern District of Ohio. | Mar. 12, 1941 | Secs. 5 (a) (1) and (2) of 1933 act | Permanent injunction by consent Mar. 12, 1941, as to The Sentenal Corporation, Frederick E. Backmeier, Alvin T. Stata, and James Hughes. |
| Sentinel Gold Syndicate et al | 5 | Nevada | June 12, 1941 | Secs. 5 (a) (1) and (2) and 17 (a) (2) of 1933 act. | Permanent injunction by consent June 12, 1941, as to Sentinel Gold Syndicate, an unincorporated association, Harry Hedrick, H. R. Adams, William H. Westerland, and Harold V. Friedman. |
| Timetrust, Incorporated, et al | 8 | Northern District of California. | Apr. 5, 1939 | Secs. 17 (a) (1) and (2) of 1933 act. | Trial of case was completed July 17, 1940, and on Dec. 11, 1940, the district court handed down findings of fact to the effect that all of the defendants were responsible for violations of secs. 17 (a) (1) and (2) of the 1933 act. Judgment for permanent injunction was entered Jan. 17, 1941, as to Timetrust, Incorporated, Bank of America National Trust & Savings Association, Meredith Parker, Ralph W. Wood, H. E. Blanchett, A. P. Giannini, L. Mario Giannini, and John M. Grant. The defendants have appealed to the Circuit Court of Appeals for the Ninth Circuit. Pending. |
| Universal Aircraft Corporation et al. | 4 | Western District of Washington. | May 1, 1941 | Secs. 5 (a) (1) and (2) of 1933 act. | Permanent injunction by consent May 8, 1941, as to Universal Aircraft Corporation, John A. Kutz, and Frederic Vincent. Pending as to R. H. Goodwin. |
| Virginia Oil and Gas Syndicate et al. | 3 | District of Columbia | Sept. 16, 1940 | Secs. 5 (a) (1) and (2) and 17 (a) (2) of 1933 act. | Order entered Oct. 14, 1940, denying the Commission's motion for preliminary injunction and granting defendants' motion for bill of particulars. Bill of particulars filed Oct. 14, 1940. Defendants filed answer on Oct. 29, 1940. On Mar. 19, 1941, the Commission filed request that defendants admit genuineness of documents and truth of facts, pursuant to Rule 36 of the Rules of Civil Procedure. Answer to request to admit genuineness of documents has not been filed. Pending. |

TABLE II.—*Indictments returned for violation of the Acts administered by the Commission, the mail fraud statute (sec. 338, title 18, U. S. C.), and other related Federal statutes (where the Commission took part in the investigation and development of the case) which were pending during the fiscal year ended June 30, 1941*

| Name of case [1] | Number of defendants | United States District Court | Indictment returned | Charges | Status of case |
|---|---|---|---|---|---|
| U. S. *v.* Horton B. G. Abell et al. (Dry Lake Oil Co.). | 3 | Idaho | Feb. 6, 1940 | Secs. 5 (a) (2) and 17 (a) (1) of 1933 act. | Trial opened Sept. 9, 1940. Talbot pleaded *nolo contendere* to one count of the indictment after the trial commenced; the remaining counts were dismissed as to him. The jury acquitted the corporation but was unable to reach a verdict as to Abell. Retrial as to Abell opened Feb. 12, 1941; he was found guilty and sentenced to serve 10 months; Talbot was fined $250. |
| U. S. *v.* American Trusteed Funds, Inc., et al. | 4 | Southern District of New York. | June 10, 1941 | Sec. 24 of 1933 act (false statements filed) and conspiracy to violate this statute. | Pending. |
| | 4 | do | do | Sec. 338, title 18, U. S. C.; and conspiracy to violate this statute. | |
| U. S. *v.* Robert E. Ames et al. (Surety Investment and Finance Company, Inc.). | 75 | do | Sept. 30, 1938 | do | Bokal, Comerford, Gallant, Goldie, Mussman, Seidler, and Strahl entered pleas of guilty. Bokal was sentenced to serve 2 months; Comerford to 1 year and 1 day, to run concurrently with sentence under another indictment. The other defendants who pleaded guilty have not been sentenced. Rubin Goren is deceased. All of the remaining defendants have been apprehended except 5. Trial set for Aug. 4, 1941. |
| U. S. *v.* Henry L. Baker | 1 | Southern District of California. | Mar. 25, 1939 | Secs. 17 (a) (1) and (3) of 1933 act and sec. 338, title 18, U. S. C. | Baker has not been apprehended. Pending. |
| U. S. *v.* Bankers Service Corporation et al. | 11 | Southern District of New York. | Dec 2, 1935 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate sec. 338, title 18, U. S. C. | Trial on second indictment opened Jan. 6, 1939. Bob, Rogers, Wiseman, Bankers Service Corporation, Coronado Gold Mines, Inc., and Kelly Gold and Silver Mines, Inc., were found guilty. Sentences ranged from 2 to 7 years, and each corporation was fined $1,000. Bob, Rogers, and Wiseman appealed to the Circuit Court of Appeals for the Second Circuit. Judgments affirmed July 27, 1939. The second indictment was *nolle prossed* as to Morse on Mar. 6, 1939. Dorn, Mack, and Schiff pleaded guilty to the first indictment in February 1939. Sentences ranged from a suspended sentence to 2½ years' imprisonment. The first indictment was dismissed as to Bankers Service Corporation and Coronado Gold Mines, Inc., and *nolle prossed* as to Adams, Clark, Morse, Rogers, Sawyer, and Wiseman. The second indictment was *nolle prossed* as to Peterson on June 4, 1941. |
| | 8 | do | May 24, 1938 | Sec. 338, title 18, U. S. C.; and conspiracy to violate this statute. | |

[1] Parenthetical reference is to name under which investigation was carried prior to indictment.

TABLE II.—*Indictments returned for violation of the Acts administered by the Commission, the mail fraud statute (sec. 338, title 18, U. S. C.), and other related F deral statutes (where the Commission took part in the investigation and development of the case) which were pending during the fiscal year ended June 30, 1941*—Continued

| Name of case [1] | Number of defendants | United States District Court | Indictment returned | Charges | Status of case |
|---|---|---|---|---|---|
| U. S. *v.* Walter C. Baskette et al. (Caloma Oil Company). | 7 | Southern District of California | Oct. 23, 1940 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Trial opened Apr. 8, 1941. Atherton, Baskette, Dent, Finnerty, and Standish were found guilty; Black was acquitted. McBride pleaded *nolo contendere* after trial commenced and was found guilty upon this plea. Baskette and Dent were sentenced to serve 4 years; Atherton and Standish to 2 years, McBride to 18 months. Finnerty was placed on probation. Atherton, Dent, and Standish have filed notice of intention to appeal. Pending. |
| U. S. *v.* Bauersfeld and Aue, Inc., et al. | 3 | Southern District of Ohio. | Nov. 25, 1940 | Secs. 17 (a) (1), (2), and (3) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | The indictment was *nolle prossed* as to the corporate defendant. Trial opened June 23, 1941, as to the 2 remaining defendants; still in progress. |
| U. S. *v.* Harris O. Bedford et al. | 2 | Western District of Texas. | Oct. 3, 1938 | Sec. 17 (a) (2) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate sec. 338, title 18, U. S. C. | H. O. Bedford was sentenced Oct. 13, 1938, upon plea of guilty, to serve 3 years in a reformatory. Application for an order to extradite Edward P. Lamar was denied by a Canadian court on Feb. 19, 1940. Pending. |
| U. S. *v.* Thomas W. Benson et al. (Suwannee Life Ins. Co.). | 1 | Southern District of Florida. | Oct. 26, 1938 | Secs. 17 (a) (1) and (2) of 1933 act, and sec. 338, title 18, U. S. C. | Trial opened Oct. 16, 1939, on the first, second, and third indictments, which were consolidated for trial. J. P. Atkins, T. W. Benson, C. O. Davenport, and W. H. Gillespie were found guilty. Sentences ranged from 6 to 18 months. Directed verdict of not guilty was entered as to 8 defendants. T. W. Benson appealed to the Circuit Court of Appeals for the Fifth Circuit; judgment affirmed June 4, 1940; petition for rehearing denied July 8, 1940. Petition for *certiorari* denied Oct. 21, 1940. The fourth indictment is pending as to both defendants |
| | 12 | do | do | Conspiracy to violate sec. 17 (a) (1) of 1933 act and sec. 338, title 18, U. S. C. | |
| | 12 | do | Apr. 11, 1939 | Sec. 338, title 18, U. S. C. | |
| | 2 | do | do | do | |
| U. S. *v.* Harold L. Bishop et al. (Stemmler & Co.). | 4 | Southern District of New York. | Dec. 7, 1939 | Sec. 338, title 18, U. S. C. | Trial opened Dec. 9, 1940, as to Kennedy and Stegman on second indictment. Stegman pleaded guilty during trial; Kennedy was acquitted. McDermott pleaded guilty prior to trial. Bishop is deceased. On Jan. 6, 1941, Stegman was sentenced to 1½ years' imprisonment; McDermott to 1 year and 1 day. Pending. |
| | 7 | do | Feb. 1, 1940 | Sec. 338, title 18, U. S. C., and conspiracy to violate this statute. | |
| U. S. *v.* E. Leroy Blessing et al. (Albatross Gold Mines, Inc.). | 3 | Western District of New York. | Nov. 2, 1940 | Sec. 338, title 18, U. S. C. | Blessing pleaded guilty Apr. 7, 1941; sentenced to 2 years' imprisonment. Walker has been apprehended and pleaded not guilty. Read has not been apprehended. Pending. |

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| U. S. *v.* James J. Boland et al. | 2 | ----do---- | Dec. 15, 1939 | Secs. 5 (a) (1) and (2) and 17 (a) (1) and (2) of 1933 act, and conspiracy to violate these statutes. | Milton Rabow has been apprehended. Boland is deceased. Pending. |
| | 2 | ----do---- | ----do---- | Sec. 338, title 18, U. S. C. | |
| U. S. *v.* Robert J. Boltz | 1 | Eastern District of Pennsylvania. | Dec. 6, 1940 | Secs 17 (a) (1), (2), and (3) of 1933 act; sec. 15 (a) of 1934 act; and sec. 338, title 18, U. S. C. | Boltz pleaded guilty Feb. 28, 1941, and was sentenced to 20 years' imprisonment, to run concurrently with sentence on a State charge. |
| U. S. *v.* Bruce B. Brady et al. (Hickox Finance Corp.). | 7 | Northern District of Ohio. | Mar. 25, 1938 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Curtz, Gray, Phillips, and Stein pleaded guilty to 5 Securities Act counts in October and November 1939. Sentences ranged from a suspended sentence to 2 years' imprisonment. Gilson was acquitted on Nov. 30, 1939. Brady is deceased. Potts has not been apprehended; case pending as to him. |
| U. S. *v.* Edmond B. Bronson et al. (Bagdad Copper Corp.). | 8 | Southern District of New York. | Mar. 8, 1939 | Secs. 5 (a) (1) and (2) and 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | All of the defendants have been apprehended. Trial to be held in October 1941. |
| U. S. *v.* James Marshall Brown et al. (Equities, Inc.). | 2 | Eastern District of Louisiana. | May 1, 1940 | Sec. 17 (a) (1) of 1933 act, and sec. 338, title 18, U. S. C. | Brown pleaded *nolo contendere* to the indictment on Mar. 3, 1941. Imposition of sentence was suspended. The indictment was *nolle prossed* as to Ashton on Mar. 10, 1941. |
| U. S. *v.* Buck Horn Mining Company et al. | 2 | Idaho | Mar. 11, 1940 | Secs. 5 (a) (1) and (2) of 1933 act. | Trial on second indictment opened Oct. 22, 1940. Both defendants were found guilty on all counts except 1, which was dismissed. James R. Davies was sentenced to serve 15 months; Buck Horn Mining Company was fined $1,000. Demurrers were sustained as to 5 counts of the first indictment; the remaining counts of this indictment were dismissed Oct. 15, 1940. |
| | 2 | ----do---- | May 15, 1940 | ----do---- | |
| U. S. *v.* Barton E. Buckman et al. | 11 | Western District of Wisconsin. | Aug. 14, 1939 | Sec. 17 (a) (3) of 1933 act; sec. 338; title 18, U. S. C.; and conspiracy to violate these statutes. | Trial opened May 14, 1940. Holt pleaded *nolo contendere* prior to trial. Buckman and Louis C. George were found guilty. Crofoot, R. E. George, Malkson, Spain, and Winebrenner were acquitted. On Aug. 5, 1940, Buckman was sentenced to 5 years' imprisonment, and fined $2,000; George to 6 years and $2,000. Holt received a suspended sentence and $500 fine and was placed on probation. The indictment was *nolle prossed* as to Bracy, Casey, and Shotola. |
| U. S. *v.* Charles P. Campbell et al. | 2 | Northern District of Illinois. | June 2, 1939 | Sec. 17 (a) (1) of 1933 act and sec. 338, title 18, U. S. C. | Both defendants pleaded *nolo contendere*. On Feb. 12, 1941, Marshall Campbell was sentenced to serve 3 years; Charles P. Campbell to 1 year and 1 day, suspended, and defendant placed on probation. |
| U. S. *v.* Central Securities Corporation et al. | 4 | Northern District of Indiana. | Nov. 8, 1940 | Conspiracy to violate sec. 15 (c) (1) of 1934 act. | Demurrers to the indictment were overruled Apr. 22, 1941. Case awaiting trial. |

[1] Parenthetical reference is to name under which investigation was carried prior to indictment.

TABLE II.—*Indictments returned for violation of the Acts administered by the Commission, the mail fraud statute (sec. 338, title 18, U. S. C.), and other related Federal statutes (where the Commission took part in the investigation and development of the case) which were pending during the fiscal year ended June 30, 1941*—Continued

| Name of case [1] | Number of defendants | United States District Court | Indictment returned | Charges | Status of case |
|---|---|---|---|---|---|
| U. S. *v.* E. Fairbanks Chase et al. (Donald P. Kenyon). | 11 | Southern District of New York. | Mar. 29, 1939 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate sec. 338, title 18, U. S. C. | Trial opened Oct. 2, 1939. Dizer and Grantham pleaded guilty prior to trial. Charles Russell Kenyon pleaded guilty after trial commenced. Eddy, Embree, Kenyon & Co., Inc., Schwartz, Sobel, and Weil Management, Inc., were found guilty. Sentences ranged from a suspended sentence to 2 years' imprisonment. The 2 corporations were each fined $10,000. The indictment was *nolle prossed* as to Chase on Oct. 29, 1940; pending as to Wayne. |
| U. S. *v.* Francis M. Cox et al. (Franklin Savings & Loan Co.). | 1 | Eastern District of Tennessee. | Nov. 18, 1939 | Sec. 17 (a) (1) of 1933 act, and sec. 338, title 18, U. S. C. | Trial opened Mar. 24, 1941. Johnson entered plea of *nolo contendere* to the second indictment prior to trial. Cox and Kenyon were each found guilty on all counts of the second indictment. Cox, who was the sole defendant in the first indictment, was also found guilty on 2 counts of first indictment. Cox was sentenced to serve 8 years and fined $10,000; Kenyon to 5 years and $4,000; and Johnson to 3 years and $2,000. |
| | 3 | do | Sept. 17, 1940 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | |
| U. S. *v.* Morris Davidow et al. (McKean Company). | 2 | Eastern District of Pennsylvania. | Aug. 28, 1940 | Secs. 17 (a) (1) and (2) of the 1933 act and sec. 338, title 18, U. S. C. | Both defendants have been apprehended. Pending. |
| U. S. *v.* Alva Brown Davis et al. (Santa Fe Land, Trust & Title Co.). | 2 | Northern District of Texas | Sept. 21, 1939 | Sec. 338, title 18, U. S. C., and conspiracy to violate this statute. | Trial opened Oct. 2, 1939. Both defendants were found guilty. Davis was sentenced to 2 years' imprisonment and fined $5,000; Summerfield to 2 years. Davis appealed to the Circuit Court of Appeals for the Fifth Circuit; judgment affirmed June 28, 1940; petition for *certiorari* denied Oct. 14, 1940. |
| U. S. *v.* C. Franklin Davis et al. (Universal Service Assn.). | 6 | Northern District of Illinois. | May 1, 1940 | Secs. 5 (a) (2) and 17 (a) (1) of 1933 act, and sec. 338, title 18, U. S. C. | All defendants have been apprehended. The motion to quash the indictment filed on behalf of Chancellor was denied June 18, 1941. |
| U. S. *v.* H. Anderson Davis et al. | 3 | Idaho | May 13, 1937 | Secs. 17 (a) (1), (2), and (3) of 1933 act; sec. 338, title 18 U. S. C.; and conspiracy to violate sec. 338 title 18 U. S. C. | J. E. Bass pleaded guilty on Sept. 8, 1939, and H. Anderson Davis on July 26, 1940, to three counts of the first indictment and both counts of the second; each sentenced to serve 2 years and 2 days. The remaining counts of the first indictment were dismissed July 26, 1940, as to J. E. Bass and Anderson. Both indictments were dismissed as to J. G. Bass. |
| | 3 | do | Sept. 14, 1938 | Sec. 17 (a) (3) of 1933 act and conspiracy to violate this statute. | |
| U. S. *v.* Victor de Villiers et al. (Mineral Mining Co.). | 11 | Northern District of Illinois. | July 22, 1938 | Secs. 5 (a) and 17 (a) (1) of 1933 act, and sec. 338 title 18 U. S. C. | All defendants have been apprehended except Morton Lewis. H. B. Keller is incarcerated on a State charge. Pending. |

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| U. S. v. Sidney J. Dillon et al. (Cooperative Trust Shares). | 2 | Southern District of Iowa.. | Apr. 13, 1939 | Secs. 17 (a) (1) and (2) of 1933 act and sec. 338, title 18, U. S. C. | Both defendants pleaded *nolo contendere* to 1 Securities Act and 1 mail fraud count. On Nov. 27, 1939, Dillon was sentenced to 5 years' imprisonment and fined $1,000; Crowley to 3 years and $1,000. Both defendants appealed to the Circuit Court of Appeals for the Eighth Circuit; convictions affirmed July 16, 1940; petition for rehearing denied Aug. 5, 1940. Petition for *certiorari* denied Oct. 28, 1940, as to both defendants. |
| U. S. v. Ethel Pitt Donnell et al. (American Terminals & Transit Co.). | 4 | Southern District of Indiana. | June 6, 1939 | Sec. 338, title 18, U. S. C., and conspiracy to violate this statute. | Trial opened Nov. 13, 1939. Hartenfeld was found guilty and Knapp acquitted. Beckett and Donnell pleaded guilty. Donnell and Hartenfeld were each sentenced to 10 years and fined $5,000; Beckett, 8 years and $2,500 fine. Hartenfeld appealed to the Circuit Court of Appeals for the Seventh Circuit; judgment affirmed June 11, 1940; petition for *certiorari* denied Oct. 14, 1940. |
| U. S. v. Amos Downs et al. (Humboldt Consolidated Mining Co.). | 3 | Colorado | Sept. 23, 1940 | do | The demurrers and motions to quash the indictment were overruled Mar. 1, 1941, as to each defendant. Case awaiting trial. |
| U. S. v. Hiram R. Edwards et al. (Edwards Petroleum Co.). | 2 | Western District of Oklahoma. | Nov. 15, 1938 | Secs. 5 (a) (1) and (2) and 17 (a) (1) and (2) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Edwards was found guilty upon his plea of *nolo contendere* and sentenced to 3 years' imprisonment. The indictment was dismissed as to Binger on Jan. 29, 1940. Edwards appealed to the Circuit Court of Appeals for the Tenth Circuit; judgment affirmed June 29, 1940. Edwards filed petition for *certiorari* which was granted; and on Mar. 3, 1941, the U. S. Supreme Court reversed the judgment of the district court and remanded the case to that court for further proceedings not inconsistent with its opinion. Pending. |
| U. S. v. Albert Emerton et al | 2 | Massachusetts | May 20, 1938 | Sec. 17 (a) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Emerton and Bottis pleaded guilty Nov. 19, 1940; each sentenced to serve 1 year and 1 day. |
| U. S. v. Hyman B. Essenfeld et al.. | 21 | Southern District of New York. | Sept. 2, 1937 | Sec. 338, title 18, U. S. C., and conspiracy to violate this statute. | Trial opened Nov. 15, 1937. Essenfeld, Klein, Parker, Max Silver, Spero, and Wolfson pleaded guilty before trial. D. B. Howe, H. Neditch, and J. T. Swan were convicted; verdict set aside as to J. T. Swan. The jury disagreed as to H. Melman; he pleaded guilty Apr. 29, 1938. Sentences ranged from a suspended sentence to 2 years' imprisonment. The indictment was dismissed as to 4 defendants and *nolle prossed* as to 8 defendants. On Sept. 18, 1940, Klein and Wolfson were each given suspended sentences and placed on probation. |
| U. S. v. Caroline Evans et al. (N. J. Stokes & Co.) . | 3 | Colorado | Mar. 11, 1938 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | On Sept. 13, 1938, Evans and White were found guilty upon their pleas of *nolo contendere*; each placed on probation. N. J. Stokes is a fugitive. |

[1] Parenthetical reference is to name under which investigation was carried prior to indictment.

TABLE II.—*Indictments returned for violation of the Acts administered by the Commission, the mail fraud statute (sec. 338, title 18, U. S. C.), and other related Federal statutes (where the Commission took part in the investigation and development of the case) which were pending during the fiscal year ended June 30, 1941*—Continued

| Name of case [1] | Number of defendants | United States District Court | Indictment returned | Charges | Status of case |
|---|---|---|---|---|---|
| U. S. *v.* G. E. Fisher et al. | 5 | Western District of Wisconsin. | Jan. 8, 1939 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Clausen pleaded guilty Mar. 21, 1940. G. E. Fisher, G. F. Fisher, and Yount were found guilty Mar. 21, 1940, upon their pleas of *nolo contendere*. On Sept. 25, 1940, G. E. Fisher and G. F. Fisher were each sentenced to 7 years' imprisonment and fined $5,000; Clausen to 2 years. Yount received a suspended sentence and $500 fine; placed on probation for 3 years. Benson is incarcerated on a State charge. Pending. |
| U. S. *v.* E. Andre Florian et al. (Plymouth Consolidated Gold Mines, Ltd.). | 6 | Delaware | Mar. 10, 1936 | Sec. 5 (a) of 1933 act and conspiracy to violate this statute. | Florian pleaded guilty on Sept. 17, 1937, and received $5,000 fine. The indictment was *nolle prossed* as to Emmons. The case is pending as to the two corporate defendants and as to Flickinger and Taylor, who are fugitives. |
| U. S. *v.* Leo E. Gaffeney et al. | 7 | Southern District of New York. | Oct. 19, 1939 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Trial opened Nov. 8, 1940. Pitney pleaded guilty after trial commenced. Gaffeney, Jeffrey, Ware, White, Bankers Industrial Service, Inc., and Hiltz & Company, Inc., were found guilty. Sentences ranged from a suspended sentence to 3½ years' imprisonment. The two corporations were each fined $1 on each of 19 counts. White has filed notice of intention to appeal; pending. |
| U. S. *v.* Gordon A. Gantz | 1 | Eastern District of Missouri. | Jan. 17, 1941 | Sec. 17 (a) (1) of 1933 act and sec. 338, title 18, U. S. C. | Trial opened June 9, 1941. Gantz was found guilty and sentenced to 4 years' imprisonment. He has filed notice of intention to appeal. Pending. |
| U. S. *v.* Eugene S. Gates et al. (International White Cement Co.). | 8 | District of Colorado | Mar. 9, 1939 | Secs. 17 (a) (1), (2), and (3) of 1933 act; sec. 338, title 18, U. S. C., and conspiracy to violate these statutes. | Trial opened Nov. 22, 1940, as to Gates and Rice; each found guilty as to certain counts of the indictment. Prior to trial Manning and Taylor pleaded *nolo contendere* to the conspiracy count, and Carpenter, Givens, and Hallam pleaded guilty to the same count. Sentences ranged from a probationary sentence to 8 years' imprisonment and $2,300 fine. Gates and Rice have appealed to the Circuit Court of Appeals for the Tenth Circuit. Petition for removal of Earl was denied; indictment dismissed as to him. |
| U. S. *v.* Louis C. George et al. (Automatic Products Corp.). | 3 | Southern District of New York. | Apr. 30, 1940 | Secs. 9 (a) (1) (B) and (C) and 9 (a) (2) of 1934 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | George pleaded guilty May 9, 1941, and was sentenced to 18 months; execution of sentence suspended and George to be placed on probation at expiration of 6-year term imposed on him in the B. E. Buckman case. Kirby has been apprehended. Pending. |

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| U. S. *v.* Morey Getz et al. (Ralph A. Gallagher & Co.). | 2 | Massachusetts | Jan. 4, 1937 | Secs. 9 (a) (1) (A), (B), and (C) of 1934 act (manipulation). | Getz pleaded guilty to both indictments on Jan. 21, 1938. He was sentenced on each indictment to 1 year and 1 day, to run concurrently. |
| | 2 | do | do | Conspiracy to violate secs. 9 (a) (1) (A), (B), and (C) and 9 (a) (2) of 1934 act. | Execution of sentence was suspended and he was placed on probation for 1 year. Both indictments were *nolle prossed* as to Hull on Aug. 27, 1940. |
| U. S. *v.* Zelmer A. Gilbert et al. (Mayfair Potteries, Ltd.). | 5 | Northern District of New York. | Nov. 20, 1940 | Secs. 17 (a) (1) and (2) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | All defendants have been apprehended and have pleaded not guilty. Pending. |
| U. S. *v.* Hector Gomez et al. (Minas Del Plomo, S. A.). | 4 | Southern District of New York. | June 18, 1941 | Secs. 5 (a) (1) and 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Gomez and Robinson have pleaded guilty. The other 2 defendants have not been apprehended. Pending. |
| U. S. *v.* Ivan E. Goodner et al. (Pioneer Gold Producers, Inc.). | 6 | Colorado | Apr. 26, 1940 | Secs. 17 (a) (1), (2), and (3) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | On Oct. 14, 1940, the district court sustained the plea in abatement and motion to quash the indictment which were filed on behalf of Goodner. The remaining defendants have been apprehended. Pending. |
| U. S. *v.* Wallace Groves et al. | 9 | Southern District of New York. | Dec. 1, 1938 | Sec. 338, title 18, U. S. C., and conspiracy to violate this statute. | Trial opened Feb. 6, 1941. Wallace Groves, George Groves, Delaware Trading Company, Erwar Corporation, Limited, Nassau Securities, Limited, and North American, Limited, were found guilty. Indictment severed as to Philip De Ronde, Philip De Ronde, Limited, and Warriner. Wallace Groves was sentenced to 2 years' imprisonment and fined $22,000; George Groves to 8 months and $22,000. Each of the four corporations was fined $1,000. Wallace and George Groves appealed. On Aug. 4, 1941, the Circuit Court of Appeals for the Second Circuit affirmed the conviction of Wallace Groves but reversed the conviction of George S. Groves and ordered new trial for him. Pending. |
| U. S. *v.* Jacob Gruber et al. | 3 | Southern District of New York. | Apr. 7, 1941 | Conspiracy to defraud the United States through listening in on official telephone conversations (sec. 88, title 18, U. S. C.) and unauthorized interference with communications—wire tapping (secs. 605 and 501, title 47, U. S. C.). | Gruber was found guilty May 29, 1941; he was sentenced to serve 1 year and 1 day and fined $1,000. Elizabeth Miller pleaded guilty; imposition of sentence was suspended and she was placed on probation. The indictment was dismissed as to Fay Werthman. |
| U. S. *v.* Robert W. Hacking et al. (National Credit Finance Corp.). | 2 | District of Minnesota | Feb. 29, 1940 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Trial opened Mar. 11, 1941. Robert W. Hacking and Paul Hacking were found guilty on certain mail fraud and Securities Act counts. Each was sentenced to serve 3 years in a reformatory. |
| U. S. *v.* William A. Hart | 1 | Southern District of California. | Nov. 13, 1940 | Sec. 17 (a) (1) of 1933 act and sec. 338, title 18, U. S. C. | Hart has been apprehended. Pending. |

[1] Parenthetical reference is to name under which investigation was carried prior to indictment.

TABLE II.— *Indictments returned for violation of the Acts administered by the Commission, the mail fraud statute (sec. 338, title 18, U. S. C.), and other related Federal statutes (where the Commission took part in the investigation and development of the case) which were pending during the fiscal year ended June 30, 1941*—Continued

| Name of case [1] | Number of defendants | United States District Court | Indictment returned | Charges | Status of case |
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| U. S. *v.* Thomas H. Hawkes et al. (American Tung Oil Products Corp.). | 3 | District of Columbia | Oct. 3, 1938 | Sec. 85, title 6, District of Columbia Code (obtaining money and property under false pretenses). | Trial opened Mar. 4, 1941, as to 2 defendants. Hawkes was found guilty and sentenced to serve from 1 to 3 years' imprisonment. Curtis Jones was acquitted. Hastings has not been apprehended; indictment pending as to him. |
| U. S. *v.* Arthur Hays et al | 2 | District of Columbia | Dec. 29, 1939 | Sec. 338, title 18, U. S. C., and conspiracy to violate this statute. | Both defendants have been apprehended. Pending. |
| U. S. *v.* Melvan D. Haynes et al. (Benner, Owens & Co.). | 7 | Eastern District of Michigan. | Oct. 19, 1936 | Secs. 17 (a) (1) and (2) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Trial opened Feb. 6, 1940. Goldman and Haynes pleaded *nolo contendere* prior to trial. After the trial commenced Benners and Wiseman pleaded *nolo contendere;* Wood entered a similar plea to 1 Securities Act count. Goldman, Wiseman, and Wood were each sentenced to 15 months; Haynes to 18 months; Benners to 4 years. Fraino surrendered Jan. 6, 1941. Brooks is a fugitive. |
| U. S. *v.* Theodore P. Heider et al. (Tiblemont Siscoe Mining, Ltd.). | 9 | Southern District of New York. | June 10, 1941 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Pending. |
| U. S. *v.* E. Randall Henderson et al. | 3 | Eastern District of Missouri. | June 23, 1941 | Secs. 17 (a) (1) and (2) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | All defendants have been apprehended. Trial set for January 1942. |
| U. S. *v.* W. J. Herring et al | 4 | Eastern District of Arkansas. | Sept. 23, 1940 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | W. J. Herring pleaded guilty to all the substantive counts of the first indictment and to all counts of the second. The conspiracy count of the first indictment was dismissed as to him. On Apr. 18, 1941, he was sentenced to 3 years' imprisonment. Both indictments were dismissed as to the remaining 3 defendants. |
| | 4 | do | Sept. 24, 1940 | Sec. 338, title 18, U. S. C | |
| U. S. *v.* Edward M. Hill et al | 12 | Northern District of Ohio | May 21, 1940 | Sec. 338, title 18, U. S. C., and conspiracy to violate this statute. | Trial opened Feb. 6, 1941. After trial commenced Barth, W. H. Gould, Gross, Hill, Mott, Rose, Reinhardt, Schofs, and de Villiers pleaded guilty and Harvey pleaded *nolo contendere.* Sentences ranged from a suspended sentence to 5 years imprisonment. The indictment was severed as to Lewis due to illness. C. W. Gould has not been apprehended. The indictment is pending as to these 2 defendants. |

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| U. S. *v.* Eugene M. Hilton. (Calmore Oil Co.). | 1 | Southern District of California. | Sept. 20, 1939 | Sec. 17 (a) (3) of 1933 act | Hilton was acquitted Aug. 30, 1940, on count 1 of the second indictment; count 2 of this indictment was dismissed when the Government elected to go to trial on the first count. The 3 remaining indictments were dismissed Nov. 8, 1940. |
| | 1 | do | do | do | |
| | 1 | do | do | Secs. 5 (a) (1) and (2) of 1933 act. | |
| | 1 | do | do | Secs. 17 (a) (2) and (3) of 1933 act. | |
| U. S. *v.* Leo S. Holmes et al. (First Mortgage Acceptance Corp.). | 3 | Nebraska | July 27, 1939 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18 U. S. C., and conspiracy to violate these statutes. | Trial opened Apr. 16, 1940. Hauser and McCormack pleaded *nolo contendere* after trial commenced. Holmes was found guilty on all counts of the indictment, except the second count, which was dismissed. Holmes was sentenced to serve 15 years and fined $25,000; Hauser to 6 years and $1,000; and McCormack to 15 months. Holmes appealed to the Circuit Court of Appeals for the Eighth Circuit; judgment affirmed Nov. 27, 1940. |
| U. S. *v.* Howard C. Hopson et al. (Associated Gas & Electric Co.). | 4 | Southern District of New York. | May 9, 1940 | Sec. 338, title 18, U. S. C., and conspiracy to violate this statute. | Trial opened Nov. 6, 1940. Hopson was found guilty and sentenced to 5 years' imprisonment. Brownback and Travis were acquitted. The indictment was abated as to Burroughs. Hopson has filed notice of intention to appeal; pending. |
| U. S. *v.* Elam Huddleston et al. | 6 | Western District of Kentucky. | Dec. 10, 1940 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | On June 13, 1941, Huddleston, Duckett, Neusch, Osborne, and Elam Huddleston & Company, Inc., were convicted; King was acquitted. Sentences ranged from 1 year and 1 day to 5 years. The corporation was fined $1,500. |
| U. S. *v.* R. Fay Hull et al. (Intercredit Corp.). | 3 | Southern District of Florida. | May 16, 1941 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Hull and Richmire have been apprehended. Childress is incarcerated on a State charge. Trial set for Sept. 8, 1941. |
| U. S. *v.* Illinois Iowa Power Company et al. | 5 | Southern District of Illinois. | Dec. 3, 1940 | Sec. 12 (h) of 1935 act (political contributions by public utility holding company's subsidiary) and conspiracy to violate this statute. | All defendants have been apprehended. Pending. |
| U. S. *v.* Andrew G. Ilseng et al. (International Mining & Milling Co.). | 7 | Southern District of California. | Sept. 29, 1937 | Sec. 338, title 18, U. S. C., and conspiracy to violate this statute. | Trial opened on Jan. 3, 1939. A. G. Ilseng, A. G. Ilseng, Jr., and McKercher were found guilty. Sentences ranged from a suspended sentence to 5 years' imprisonment. The indictment was dismissed as to the remaining 4 defendants. The three convicted defendants appealed. On June 13, 1941, the Circuit Court of Appeals for the Ninth Circuit affirmed the judgments of the district court as to all counts upon which they were found guilty except three. The judgments were reversed as to one of these and the case was remanded to district court for resentencing on the other two. Pending. |
| U. S. *v.* Albert Edward Janis et al. (Parking Meter Corp. of America). | 3 | Northern District of Ohio. | May 6, 1941 | Sec. 17 (a) (1) of 1933 act and sec. 338, title 18, U. S. C. | All defendants have been apprehended. Pending. |

[1] Parenthetical reference is to name under which investigation was carried prior to indictment.

TABLE II.—*Indictments returned for violation of the Acts administered by the Commission, the mail fraud statute (sec. 338, title 18, U. S. C.), and other related Federal statutes (where the Commission took part in the investigation and development of the case) which were pending during the fiscal year ended June 30, 1941*—Continued

| Name of case | Number of defendants | United States District Court | Indictment returned | Charges | Status of case |
|---|---|---|---|---|---|
| U. S. *v.* Arnold Joerns et al. (Resources Corp. International). | 9 | Northern District of Illinois. | Dec. 18, 1940 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | 8 defendants have been apprehended. Trial set for Oct. 6, 1941. |
| U. S. *v.* A. B. Jones et al. (Colonial Trading Co.). | 11 | Nevada | July 16, 1935 | Secs. 5 (a) and 17 (a) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | The indictment was *nolle prossed* Dec. 13, 1937, as to Nelson J. Sykes, who is deceased, and dismissed Sept. 30, 1940, as to 8 defendants. A. B. Jones and M. J. Jones, who are the principal defendants, have not been apprehended. Case pending as to them. |
| U. S. *v.* Philip J. Kealy et al. (Campana Gold Mines, Inc.). | 7 | Northern District of Illinois. | Apr. 15, 1940 | Sec. 338, title 18, U. S. C. | All defendants have been apprehended. Trial set for Sept. 29, 1941. |
| U. S. *v.* Ery Kehaya et al. (Standard Commercial Tobacco Co.). | 6 | Southern District of New York. | Jan. 3, 1940 | Secs. 9 (a) (1) (A), (B), and (C) and 9 (a) (2) of 1934 act (manipulation); sec. 338, title 18, U. S. C.; and conspiracy to violate secs. 9 (a) (1) and (2) of 1934 act and sec. 338, title 18, U. S. C. | Louis C. George pleaded guilty to certain counts of both indictments on May 9, 1941. He was sentenced to 18 months, suspended and placed on probation. The remaining defendants have been apprehended. Pending. |
| | 6 | do | Feb. 28, 1940 | Secs. 17 (a) (1) and (2) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate secs. 17 (a) (1) and (2) of 1933 act, secs. 9 (a) (1) and (2) of 1934 act, and sec. 338, title 18, U. S. C. | |
| U. S. *v.* S. G. Kennedy et al. | 3 | Eastern District of Tennessee. | Mar. 3, 1941 | Sec. 338 (mail fraud) and sec. 339 (using fictitious name to promote a fraud through the postal establishment), title 18, U. S. C.; and conspiracy to violate these statutes. | Kennedy and Clancy have been apprehended. Pending. |
| U. S. *v.* William E. Kirby | 1 | Nebraska | Jan. 24, 1941 | Sec. 17 (a) (1) of 1933 act and sec. 338, title 18, U. S. C. | Kirby pleaded guilty on Feb. 20, 1941. He was sentenced Mar. 14, 1941, to serve 3 years. |
| U. S. *v.* Edgar T. Konsberg et al. | 4 | Northern District of Illinois. | May 1, 1941 | Sec. 17 (a) (1) of 1933 act; sec. 8 (b) of 1934 act; sec. 338, title 18, U. S. C.; and conspiracy to violate sec. 17 (a) (1) of 1933 act and sec. 338, title 18, U. S. C. | All defendants have been apprehended except R. H. Breseman. Pending. |

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| U. S. *v.* Kopald-Quinn and Company et al. | 5 | Southern District of New York. | Aug. 30, 1935 | Sec. 9 (a) (2) of 1934 act (manipulation) and conspiracy to violate this statute. | Trial on second indictment opened Apr. 19, 1937. Gould and Company, Kopald-Quinn and Company, Joseph R. Mendelson, Ricebaum, Joseph N. Sherman, and Sutterman were found guilty. A mistrial was declared as to 2 defendants; the indictment was later *nolle prossed* as to them. Four defendants were acquitted; directed verdicts of not guilty were entered as to 9 defendants; Belmont, William Mendelson, and Trause pleaded guilty prior to trial. Sentences ranged from a suspended sentence to 5 years' imprisonment. Kopald-Quinn and Company was fined $55,000; Gould and Company $10,000. The 6 defendants who were found guilty appealed. Judgments affirmed on Feb. 16, 1939, as to Kopald-Quinn and Company, Mendelson, Sherman, and Sutterman. With respect to Gould & Company and Ricebaum, the judgments were affirmed by the Circuit Court of Appeals for the Fifth Circuit as to 1 count and reversed as to another. Petition for *certiorari* denied May 15, 1939. The first indictment was *nolle prossed* as to all defendants on Oct. 7, 1940, and the second as to 4 defendants on Mar. 31, 1941. The second and third indictments are pending as to Novak. |
| | 29 | Northern District of Georgia. | July 14, 1936 | Secs. 17 (a) (1), (2), and (3) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | |
| | 1 | ----do---- | Jan. 12, 1938 | Sec. 338, title 18, U. S. C. | |
| U. S. *v.* Fred H. Korff et al. | 2 | Southern District of New York. | Aug 3, 1939 | Sec. 338, title 18, U. S. C. | Both defendants pleaded not guilty on Aug. 14, 1939. Pending. |
| U. S. *v.* Barton La Fonte | 1 | Colorado | Sept. 23, 1940 | Sec. 338, title 18, U. S. C. | La Fonte pleaded guilty on Feb. 17, 1941, and was sentenced to serve 10 months. |
| U. S. *v.* William D. LaVey et al. | 10 | Eastern District of Washington. | June 25, 1937 | Secs. 5 (a) (1) and (2) and 17 (a) of 1933 act; sec. 338, title 18, U. S. C; and conspiracy to violate these statutes. | LaVey was sentenced Mar. 9, 1938, to 3 years' imprisonment upon plea of guilty. Trial opened Dec. 5, 1938; Harry A. Ross was convicted and sentenced to 15 months; Burke, Kamerman, Sargent, and Wise were acquitted; indictment dismissed as to Conley and Leo Ross; mistrial as to Friedlander due to illness. Barnett has not been apprehended; case pending as to him and Friedlander |
| U. S. *v.* Maurice A. Levine et al. (Paymaster Plan, Inc.). | 7 | Massachusetts | July 16, 1940 | Secs. 17 (a) (1), (2), and (3) of 1933 act, and conspiracy to violate this statute. | All defendants have been arraigned and have pleaded not guilty. Pending. |
| | 7 | ----do---- | ----do---- | Sec. 338, title 18, U. S. C., and conspiracy to violate this statute. | |
| U. S. *v.* Harry Low et al (Trenton Valley Distillers Corporation). | 2 | Eastern District of Michigan. | Feb. 3, 1939 | Sec. 17 (a) (1) of 1933 act and sec. 338, title 18, U. S. C. | Low surrendered on Feb. 24, 1939, and was later released on bail. He failed to appear at the pre-trial hearing set for June 23, 1941, and his bond was forfeited on this date. Walter H. Hardie is a fugitive in Canada. Pending. |
| U. S. *v.* Oscar Frederick Lundelius et al. | 2 | Southern District of California. | Jan. 15, 1941 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Lundelius and Eccleston pleaded guilty Mar. 3, 1941, to the Securities Act counts of the indictment. Each defendant sentenced to serve 1 year. No disposition has been made as to the mail fraud counts. |

[1] Parenthetical reference is to name under which investigation was carried prior to indictment.

TABLE II.—*Indictments returned for violation of the Acts administered by the Commission, the mail fraud statute (sec. 338, title 18, U. S. C.), and other related Federal statutes (where the Commission took part in the investigation and development of the case) which were pending during the fiscal year ended June 30, 1941*—Continued

| Name of case [1] | Number of defendants | United States District Court | Indictment returned | Charges | Status of case |
|---|---|---|---|---|---|
| U. S. *v.* Joseph M. Lydon et al | 6 | Massachusetts | Nov. 15, 1939 | Secs. 17 (a) (1) and (2) of 1933 act, and conspiracy to violate this statute. | Five defendants have been apprehended. Trial set for October 1941. |
| | 6 | do | do | Sec. 338, title 18, U. S. C., and conspiracy to violate this statute. | |
| U. S. *v.* James R. Macon et al | 2 | Northern District of Ohio | Feb. 2, 1940 | Sec. 17 (a) (1) of 1933 act and sec. 338, title 18, U. S. C. | Trial opened Jan. 14, 1941. Macon was found guilty and Schley acquitted. Macon was sentenced to 3 years' imprisonment and fined $2,500. He has filed notice of intention to appeal. |
| U. S. *v.* Harry J. Mallen (Santa Cruz Mining Co.). | 1 | Northern District of Illinois. | Mar. 15, 1940 | Sec. 17 (a) (1) of 1933 act and sec. 338, title 18, U. S. C. | Mallen has been apprehended. Trial set for Sept. 29, 1941. |
| U. S. *v.* J. M. May (Texas Mutual Reserve Life Ins. Co.). | 1 | Eastern District of Texas | Feb. 13, 1940 | Secs. 17 (a) (1) and (2) of 1933 act and sec. 338, title 18, U. S. C. | Trial opened Feb. 11, 1941. May was found guilty on all counts except two, which were dismissed; sentenced to 1 year and 1 day and fined $2,500. |
| U. S. *v.* J. M. McBride et al | 2 | Western District of Oklahoma. | Mar. 5, 1941 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | McBride and Keller pleaded guilty on May 17, 1941, and June 19, 1941, respectively; each sentenced to 18 months, suspended, and placed on probation. |
| U. S. *v.* George McGhie, Jr., et al | 2 | Western District of Wisconsin. | Feb. 17, 1940 | Secs. 17 (a) (1), (2), and (3) of 1933 act; sec 338, title 18, U. S. C.; and conspiracy to violate these statutes. | McGhie pleaded *nolo contendere* on July 12, 1940. He was found guilty upon this plea as to ten counts and fined $1,500; the remaining counts were dismissed as to him. Rothe pleaded guilty Feb. 1, 1941; sentenced to 18 months' imprisonment. |
| U. S. *v.* McKesson & Robbins, Inc., et al. | 4 | Southern District of New York. | Dec. 15, 1938 | Sec. 32 (a) of 1934 act (false or misleading statements) in connection with a document filed under sec. 13 of 1934 act, and conspiracy to violate sec. 32 (a) of 1934 act. | Trial on third indictment opened Mar. 7, 1940, as to 5 defendants; John and Leonard Jenkins pleaded guilty to certain counts of the indictment after trial commenced; Merwin and Phillips were acquitted; McGloon was found guilty on 1 Securities Exchange Act count. Prior to trial, Arthur, George, and Robert Musica, and Benjamin Simon entered plea of guilty to each indictment in which they were named as defendants. Coster is deceased. Sentences ranged from a suspended sentence to 3 years' imprisonment. McGloon, who was sentenced to 1 year and 1 day and fined $5,000, appealed to the Circuit Court of Appeals for the Second Circuit; judgment affirmed, without opinion, Dec. 30, 1940. Petition for *certiorari* denied Mar. 17, 1941. The first and second indictments are pending as to McKesson & Robbins, Inc. |
| | 4 | do | Dec 22, 1938 | do | |
| | 9 | do | Mar. 30, 1939 | Sec. 32 (a) of 1934 act in connection with a document filed under sec 13 of 1934 act; sec 338, title 18, U. S. C., and conspiring to violate sec. 32 (a) of 1934 act and sec. 338, title 18, U. S. C. | |

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| U. S. *v.* Alex A. Mengarelli. (Ozonide Corporation). | 1 | Northern District of New York. | July 18, 1940 | Secs. 17 (a) (1) and (2) of 1933 act, and sec. 338, title 18, U. S. C. | On June 18, 1941, Mengarelli was found guilty on 1 Securities Act count and acquitted on all other counts of the indictment. He was sentenced to 1½ years, suspended, and placed on probation. |
| U. S. *v.* Norman W. Minuse et al. | 3 | Southern District of New York. | Oct. 26, 1938 | Conspiracy to violate secs. 9 (a) (1) (A), (B), and (C) and sec. 9 (a) (2) of 1934 act (manipulation). | Trial opened Jan. 8, 1940. Stuart pleaded guilty during trial. Minuse and Pelletier were found guilty. Minuse was sentenced to 2 years and fined $5,000; Pelletier to 18 months and $1,000. Stuart was given a suspended sentence and placed on probation. Minuse and Pelletier appealed. On Aug. 7, 1940, the Circuit Court of Appeals for the Second Circuit reversed the judgments of the district court as to these 2 defendants on the ground they were not given a fair trial. Pending. |
| U. S. *v.* Clarence J. Morley et al. | 7 | Southern District of Indiana. | Oct. 24, 1936 | Sec. 338, title 18, U. S. C. | Trial opened June 21, 1937. Anderson, Chase, Morley, Stephenson, and Ward were found guilty. Sentences ranged from 1 year and 1 day to 5 years. Morley appealed; his conviction was affirmed by the Circuit Court of Appeals for the Seventh Circuit on Oct. 20, 1938. Petition for *certiorari* denied Feb. 3, 1939. James and Joseph Gualano have not been apprehended, case pending as to them. |
| U. S. *v.* Jesse H. Morrow et al. (G. K. Rodgers). | 3 | Northern District of New York. | June 12, 1941 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate sec. 17 (a) of 1933 act and sec. 338, title 18, U. S. C. | Pending. |
| U. S. *v.* William Mark Muchow. | 1 | Northern District of Illinois. | June 28, 1940 | Secs. 5 (a) (2) and 17 (a) (1) of 1933 act, and sec. 338, title 18, U. S. C. | Muchow has filed plea in abatement, motion to quash, and demurrer to indictment. Pending. |
| U. S. *v.* Samuel J. Mustain et al. (Continental Securities Corp.). | 15 | Southern District of New York. | Dec. 3, 1937 | Sec. 17 (a) of 1933 act; sec. 338, title 18, U. S. C., and conspiracy to violate these statutes. | Trial opened Oct. 8, 1940. H. W. and J. H. Williams, Goodman, and Colonial Securities Corporation pleaded guilty. The indictment was dismissed as to Feinberg. Casale, Collins, Martin, Mustain, Continental Securities Corp., Dealers Royalty Co., Inc., and Standard Dealers Co., Inc., were found guilty. Sentences ranged from a suspended sentence to 3½ years' imprisonment. The 4 corporations were each fined $10,000. The indictment was severed as to 3 defendants; pending as to them. |

[1] Parenthetical reference is to name under which investigation was carried prior to indictment.

TABLE II.—*Indictments returned for violation of the Acts administered by the Commission, the mail fraud statute (sec. 338, title 18, U. S. C.), and other related Federal statutes (where the Commission took part in the investigation and development of the case) which were pending during the fiscal year ended June 30, 1941*—Continued

| Name of case [1] | Number of defendants | United States District Court | Indictment returned | Charges | Status of case |
|---|---|---|---|---|---|
| U. S. *v.* National Investment Transcript, Inc., et al. | 20 | Southern District of New York. | July 2, 1936 | Sec. 338, title 18, U. S. C., and conspiracy to violate this statute. | Dinter pleaded guilty to the conspiracy count prior to trial and was given a suspended sentence. Berman, Congden, Gold, Greene, Halpert, Hermanson, Levin, Manchel, National Investment Transcript, Inc., Rollnick, Smiler, Steinberg, Tettelman, Ward, and Werblen were convicted Dec. 23, 1939. Jury disagreed as to Lazar and Schwartz. Sentences ranged from a suspended sentence to 7 years' imprisonment and $5,000 fine. The corporation was fined $10,018. 11 defendants appealed to the Circuit Court of Appeals for the Second Circuit; judgments affirmed Aug. 16, 1937. Berman, who received a suspended sentence, also appealed. The Circuit Court of Appeals for the Second Circuit dismissed his appeal. On Dec. 6, 1937, the Supreme Court held that he had a right to appeal from such a judgment and remanded the case to the Circuit Court of Appeals for the Second Circuit for further proceedings. On July 28, 1938, this court affirmed the judgment of the district court as to Berman. Hennigan and Strauss pleaded guilty to the conspiracy count on Mar. 20, 1939; each given a suspended sentence. Case pending as to Lazar and Schwartz. |
| U. S. *v.* Frank E. Nemec | 1 | Delaware | Sept. 13, 1939 | Sec. 17 (a) (1) of 1933 act and sec 338, title 18, U. S. C. | Trial opened Jan. 29, 1940. Frank E. Nemec was found guilty on 4 Securities Act and 2 mail fraud counts. On Feb. 13, 1940, he was sentenced to 4 years' imprisonment and fined $1,000. The second indictment is pending. |
| | 1 | do | do | Title 18, sec. 241 of U. S. C. (attempting to influence a witness). | |
| U. S. *v.* Robert S. Odell et al. (Pacific States Savings & Loan Co.). | 14 | Southern District of California. | Dec. 20, 1939 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C., and conspiracy to violate sec. 338, title 18, U. S. C. | Trial opened Apr. 30, 1940, as to all defendants except Rohrer and Randolph. On June 20, 1940, the court directed verdicts of not guilty as to the 12 defendants who stood trial. The indictment was dismissed on Apr. 30, 1940, as to Rohrer, and, on Sept. 16, 1940, as to Randolph. |
| U. S. *v.* Paine Statistical Corporation et al. | 6 | New Jersey | Jan. 12, 1940 | Sec. 15 (a) of 1934 act | All defendants have been apprehended Pending. |
| | 6 | do | do | Sec. 338, title 18, U. S. C. | |

| | | | | | |
|---|---|---|---|---|---|
| U. S. *v.* Stephen Paine et al. | 17 | Southern District of New York. | Nov. 2, 1938 | Sec. 338, title 18, U. S. C., and conspiracy to violate this statute. | Robb pleaded guilty to third indictment Oct. 18, 1939. Hansell, Morris, Paine, and Solomont were found guilty as to certain counts of the third indictment on Dec. 1, 1939. This indictment was *nolle prossed* as to Northern Fiscal Corporation, Limited. Hansell, Morris, Robb, and Solomont were each sentenced to 2 years; Paine to 1 year and 1 day. Execution of sentence as to Robb was suspended and he was placed on probation. On May 21, 1940, the second indictment was *nolle prossed* as to all defendants. Morris pleaded guilty to the first indictment on June 26, 1940; imposition of sentence suspended and defendant placed on probation. The first indictment is pending as to all defendants except Morris. |
| | 6 | do | Mar. 31, 1939 | do | |
| | 7 | do | May 31, 1939 | do | |
| U. S. *v.* Samuel C. Pandolfo (Old Line Ins. Shares Corp.). | 1 | New Mexico | Mar. 26, 1941 | Secs. 5 (a) (1) and (2) and 17 (a) (1) of 1933 act and sec. 338, title 18, U. S. C. | Trial opened June 23, 1941. Pandolfo was found guilty on the mail fraud counts of the indictment on July 1, 1941; sentenced to 10 years' imprisonment and fined $800. |
| U. S. *v.* Pennsylvania Finance Company, Inc., et al. | 13 | Eastern District of Pennsylvania. | Apr. 11, 1940 | Secs. 5 (a) (1) and (2) and 17 (a) (1) of 1933 Act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Trial opened Sept. 23, 1940. Howard J. Levitt, Samuel Sussman, Pennsylvania Finance Company, Inc., and First National Finance Corporation were found guilty on all counts except 2 as to which the court directed verdict of not guilty. The remaining 9 defendants were acquitted. Levitt was sentenced to serve 2 years; Sussman to 1 year and 1 day. The corporations were not fined as neither had any assets from which a fine could be collected. |
| U. S. *v.* Todd M. Pettigrew et al. (Western Plains Oil Corp.). | 2 | Western District of New York. | Dec. 12, 1940 | Secs. 17 (a) (1) and (2) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Both defendants have been apprehended. Pending. |
| U. S. *v.* Moe Platt et al. | 6 | Western District of Pennsylvania. | Sept. 22, 1937 | Secs. 17 (a) (1) and (2) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | McKee and Platt were found guilty under the fourth indictment on Sept. 29, 1939; each sentenced to 2 years' imprisonment and fined $2,500. Frankel, Lutz, and McNey pleaded guilty Nov. 6, 1939, to the third indictment; each defendant was placed on probation for 2 years and fined $200. This indictment was *nolle prossed* as to the remaining 4 defendants. Platt pleaded guilty Dec. 4, 1939, to the second indictment; sentenced to 2½ years to run concurrently with sentence imposed under fourth indictment. The second indictment was *nolle prossed* as to the remaining 6 defendants, and the first indictment as to all defendants. On Oct. 25, 1940, the Circuit Court of Appeals for the Second Circuit dismissed the appeals of McKee and Platt. |
| | 7 | do | Feb. 22, 1938 | do | |
| | 7 | do | do | Sec. 17 (a) (2) of 1933 act and conspiracy to violate sec. 17 (a) (3) of 1933 act. | |
| | 2 | Southern District of New York. | June 15, 1939 | Conspiracy to defraud the United States of and concerning its governmental function of administering the 1933 and 1934 acts. | |
| U. S. *v.* Paul G. Remington | 1 | North Dakota | Oct. 1, 1940 | Sec. 17 (a) (1) of 1933 act; sec. 15 (c) (1) of 1934 act; and sec. 338, title 18, U. S. C. | Remington pleaded guilty on Oct. 8, 1940, and was sentenced to 5 years' imprisonment. |

[1] Parenthetical reference is to name under which investigation was carried prior to indictment.

TABLE II—*Indictments returned for violation of the Acts administered by the Commission, the mail fraud statute (sec. 338, title 18, U. S. C.), and other related Federal statutes (where the Commission took part in the investigation and development of the case) which were pending during the fiscal year ended June 30, 1941*—Continued

| Name of case | Number of defendants | United States District Court | Indictment returned | Charges | Status of case |
|---|---|---|---|---|---|
| U. S. *v.* Joseph R. Rossignol et al. | 2 | Northern District of Georgia. | June 28, 1938 | Sec. 17 (a) (1) of 1933 act; sec. 338; title 18, U. S. C.; and conspiracy to violate secs. 17 (a) (1), (2), and (3) of 1933 act and sec. 338, title 18, U. S. C. | Both defendants were found guilty as to the substantive counts of the second indictment on Nov. 4, 1939. Crocy was sentenced to 2½ years' imprisonment; Rossignol to 4 years. Rossignol appealed to the Circuit Court of Appeals for the Fifth Circuit; judgment affirmed June 20, 1940; petition for *certiorari* denied Oct. 14, 1940. The first indictment was *nolle prossed* as to both defendants on Jan. 22, 1941. |
| | 2 | do | Jan. 20, 1939 | Sec. 338, title 18, U. S. C., and conspiracy to violate this statute. | |
| U. S. *v.* Paul B. Roubay et al. (Acceptance & Exchange Co.). | 7 | Southern District of California. | Nov. 27, 1935 | Conspiracy to violate sec. 17 (a) of 1933 act. | Trial on third indictment opened July 19, 1938. Boyd, Heyman, Nelson, Padgham, Phelps, Roubay, and Waggoner were found guilty. Directed verdict of not guilty entered as to Thorp. Sentences ranged from 2 years probation to 6½ years' imprisonment. Roubay and Waggoner appealed to the Circuit Court of Appeals for the Ninth Circuit; judgment affirmed as to Waggoner on July 26, 1940, and as to Roubay on Oct. 25, 1940. Petition of Waggoner for rehearing denied Aug. 30, 1940. Waggoner filed petition for *certiorari;* denied Nov. 12, 1940. The first and second indictments were dismissed as to all defendants. |
| | 8 | do | Jan. 22, 1936 | Conspiracy to violate secs. 5 (a) and 17 (a) of 1933 act. | |
| | 9 | do | Nov. 18, 1936 | Sec. 338, title 18, U. S. C. | |
| U. S. *v.* Frank J. Ryan et al. (E. Mugge Co.). | 4 | Southern District of Florida. | Sept. 26, 1939 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | All defendants have been apprehended. Order entered Feb. 23, 1940, overruling the demurrer to the indictment filed on behalf of Fisher and denying the motions to quash the indictment filed on behalf of Crews, Fisher, and Terral. The motions of Crews and Terral for separate trials were granted July 20, 1940. Pending. |
| U. S. *v.* Harold M. Saddlemire et al. (Ozark Barrel & Body Corp.). | 10 | Eastern District of Michigan. | Sept. 23, 1938 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Hawkes and Saddlemire pleaded guilty. Riker entered plea of *nolo contendere* to 1 mail fraud count and 2 Securities Act counts. On Dec. 15, 1939, Saddlemire was sentenced to 4 years and 8 months and fined $5,000; Riker to 3 years, suspended, and placed on probation, fined $2,500; Hawkes was placed on probation. The indictment was *nolle prossed* as to 1 defendant on Apr. 27, 1940, and dismissed as to the 6 remaining defendants on May 16, 1941. |

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|---|---|---|---|---|---|
| U. S. *v.* Carleton E. Saunders et al. | 16 | New Jersey | June 29, 1937 | Conspiracy to violate sec. 17 (a) of 1933 act; and sec. 338, title 18, U. S. C. | Trial opened Feb. 18, 1941, as to 3 defendants. Ball was acquitted on all counts of the indictment except the conspiracy count on which the jury was unable to agree. Mistrial declared as to Carleton E. Saunders and Frank Sheldon. On May 8, 1941, Frank Sheldon pleaded guilty to the conspiracy count and was sentenced to 18 months' imprisonment. Haskell, Jordan, and Lester pleaded guilty to the conspiracy count prior to trial. The indictment was severed as to 3 defendants and 7 have not been apprehended. Pending. |
| U. S. *v.* Herbert C. Schelzel et al. | 4 | Eastern District of Michigan. | June 20, 1940 | Sec. 338, title 18, U. S. C.; and conspiracy to violate this statute. | Schelzel pleaded guilty on June 27, 1940; sentenced to 15 months' imprisonment. Indictment pending as to the remaining 3 defendants. |
| U. S. *v.* Robert E. Scott et al. | 21 | Western District of Louisiana. | Oct. 17, 1934 | Sec. 17 (a) of 1933 act; sec. 338, title 18, U. S. C., and conspiracy to violate sec. 338, title 18, U. S. C. | 16 defendants pleaded guilty Mar. 11, 1935; sentences ranged from 1 year and 1 day to 7 years. Don Simmons pleaded *nolo contendere* Apr. 5, 1938, and was sentenced to 90 days in jail (to run concurrently with sentence in another case). Sidney P. Klein pleaded *nolo contendere* Oct. 12, 1939, and was sentenced to 1 year and 1 day in a reformatory. Pending as to 3 defendants. |
| U. S. *v.* William Jackson Shaw et al. (Consolidated Mines of California). | 2 | Southern District of California. | Dec. 13, 1939 | Sec. 5 (a) (2) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Tyler pleaded *nolo contendere* to 1 Securities Act and 1 mail fraud count on Feb. 5, 1940; he will not be sentenced until case is disposed of as to Shaw. The demurrer to the indictment filed by Shaw was overruled June 17, 1940, as to all counts except the conspiracy count, to which it was sustained. Trial opened June 17, 1941; still in progress. |
| U. S. *v.* Joshua F. Simons et al. (Peoples Oil & Gas Co.). | 11 | Western District of Washington. | Oct. 20, 1937 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C., and conspiracy to violate sec 17 (a) of 1933 act and sec. 338, title 18, U. S. C. | Trial on third indictment opened Feb. 14, 1939. 4 defendants were found guilty and 3 acquitted. Jury was unable to reach a verdict as to Myers. Taub pleaded *nolo contendere* to one count of he first indictment. William Markowitz and J. F. Simons were each sentenced to 8 years' imprisonment and fined $10,000; Samuel Markowitz to 3 years; Milton Simons was given a suspended sentence. Samuel and William Markowitz and J. F. Simons appealed to the Circuit Court of Appeals for the Ninth Circuit; judgments affirmed Apr. 21, 1941; petition for rehearing denied May 22, 1941. Petition for *certiorari* filed June 19, 1941. The second indictment is pending as to all defendants; the first as to all defendants except Taub; and the third is pending as to Myers. |
| | 10 | ....do | June 25, 1938 | ....do | |
| | 9 | ....do | Dec. 3, 1938 | ....do | |
| U. S. *v.* Edward A. Sloane et al. (A. D. Lowe & Associates). | 2 | Northern District of Illinois. | May 28, 1941 | Sec. 15 (a) of 1934 act | All defendants except Harold I. Getz have been apprehended. Case to be set for trial on Sept. 22, 1941. |
| | 4 | ....do | ....do | Sec. 338, title 18, U. S. C. | |
| U. S. *v.* David A. Smart et al. (Esquire-Coronet). | 12 | Northern District of Illinois. | May 2, 1941 | Conspiracy to violate sec. 9 (a) (2) of 1934 act. | All defendants have been apprehended. Pending. |

[1] Parenthetical reference is to name under which investigation was carried prior to indictment.

TABLE II.—*Indictments returned for violation of the Acts administered by the Commission, the mail fraud statute (sec. 338, title 18, U. S. C.), and other related Federal statutes (where the Commission took part in the investigation and development of the case) which were pending during the fiscal year ended June 30, 1941*—Continued

| Name of case [1] | Number of defendants | United States District Court | Indictment returned | Charges | Status of case |
|---|---|---|---|---|---|
| U. S. *v.* Samuel Robert Smith (Bankers Credit & Acceptance Corp.). | 1 | District of Columbia | June 28, 1940 | Secs. 5 (b) (2) and 17 (a) (1) of 1933 act. | Smith pleaded guilty on July 23, 1940, and received a sentence of 1 to 3 years. |
| U. S. *v.* Joseph H. Smitha (Advance Oil Co.). | 1 | Northern District of Georgia. | Apr. 29, 1941 | Sec. 17 (a) (1) of 1933 act and sec. 338, title 18, U. S. C. | Smitha has been apprehended. Pending. |
| U. S. *v.* Robert B. Spafford et al. | 2 | District of Columbia | Mar. 25, 1941 | Sec. 851, District of Columbia Code (larceny after trust). | Spafford pleaded guilty to 4 indictments. On May 29, 1941, he was sentenced to serve 1 to 3 years on each indictment to which he pleaded guilty, sentences to run concurrently. The 3 remaining indictments returned against him were *nolle prossed*. All 6 of the indictments in which Downs was named as a defendant were *nolle prossed* as to him. |
| | 1 | do | do | do | |
| | 2 | do | do | do | |
| | 2 | do | do | do | |
| | 2 | do | do | do | |
| | 2 | do | do | do | |
| | 2 | do | do | do | |
| U. S. *v.* Max Strahl et al. (C. G. Blackwell). | 11 | Southern District of New York. | Apr. 26, 1938 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C., and conspiracy to violate sec. 338, title 18, U. S. C. | Edell and Strahl pleaded guilty on Nov. 16, 1938; imposition of sentences deferred pending disposition of other cases in which these 2 defendants are involved. The remaining defendants have been apprehended. Pending. |
| U. S. *v.* Max Strahl et al. (Secord-Vanderpoel & Co.). | 16 | Southern District of New York. | Dec 24, 1936 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C., and conspiracy to violate sec. 338, title 18, U. S. C. | Alshire and Secord pleaded guilty June 7, 1938. Indictment was dismissed as to Leslie and Tucker on June 21, 1938. Edell, Gutterson, Strahl, Edwin T. Vanderpoel, and Secord-Vanderpoel & Co., Inc., were found guilty June 29, 1938. Camp, Lawrence, Mandel, and Washington Irving Vanderpoel were acquitted. Sentences ranged from a suspended sentence to 3 years' imprisonment. The corporation was fined $1,000. Warner pleaded guilty Apr. 3, 1941, and was sentenced to serve 6 months. Indictment pending as to Bryan and Kelly. |
| U. S. *v.* Elias T. Stone et al. | [2] 5 | Eastern District of Tennessee. | Mar. 16, 1938 | Secs. 17 (a) (1) and 5 (a) of 1933 act; sec. 338, title 18, U. S. C., and conspiracy to violate secs. 17 (a) (1), (2), and (3) of 1933 act and sec. 338, title 18, U. S. C. | 1 indictment was dismissed; the remaining 13 were consolidated. Trial opened Jan. 17, 1939. Each defendant was found guilty and sentenced to 7 years. Defendants appealed. On June 27, 1940, the Circuit Court of Appeals for the Sixth Circuit reversed the judgments of the district court and remanded case for new trial upon the ground that an attempt was made to influence the jury. Government's petition for rehearing denied Sept. 16, 1940. Retrial of Anderson opened June 19, 1941; the jury was unable to reach a verdict and a mistrial was declared. Kennedy, Shaw, Elias T. Stone, and Harold F. Stone entered pleas of guilty prior to retrial. These defendants have not been sentenced. Pending. |

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| U. S. *v.* David R. Strong et al. (Five Points Mining & Milling Co.). | 3 | Idaho | Feb. 5, 1941 | Sec. 17 (a) (1) of 1933 act, sec. 338, title 18, U. S. C.; and conspiracy to violate sec. 17 (a) of 1933 act and sec. 338, title 18, U. S. C. | All defendants have been apprehended. Pending. |
| U. S. *v.* Harry Armstrong Thompson (Ridge & Co.). | 1 | Utah | Oct. 30, 1940 | Sec. 17 (a) (1), of 1933 act | Thompson pleaded guilty on Nov. 14, 1940; imposition of sentence was suspended and defendant placed on probation. |
| U. S. *v.* Robert M. Thompson et al. (Southwestern Detective Agency). | 3 | Northern District of Texas. | Jan. 24, 1940 | Sec. 338, title 18, U. S. C. and conspiracy to violate this statute. | Trial opened Feb. 3, 1940. All 3 defendants were found guilty. Thompson was sentenced to 7 years; Allen to 5 years; Combs to 30 days in jail. On Feb. 20, 1940, the defendants paid to the clerk of court a large proportion of the funds they had obtained for restitution to persons defrauded, and the court reduced Thompson's sentence to 5 years and Allen's to 18 months. On Nov. 15, 1940, the Circuit Court of Appeals for the Fifth Circuit dismissed the appeal filed by Thompson on the ground that the appeal was not perfected within the required time limit. |
| U. S. *v.* Arthur G. Thurman et al. | 3 | Massachusetts | Jan. 19, 1939 | Sec. 17 (a) (2) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Lincoln pleaded guilty May 6, 1941, and was sentenced to 2 years, suspended, and placed on probation. Levinson is incarcerated on a State charge; Thurman has not been apprehended; case pending as to them. |
| U. S. *v.* Charles R. Topping et al. (Trinity Mining Co.). | 3 | Northern District of California. | Aug. 15, 1940 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | On Dec. 7, 1940, Barnard and Topping pleaded guilty to one mail fraud count. Wicks entered plea of *nolo contendere* to the same count. The remaining counts of the indictment were dismissed as to all defendants. Barnard was sentenced to serve 3 years; Topping to 1 year. Wicks was sentenced to 2 years, suspended, and placed on probation. |
| U. S. *v.* Union Electric Company of Missouri et al. | 2 | Eastern District of Missouri. | Jan. 17, 1941 | Sec. 12 (h) of 1935 act (political contributions by public utility holding company or subsidiary) and conspiracy to violate this statute. | On May 23, 1941, the court overruled the demurrer to the indictment as to both defendants. Pending. |
| U. S. *v.* Albert John Van Scoyoc et al. | 3 | Southern District of New York. | Mar. 15, 1941 | Sec. 338, title 18, U. S. C., and conspiracy to violate this statute. | Trial opened Apr. 14, 1941, as to Van Scoyoc; he pleaded guilty after trial commenced. Arlen entered plea of guilty prior to trial. Van Scoyoc was sentenced to 4 years' imprisonment; Arlen to 5 years. Sarshik has been apprehended; indictment pending as to him. |
| U. S. *v.* Philip Cornelius Walsh et al. (El Canada Mines, Inc.). | 21 | Southern District of New York. | Sept. 27, 1940 | Secs. 17 (a) (1) and (2) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | All of the individual defendants have been apprehended except 4. Pending. |
| U. S. *v.* W. A. Walsingham et al. | 5 | Eastern District of Louisiana. | Sept. 6, 1939 | Sec. 17 (a) (1) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate secs. 17 (a) (1), (2), and (3) and sec. 23 of 1933 act and sec. 338, title 18, U. S. C. | Trial opened Jan. 20, 1941, as to Emellos, Luria, Sibley, and Walsingham; mistrial declared as to each on Jan. 31, 1941. Galbo is incarcerated on a State charge. Pending. |

[1] Parenthetical reference is to name under which investigation was carried prior to indictment.
[2] Total of 14 indictments against total of 5 defendants.

TABLE II.—*Indictments returned for violation of the Acts administered by the Commission, the mail fraud statute (sec. 338, title 18, U. S. C.), and other related Federal statutes (where the Commission took part in the investigation and development of the case) which were pending during the fiscal year ended June 30, 1941*—Continued

| Name of case [1] | Number of defendants | United States District Court | Indictment returned | Charges | Status of case |
|---|---|---|---|---|---|
| U. S. v. H. Armin Weil et al. (Plymouth Cooperage Co.). | 3 | Eastern District of Michigan. | Apr. 6, 1939 | Secs. 17 (a) (1) and (2) of 1933 act; sec. 338, title 18, U. S. C.; and conspiracy to violate these statutes. | Trial opened Jan. 21, 1941, as to Edlin. He was found guilty as to certain counts of the indictment. Weil pleaded guilty prior to trial. Edlin was sentenced to 4 years' imprisonment; Weil to 15 months. Edlin has filed notice of intention to appeal. The indictment is pending as to the corporate defendant. |
| U. S. v. Morris Frank Whealton et al. | 14 | New Jersey | June 28, 1936 | Sec. 338, title 18, U. S. C., and conspiracy to violate this statute. | Trial on first indictment opened June 15, 1938. Coffin, M. F. Whealton, Whealton Company, and Commonwealth Trust Company were found guilty; Hartman was acquitted; Barcus pleaded guilty prior to trial. First indictment dismissed Aug. 3, 1938, as to Alexander, Lipsey, Massey, Turner, and Wilson. Sentences ranged from a suspended sentence to 2½ years' imprisonment. Whealton Company received $10,000 fine and Commonwealth Trust Co. $4,000. Coffin, M. F. Whealton, and Commonwealth Trust Company appealed. On June 29, 1940, the Circuit Court of Appeals for the Third Circuit reversed the judgment of the district court as to these defendants and remanded case for new trial. Pending. |
| | 14 | do | do | Sec. 17 (a) of 1933 act | |

[1] Parenthetical reference is to name under which investigation was carried prior to indictment.

TABLE III.—*Indictments returned for perjury committed in the course of investigations conducted by the officers of the Commission*

| Name of case | Number of defendants | United States District Court | Indictment returned | Charges | Status of case |
|---|---|---|---|---|---|
| U. S. *v.* Frank J. Boehm | 1 | Eastern District of Missouri. | Mar. 13, 1940 | Perjury | Trial opened June 25, 1940. Boehm was found guilty on 2 counts of the indictment. He was sentenced to serve 5 years and fined $4,000. Boehm has appealed to the Circuit Court of Appeals for the Eighth Circuit. Argument on appeal set for Sept. 10, 1941. Pending. |
| U. S. *v.* B. E. Buckman et al | 1 | Northern District of Illinois. | Nov. 15, 1938 | Perjury | Jackson and Sletteland have been apprehended. Buckman and George were convicted June 5, 1940, in another case for violating the Securities Act of 1933 and the mail fraud statutes. Pending as to all defendants. |
| | 1 | do | do | do | |
| | 1 | do | do | do | |
| | 1 | do | Nov. 21, 1938 | do | |
| | 4 | do | do | Conspiracy to commit perjury | |
| U. S. *v.* Albert C. Laun et al | 1 | Eastern District of Missouri. | Nov. 17, 1939 | Perjury | Martin pleaded guilty Jan. 3, 1940, to the indictment returned against him; he was sentenced to 6 months and fined $501. On Apr. 26, 1941, Laun pleaded *nolo contendere* to the indictment returned against him on Mar. 13, 1940. He was found guilty upon this plea and sentenced to serve 1 year and 1 day and fined $4,500. The indictment returned Nov. 17, 1939, against Laun is pending. |
| | 1 | do | do | do | |
| | 1 | do | Mar. 13, 1940 | do | |
| U. S. *v.* Joseph J. Mascuch et al | 1 | Southern District of New York. | June 14, 1939 | Perjury | Mascuch was found guilty on both counts of the first indictment Nov. 28, 1939. He was sentenced to 2 years' imprisonment and fined $4,000. On May 6, 1940, the Circuit Court of Appeals for the Second Circuit affirmed his conviction. Petition for *certiorari* denied Oct. 14, 1940. Hoff pleaded guilty May 29, 1941, to the second indictment. He received a suspended sentence and was placed on probation. The third indictment is pending as to both defendants. |
| | 1 | do | do | do | |
| | 2 | do | do | Conspiracy to commit perjury | |

TABLE IV.—*Petitions for review of orders of Commission under the Securities Act of 1933, the Securities Exchange Act of 1934 (other than confidential treatment cases), and the Public Utility Holding Company Act of 1935 pending in circuit courts of appeals during the fiscal year ended June 30, 1941*

| Petitioner | United States Circuit Court of Appeals | Initiating papers filed | Nature of case | Status of case |
|---|---|---|---|---|
| American Gas and Electric Company | District of Columbia. | June 27, 1941 | Petition for review of Commission's order which denied the application of petitioner under sec. 2 (a) (8) of the 1935 act for an order declaring petitioner not to be a subsidiary of Electric Bond and Share Company. | Pending. |
| Detroit Edison Company (The) | Sixth | Aug. 22, 1940 | Petition for review of Commission's order which denied the application of petitioner under sec. 2 (a) (8) of 1935 act for an order declaring petitioner not to be a subsidiary of The North American Company. | Opinion rendered May 12, 1941, by the Circuit Court of Appeals for the Sixth Circuit denying the petition for review. The court found that the evidence was sufficient to support the Commission's findings. |
| Hartford Gas Company (The) | Second | Apr. 25, 1941 | Petition for review of Commission's order which denied the application of petitioner under sec. 2 (a) (8) of 1935 act for an order declaring petitioner not to be a subsidiary of The United Gas Improvement Company or of The United Corporation or of The Connecticut Gas and Coke Securities Company. | Motion filed Apr. 25, 1941, for an order staying Commission's order. Argument on motion for a stay held May 12, 1941; motion withdrawn by petitioner May 17, 1941. |
| Morgan Stanley & Co., Incorporated | Second | June 11, 1941 | Petition for review of an order of the Commisssion under Rule U-12F-2, promulgated under the 1935 act, prohibiting The Dayton Power and Light Company from paying certain fees to Morgan Stanley & Co., Incorporated, in connection with the underwriting of an issue of the former's securities on the ground that these companies stand in such relation that there is liable to have been an absence of arm's length bargaining with respect to the transaction. | Pending. |

| | | | | |
|---|---|---|---|---|
| Morris, Lewis H., et al. (as a committee for the protection of 7-percent preferred stockholders of International Paper & Power Company). | Second | Jan. 25, 1940 | Petition for review of Commission's order dismissing application of International Paper & Power Company for approval of its plan of recapitalization; and for an order directing Commission to reinstate the proceedings under sec. 7 of 1935 act and to grant petitioners an opportunity to apply for order of restitution. | Opinion rendered Jan. 13, 1941, by the Circuit Court of Appeals for the Second Circuit granting the motion of the Commission to dismiss the petition for review and denying the motion of International Paper and Power Company to intervene as a respondent. The court held the Commission's later order declaring International Paper & Power Company not to be a public utility holding company made the case moot and that in view of the fact that this case involved the construction of a mandate of the Circuit Court of Appeals for the First Circuit it did not have jurisdiction. Orders in accordance with opinion entered Jan. 29, 1941. |
| Public Service Company of Oklahoma. | Tenth | Nov. 4, 1940 | Petition for review of Commission's order denying petitioner's application filed pursuant to secs. 3 (a) (1) and (2) of 1935 act for exemption as a holding company and for the exemption of Southwestern Light and Power Company as its subsidiary. | Order entered Nov. 20, 1940, staying Commission's order. The Commission filed an application for leave to adduce additional evidence on Jan. 9, 1941; order entered Jan. 17, 1941, granting the application. The transcript of record and briefs have been filed. On June 20, 1941, a stipulation was filed, agreeing that submission of case be postponed to next term of court, for the reason that there is pending before the Commission an application of petitioner to acquire all of the assets of Southwestern Light and Power Company, and if such application is granted this case will become moot. |

| Petitioner | United States Circuit Court of Appeals | Initiating papers filed | Nature of case | Status of case |
|---|---|---|---|---|
| Sisto, Joseph A., et al. (Case No. 1.) | Second | Aug. 29, 1940 | Petition to review Commission's order denying the application of peitioners, pursuant to sec. 15A (b) (4) of 1934 act, for an order approving or directing admission of J. A. Sisto & Co., a partnership consisting of Joseph A. Sisto and Charles J. Sisto, to membership in the National Association of Securities Dealers, Inc. | Case No. 2 consolidated with Case No. 1 by stipulation on court order Oct. 24, 1940. Stipulation filed June 20, 1941, extending time for filing of record to Aug. 10, 1941. |
| Sisto, Joseph A., et al. (Case No. 2.) | Second | Oct. 24, 1940 | Petition to review Commission's order denying rehearing on the order which denied the application of petitioners, pursuant to sec. 15A (b) (4) of 1934 act, for an order approving or directing admission of J. A. Sisto & Co., a partnership consisting of Joseph A. Sisto and Charles J. Sisto, to membership in the National Association of Securities Dealers, Inc. | Case No. 2 consolidated with Case No. 1 by stipulation on court order Oct. 24, 1940 Stipulation filed June 20, 1941, extending time for filing of record to Aug. 10, 1941. |

TABLE IV.—*Petitions for review of orders of Commission under the Securities Act of 1933, the Securities Exchange Act of 1934 (other than confidential treatment cases), and the Public Utility Holding Company Act of 1935 pending in circuit courts of appeals during the fiscal year ended June 30, 1941*—Continued

| Petitioner | United States Circuit Court of Appeals | Initiating papers filed | Nature of case | Status of case |
|---|---|---|---|---|
| Walston, Vernon C., et al. | Ninth | Aug. 26, 1940 | Petition to review and set aside Commission's order revoking, under sec. 15 (b) of 1934 act, the registration of Walston & Co. as brokers and dealers and suspending, under sec. 19 (a) (3) of 1934 act, Vernon C. Walston and William Sherman Hoelscher from membership on the New York Stock Exchange and the San Francisco Stock Exchange, respectively. | Stipulation for dismissal of petition for review filed July 1, 1941. |

TABLE V.—*Proceedings by Commission, pending during the fiscal year ended June 30, 1941, to enforce subpenas under the Securities Act of 1933 and the Securities Exchange Act of 1934*

| Principal defendants | Number of defendants | United States District Court | Initiating papers filed | Section of act involved | Status of case |
|---|---|---|---|---|---|
| Lost Canon Mountain Mining Company et al. | 2 | Northern District of Illinois | June 19, 1941 | Sec. 22 (b) of 1933 act | Order entered by default July 1, 1941, requiring William Berg to appear before an officer of the Commission on July 8, 1941, and produce documentary evidence relating to Lost Canon Mountain Company. |
| Producers Finance Corporation | 1 | Western District of Oklahoma. | July 16, 1940 | Sec. 22 (b) of 1933 act | Order entered by consent July 26, 1940, granting application. |
| Texas Reserve Life Company et al. | 2 | Eastern District of Texas | Mar. 17, 1941 | Sec. 22 (b) of 1933 act | Order entered Apr. 17, 1941, directing Texas Reserve Life Company and J. M. May to appear before an officer of the Commission and produce documentary evidence. |
| Tung Corporation of America et al. | 2 | Northern District of Illinois | Dec. 19, 1939 | Sec. 22 (b) of 1933 act | Order entered Aug. 15, 1940, on motion of Commission dismissing application. (The documents were produced without court order.) |

TABLE VI.—*Miscellaneous actions against Commissioners or employees of the Commission pending during fiscal year ended June 30, 1941*

| Parties plaintiff | Name of court | Initiating papers filed | Nature of case | Status of case |
|---|---|---|---|---|
| American Gyro Company | United States District Court for the State of Colorado. | Oct. 22, 1940 | Action for an order requiring all defendants except Howard N. Lary, an employee of the Commission, to make an accounting of the assets of the plaintiff which are in their possession and to deliver such assets to the plaintiff; and for an order requiring Howard N. Lary to return to plaintiff all of its books, records, etc., which are in his possession. | Disclaimer filed Nov. 8, 1940, by Howard N. Lary offering to deposit the books and records of plaintiff which are in his possession with the court for delivery to proper party. Order entered Feb. 10, 1941, on plaintiff's motion directing Howard N. Lary to deliver books and records of the plaintiff to clerk of court and that action be dismissed as to him. |
| Bronson, Edmond D. | Supreme Court of the State of New York, County of New York. | June 14, 1939 | Action at law for damages against H. Victor Schwimmer and George S. Parlin, employees of the Commission, Bagdad Copper Corporation, and Severance A. Millikin, its president, for conspiracy to depreciate the value of the stock of Bagdad Copper Corporation. | Motion of defendants Schwimmer and Parlin to dismiss the complaint for failure to state a cause of action granted Nov. 1, 1939. Amended complaint filed Nov. 14, 1939. Plaintiff's motion to drop Bagdad Copper Corporation as a defendant granted Dec. 1, 1939. Opinion rendered Feb. 24, 1940, granting the motion of defendants Schwimmer and Parlin to strike the amended complaint; order in accordance with opinion entered. Plaintiff filed notice of appeal from this order on Mar. 5, 1940. Record on appeal has not been filed. |
| Coronado Development Corporation. | Supreme Court of the State of New York, County of New York. | Apr. 5, 1940 | Action at law for damages against H. Victor Schwimmer, George S. Parlin, employees of the Commission, and Severance A. Millikin, president of Bagdad Copper Corporation, for conspiracy to depreciate the value of the stock of Bagdad Copper Corporation. | Opinion rendered Sept. 24, 1940: (1) Dismissing complaint upon the grounds that it contained improper allegations which could not be regarded as mere surplusage; and (2) denying motion of Schwimmer and Parlin to dismiss complaint upon the grounds (a) that the complaint failed to state a cause of action; (b) that the court did not have jurisdiction over the action; (c) that no cause of action ever accrued against them because the action taken by them was done in an official capacity as attorneys for the Commission; and (d) that there was another action pending between the same parties for the same cause of action. Order in accordance with opinion entered Oct. 11, 1940. Amended complaint filed Oct. 18, 1940. Motion of defendant Millikin to dismiss the amended complaint denied Jan. 3, 1941; this order has been appealed. Defendants Schwimmer and Parlin appealed the order of Oct. 11, 1940. Papers on appeal filed in April 1941. Stipulation filed Apr. 16, 1941, extending the time to Oct. 1, 1941, for defendants Schwimmer and Parlin to file brief. |

TABLE VI.—*Miscellaneous actions against Commissioners or employees of the Commission pending during fiscal year ended June 30, 1941*—Con.

| Parties plaintiff | Name of court | Initiating papers filed | Nature of case | Status of case |
|---|---|---|---|---|
| Jones, J. Edward | United States District Court for the District of Columbia. | May 28, 1938 | Action at law for damages against individual Commissioners for conspiring to maliciously prosecute and defame the character of the plaintiff. | Demurrers to complaint sustained on Apr. 20, 1939; plaintiff was given leave to amend complaint. Amended complaint filed May 16, 1939. Amended complaint dismissed June 14, 1939. Order entered June 20, 1939, granting plaintiff leave to file second amended complaint. Second amended complaint filed June 26, 1939. Second amended complaint dismissed Sept. 6, 1939. Order entered Oct. 6, 1939, dismissing action for failure of plaintiff to file a further amended complaint within the time allowed by the order dismissing the second amended complaint. Plaintiff appealed; on Mar. 17, 1941, the Court of Appeals for the District of Columbia affirmed the judgment of the district court. Order entered June 24, 1941, staying the mandate of the Court of Appeals for the District of Columbia until July 26, 1941. Pending. |

TABLE VII.—*Contempt proceedings pending during the fiscal year ended June 30, 1941*

| Principal defendants | Number of defendants | United States District Court | Initiating papers filed | Status of case |
|---|---|---|---|---|
| Plymouth Consolidated Gold Mines, Ltd. et al. | 5 | Delaware | Oct. 31, 1935 | Order for writ of attachment for sequestration of property of Plymouth Consolidated Gold Mines, Ltd., and Plymouth Company signed; writ issued and served on Nov. 25, 1935. Pending. |

TABLE VIII.—*Actions against Commission or employees of the Commission to enjoin enforcement of the Securities Act of 1933, the Securities Exchange Act of 1934, and the Public Utility Holding Company Act of 1935—Fiscal year ended June 30, 1941*

| Parties plaintiff | Number of defendants | United States District Court | Initiating papers filed | Nature of case | Status of case |
|---|---|---|---|---|---|
| Bagdad Copper Corporation. | ..... | District of Columbia.. | Aug. 4, 1937 | Action for declaratory judgment that securities of defendant corporation are exempt from the registration provisions under sec. 3 (a) (1) of 1933 act; and that plaintiff has a right to withdraw its registration without the consent of the Commission. | Action dismissed Feb. 27, 1941, for want of prosecution in accordance with court rules. |
| Magnetic Gold Mining Company, Incorporated. | 2 | Western District of Louisiana. | Aug. 13, 1940 | Action to enjoin H. B. Sessions and Edwin L. Booth, agents of the Commission, from contacting or circularizing the stockholders of the plaintiff in any manner which might tend to prejudice the stockholders against it. | Action dismissed on motion of plaintiff Sept. 3, 1940. |
| Parker Methods Incorporated. | 2 | Western District of Louisiana. | Aug. 13, 1940 | Action to enjoin H. B. Sessions and Edwin L. Booth, agents of the Commission, from contacting or circularizing the stockholders of the plaintiff in any manner which might tend to prejudice the stockholders against it. | Action dismissed on motion of plaintiff Sept. 3, 1940. |
| Parker Patents Corporation. | 2 | Western District of Louisiana. | Aug. 13, 1940 | Action to enjoin H. B. Sessions and Edwin L. Booth, agents of the Commission, from contacting or circularizing the stockholders of the plaintiff in any manner which might tend to prejudice the stockholders against it. | Action dismissed on motion of plaintiff Sept. 3, 1940. |

TABLE IX.—*Probation and parole proceedings resulting from evidence submitted by Commission—Fiscal year ended June 30, 1941*

| Name of defendant | United States District Court | Proceedings instituted | Status of case |
|---|---|---|---|
| Horshor, John C..... | Southern District of New York..... | May 20, 1941 | On May 20, 1941, the probationary sentence imposed Jan. 30, 1935, upon John C. Horshor for violation of the mail fraud statute was revoked due to his activities in violation of his probation. He was sentenced to serve 1 year and 1 day and placed on probation for 2 years after expiration of prison term. |
| LaVey, William..... | Western District of Washington..... | Jan. 24, 1941 | As a result of the activities of William LaVey in the sale of securities in violation of the conditions of his parole, he was recommitted to prison on Feb. 1, 1941, to serve the balance of the 3-year sentence which he commenced to serve on Mar. 11, 1940, for violation of the Securities Act of 1933 and the mail fraud statute. |

TABLE X.—*Cases (other than under the Bankruptcy Act)*[1] *in which the Commission was permitted to file briefs as amicus curiae during the fiscal year ended June 30, 1941*

| Name of case | United States Circuit Court of Appeals | Commission granted leave to file brief | Status of case |
|---|---|---|---|
| Boudinot Atterbury et al. *v.* Consolidated Coppermines Corporation et al. | Court of Chancery of the State of Delaware, Newcastle County. | Nov. 26, 1940 | Case involves the interpretation of the Commission's proxy rules. The Commission in its brief as *amicus curiae*, took the position (1) that the solicitation of the revocation of a proxy is itself a solicitation of a "proxy, consent or authorization"; (2) that a solicitation "by the management" is not false and misleading, even though a minority of the management do not join in the solicitation; (3) that there is a duty to inform those whose proxies are solicited of questions to be presented and the use the proxies are to be put to; (4) that there is a duty on those soliciting the proxies to inform those whose proxies have been solicited, of changed conditions which make statements made in the soliciting material no longer true; and (5) that the question of invalidity of action taken pursuant to proxies improperly solicited is for the court to decide. The court found in favor of defendants without specifically determining the points raised by the Commission in its brief. |
| A. C. Frost & Company *v.* Coeur D'Alene Mines Corporation. | United States Supreme Court. | | Case originated as a suit for breach of an option agreement to purchase shares of stock. One of the questions presented was whether an individual's option to purchase for distribution 1,300,000 shares of the corporation's treasury stock, which stock was unregistered, was void under the Securities Act of 1933. The corporation defendant so contended and argued that a void contract afforded no basis for relief for its breach. The Supreme Court of Idaho held for defendant. The United States Supreme Court granted *certiorari* and reversed the Supreme Court of Idaho. The Commission in its *amicus curiae* brief contended that such a contract was not in and of itself a violation of the Act but whether or not a violation existed was dependent upon the intent of the parties as to the future disposal of the securities by the buyer, and that the contract even though in violation of the Securities Act of 1933 was not necessarily void. |
| Herman Geismar *v.* Bond & Goodwin et al. | U. S. District Court for the Southern District of New York. | June 6, 1941 | Case originated as a suit to rescind a contract for the over-the-counter sale of corporate bonds and to recover the difference between the sale price and the actual value. One of the main issues was whether section 29 (b) of the Securities Exchange Act of 1934 provides a basis for such an action where it is alleged that the sale was induced by false and fraudulent representations as to value of the bonds. The Commission filed an *amicus curiae* brief contending that the Act does provide a basis for the action and the court, through Judge Coxe, denied defendant's motions to dismiss. |
| Samuel N. Levy *v.* Irving Feinberg et al. | Supreme Court of the State of New York. | Nov. 14, 1940 | Case involves the proxy rules. The Commission filed an *amicus curiae* brief, taking the position that a majority stockholder who solicits proxies is under a duty to inform the minority stockholders of the fact that his controlling shares of the corporation are under option to purchase by a third party. The court found in favor of plaintiff. |

| | | | |
|---|---|---|---|
| Leland Stanford, Jr., University | U. S. District Court for the Northern District of California. | Mar. 24, 1941 | Case originated as suit by the University to recover the par value of preferred stock, plus accumulated dividends. One of the questions involved in the suit was the interpretation of sections 2 (3), 12 (1) and (2) of the Securities Act of 1933. The Commission filed an *amicus curiae* brief, contending (a) that the distribution of securities by a corporation formed by the consolidation of two other corporations in exchange for the securities of one of the consolidating corporations, was not a sale under section 2 (3); (b) even if the distribution was a sale, the defendant is protected against liability under section 12 (1) if it relied on the Commission's interpretative regulations; and (c) if a sale was involved, defendant is not protected by reliance on the Commission's interpretative regulations against liability under section 12 (2). The case is under submission for decision. |

[1] See pages 142 to 153, *supra*, for a list and discussion of the cases under Chapter X of the Bankruptcy Act in which the Commission participated as appellee or filed briefs as *amicus curiae* during the year ended June 30, 1941.

TABLE XI.—*Cases in which the Government on behalf of the Commission was permitted to intervene for the purpose of presenting evidence and arguments in support of the constitutionality of the Securities Exchange Act of 1934—Fiscal year ended June 30, 1941*

| Name of case | United States District Court | Initiating papers filed | Nature of case | Status of case |
|---|---|---|---|---|
| M. William Levy *v.* Henry C. Kaplan et al. | Southern District of New York. | Nov. 1940 | Action under sec. 16 (b) of 1934 act for an order directing the defendants to account for any profits realized by them from the purchase and sale of the common stock of Delendo Corporation made within periods of less than 6 months, and to pay the profits realized by them to the Delendo Corporation, and for the appointment of a receiver. | The motion of the Government to intervene for the purpose of presenting evidence and argument in support of the constitutionality of sec. 16 (b) of the 1934 act was granted Feb. 3, 1941. The defendant's motion to consolidate this case with the case of Smolowe *v.* Kaplan et al., was granted Mar. 21, 1941, and the plaintiff's motion to dismiss Smolowe case was denied on this date. Pending. |
| Philip Smolowe *v.* Henry C. Kaplan et al. | Southern District of New York. | Aug. 7, 1940 | Action under sec. 16 (b) of 1934 act for an order directing the defendants to account for any profits realized by them from the purchase and sale of the common stock of Delendo Corporation made within a period of less than 6 months, and to pay the profits realized by them to the Delendo Corporation. | The motion of the Government to intervene for the purpose of presenting evidence and arguments in support of the constitutionality of sec. 16 (b) of the 1934 act was granted Dec. 26, 1940. The defendants' motion to consolidate this case with the case of Levy *v.* Kaplan et al., was granted on Mar. 21, 1941, and the plaintiff's motion to dismiss the Levy case was denied on this date. Pending. |

TABLE XII.—*Applications to compel answer on oral deposition*

| Name of case | United States District Court | Initiating papers filed | Nature of case | Status of case |
|---|---|---|---|---|
| In the matter of the deposition of Curtis L. Jones in the action of Securities and Exchange Commission *v.* Leo C. Pyne et al., Civil Action No. 622, in the United States District Court for the District of Massachusetts. | District of Columbia | Mar. 4, 1941 | Motion for order compelling respondent to answer questions on oral deposition pursuant to rule 37 (a) of the Federal Rules of Civil Procedure. | Case dismissed Mar. 10, 1941, on motion of Commission. |
| In the matter of the deposition of Curtis L. Jones in the action of Securities and Exchange Commission *v.* Leo C. Pyne et al., Civil Action No. 622, in the United States District Court for the District of Massachusetts. | District of New Hampshire | Mar. 21, 1941 | do | Judgment entered Apr. 1, 1941, dismissing case without costs. |

TABLE XIII.—*Miscellaneous injunctive proceedings brought by Commission during fiscal year ended June 30, 1941*

| Principal defendants | Number of defendants | United States District Court | Initiating papers filed | Nature of case | Status of case |
|---|---|---|---|---|---|
| North American Company (The) et al. | 2 | District of Delaware. | June 4, 1941 | Action to enjoin The North American Company and the North American Light and Power Company from dissolving or liquidating the North American Light and Power Company except in accordance with appropriate orders of the Commission pursuant to secs. 11 and 12 of 1935 act, and from violating order of Commission prohibiting such action. | Hearing held June 27, 1941, on Commission's motion for preliminary injunction. Decision reserved. |

TABLE XIV.—*Reorganization proceedings in which the Commission participated during the fiscal year ended June 30, 1941*

| Debtor | District court | Proceedings instituted under— | Petition— | | Participation [1] | Securities and Exchange Commission notice of appearance filed |
|---|---|---|---|---|---|---|
| | | | Filed | Approved | | |
| Adam Block Corporation | N. D. Ill | Ch. X | Nov. 28, 1939 | Dec. 29, 1939 | Request | Sept. 27, 1940 |
| Allied Properties Co. (The) | N. D. Ohio | do | Jan. 26, 1939 | Mar. 13, 1939 | do | May 13, 1939 |
| Buckeye Sheriff St. Realty Co. (The) | do | do | do | Mar. 9, 1939 | do | Do. |
| American Fuel & Power Co | E. D. Ky | Sec. 77–B | Dec. 6, 1935 | Dec. 20, 1935 | do | May 1, 1940 |
| Buckeye Fuel Co. (The) | do | Ch. X | Nov. 28, 1939 | Nov. 28, 1939 | do | Do. |
| Buckeye Gas Service Co | do | do | do | do | do | Do. |
| Carbreath Gas Co | do | do | do | do | do | Do. |
| Inland Gas Distributing Corporation | do | do | do | do | do | Do. |
| American Malting Co | E. D. Mich | do | Apr. 6, 1940 | Apr. 6, 1940 | do | Apr 11, 1940 |
| American-National Co. (The) | N. D. Ohio | do | June 4, 1940 | June 7, 1940 | do | June 12, 1940 |
| Arcade Malleable Iron Co | D. Mass | do | Dec. 5, 1938 | Dec. 5, 1938 | Motion | Dec. 22, 1938 |
| Arrowhead Lake Corporation | S. D. Calif | do | Mar. 1, 1940 | Mar. 1, 1940 | do | Mar. 19, 1940 |
| Associated Gas & Electric Co | S. D. N. Y | do | Jan. 10, 1940 | Jan. 10, 1940 | do | Jan. 15, 1940 |
| Associated Gas & Electric Corporation | do | dg | do | do | do | Do. |
| Associated Owners, Inc | E. D. Wis | do | Dec. 15, 1938 | Dec. 15, 1938 | Request | May 24, 1939 |
| Atlas Pipeline Corporation | W. D. La | do | Sept. 20, 1939 | Sept. 20, 1939 | Motion | Oct. 3, 1939 |
| Auburn Automobile Co | N. D. Ind | Sec. 77–B | Dec. 11, 1937 | Dec. 11, 1937 | do | June 3, 1939 |
| Auburn Automobile Sales Corporation | do | do | Jan. 19, 1938 | Jan. 19, 1938 | do | Do. |
| Lycoming Mfg. Co | do | do | Dec. 11, 1937 | Dec 11, 1937 | do | Do. |
| Austin Silver Mining Co | S. D. N. Y | Ch. X | June 14, 1939 | June 15, 1939 | Request | July 19, 1939 |
| Balfour Manor Apartments Co | E. D. Mich | Sec 77–B | May 6, 1935 | May 11, 1935 | do | Apr. 10, 1939 |
| Barnett Petroleum Corporation | E. D. Texas | Ch X | Aug. 31, 1940 | Aug. 31, 1940 | Motion | Jan. 15, 1941 |
| Beacon Building Corporation | D. Mass | do | Nov. 18, 1940 | Nov. 18, 1940 | do | Dec. 3, 1940 |
| Bellevue-Stratford Co | E. D. Pa | Sec. 77–B | Oct. 30, 1936 | Oct. 31, 1936 | Request | Feb 24, 1939 |
| Blinrig Realty Corporation | E. D. N. Y | Ch X | Jan. 13, 1940 | Feb. 9, 1940 | Motion | Mar. 1, 1940 |
| Book-Cadillac Properties, Inc | E. D. Mich | do | Feb. 14, 1939 | Mar. 7, 1939 | Request | Feb. 24, 1939 |
| Bradley Knitting Co | E. D. Wis | do | July 10, 1940 | July 10, 1940 | do | Aug. 19, 1940 |
| Brand's Restaurant Control Corporation | S. D. N. Y | do | Aug. 2, 1939 | Aug. 10, 1939 | Motion | Aug. 30, 1939 |
| Brown Co | D. Maine | Sec 77–B | Sept. 4, 1935 | Sept. 4, 1935 | do | Mar. 14, 1939 |
| Cadillac Square Improvement Co., Ltd | E. D. Mich | do | Sept. 21, 1938 | Oct 3, 1938 | Request | Dec. 14, 1938 |
| Castle Beach Apartments, Inc | S. D. N. Y | Ch. X | Mar. 5, 1940 | Mar. 7, 1940 | Motion | July 24, 1940 |
| Chancery Lane Corporation | D. N. J | do | Sept. 30, 1938 | Dec. 16, 1938 | Request | Dec. 12, 1938 |
| Coast & Valley Properties, Inc | S. D. Calif | do | Aug. 10, 1939 | Aug. 19, 1939 | do | Sept. 11, 1939 |
| Colonial Utilities, Inc | D. Del | Sec. 77–B | Aug. 4, 1937 | Aug. 4, 1937 | Motion | Aug. 8, 1939 |
| Colonial Utilities Corporation | do | do | do | do | do | Do. |
| Commonwealth Light & Power Co. (The) | N. D. Ill | do | Oct. 9, 1934 | Oct. 15, 1934 | Request | June 21, 1940 |
| Inland Power & Light Corporation | do | do | Oct. 10, 1934 | do | do | Do. |
| Consolidated Press & Printing Co. (The) | N. D. Ohio | Ch. X | May 20, 1939 | Sept. 2, 1939 | Motion | Sept. 22, 1939 |
| Consolidated Rock Products Co | S. D. Calif | Sec. 77–B | May 24, 1935 | May 24, 1935 | do | July 22, 1940 |
| Consumers Rock & Gravel Co., Inc | do | do | do | do | do | Do. |
| Union Rock Co | do | do | do | do | do | Do. |

[1] "Request" denotes participation at the request of the judge; "motion" refers to participation upon approval by the judge of the Commission's motion to participate.

TABLE XIV.—*Reorganization proceedings in which the Commission participated during the fiscal year ended June 30, 1941*—Continued

| Debtor | District court | Proceedings instituted under— | Petition— | | Participation [1] | Securities and Exchange Commission notice of appearance filed |
|---|---|---|---|---|---|---|
| | | | Filed | Approved | | |
| Cosgrove-Meehan Coal Corporation | D. Del | Sec. 77-B | June 22, 1937 | June 22, 1937 | Motion | June 22, 1937 |
| Cosgrove & Co., Inc | do | do | do | do | do | Do. |
| Cosgrove-Meehan Coal Co. of Pennsylvania | do | do | do | do | do | Do. |
| Lenox Coal Co | do | do | do | do | do | Do. |
| Covered Wagon Co | E. D. Mich | Ch. X | Aug. 29, 1940 | Aug. 30, 1941 | Request | Sept. 27, 1940 |
| Cuyahoga Finance Co | N. D. Ohio | do | Apr. 11, 1941 | Apr. 25, 1941 | do | Apr. 28, 1941 |
| Deep Rock Oil Corporation | N. D. Okla | Sec. 77-B | June 19, 1934 | June 19, 1934 | Motion | June 14, 1939 |
| Dermon (Dave) Developments, Inc | W. D. Tenn | Ch. X | June 30, 1939 | Dec. 30, 1939 | Request | Nov. 6, 1939 |
| Detroit Paper Products Corporation | E. D. Mich | do | Jan. 16, 1941 | Jan. 16, 1941 | do | Jan. 28, 1941 |
| Diversified Royalties of America | S. D. Calif | do | Oct. 4, 1940 | Oct. 7, 1940 | Motion | Nov. 12, 1940 |
| Diversified Royalties, Ltd | do | do | do | do | do | Do. |
| Eastern Brewing Corporation (The) | D. Conn | do | Sept. 6, 1939 | Sept. 6, 1939 | Request | Feb. 23, 1940 |
| Eleven Park Place Corporation | S. D. N. Y | do | Dec. 5, 1940 | Dec. 19, 1940 | Motion | Dec. 27, 1940 |
| Elms Holding Co | E. D. Wis | do | Nov. 19, 1938 | Nov. 21, 1938 | Request | Apr. 5, 1939 |
| Equitable Office Building Corporation | S. D. N. Y | do | Apr. 10, 1941 | Apr. 10, 1941 | Motion | Apr. 14, 1941 |
| Euclid Doan Co | N. D. Ohio | Sec. 77-B | June 8, 1937 | June 8, 1937 | do | Dec. 20, 1939 |
| Federal Facilities Realty Trust | N. D. Ill | do | Dec. 26, 1934 | Apr. 25, 1935 | do | Oct. 29, 1940 |
| Fidelity Assurance Association | S. D. W. Va | Ch. X | June 6, 1941 | June 7, 1941 | Request | June 13, 1941 |
| Flour Mills of America, Inc | W. D. Mo | do | Mar. 20, 1939 | Mar. 20, 1939 | do | Mar. 27, 1939 |
| Fort Shelby Hotel Co | E. D. Mich | Sec 77-B | Dec 7, 1934 | Dec. 7, 1934 | do | Nov. 6, 1940 |
| Fylgia Corporation | E. D. Wis | Ch. X | Dec. 11, 1939 | Dec. 11, 1939 | do | Mar. 22, 1940 |
| Garland Manufacturing Co | W. D. Pa | do | Mar. 26, 1940 | Mar. 26, 1940 | do | May 3, 1940 |
| Goldine Apartments Co | E. D. Mich | Sec. 77-B | May 4, 1935 | May 4, 1935 | do | Apr. 10, 1939 |
| Guardian Coal Co | S. D. W. Va | Ch. X | July 9, 1940 | July 31, 1940 | Motion | July 31, 1940 |
| Guardian Investors Corporation | S. D. N. Y | do | Mar. 18, 1941 | May 14, 1941 | do | Apr. 4, 1941 |
| Harrison Hotel Co | W. D. Mo | do | Aug. 12, 1939 | Aug. 21, 1939 | Request | Dec. 14, 1939 |
| Herbert V. Apartments Corporation | D. N. J | Sec. 77-B | July 8, 1937 | July 16, 1937 | do | Jan. 17, 1939 |
| Higbee Co. (The) | N. D. Ohio | do | Aug. 9, 1935 | Aug. 9, 1935 | Motion | Jan. 23, 1940 |
| Highland Towers Co | E. D. Mich | do | Mar. 30, 1937 | Apr. 3, 1937 | Request | Feb. 9, 1939 |
| Hun School (The) | D. N. J | Ch. X | Nov. 29, 1940 | Nov. 29, 1940 | do | Dec. 16, 1940 |
| Hupp Motor Car Corporation | E. D. Mich | do | Oct. 29, 1940 | Nov. 7, 1940 | do | Nov. 7, 1940 |
| Inland Gas Corporation | E. D. Ky | Sec. 77-B | Oct. 14, 1935 | Nov. 1, 1935 | do | Mar. 28, 1939 |
| Insurance Building Corporation | D. Mass | do | June 3, 1938 | June 3, 1938 | Motion | Dec. 13, 1938 |
| International Mining & Milling Co | D. Nev | Ch. X | June 29, 1939 | June 29, 1939 | do | Aug. 7, 1939 |
| Mount Gaines Mining Co | do | do | do | do | do | Do. |
| International Power Securities Corporation | D. N. J | do | Feb. 24, 1941 | Feb. 24, 1941 | do | Mar. 3, 1941 |
| Jay Vee Realty Co | do | Sec. 77-B | Sept. 27, 1937 | June 27, 1938 | Request | Jan. 17, 1939 |
| Johnson Fare Box Co | N. D. Ill | Ch. X | Nov. 21, 1938 | Nov. 22, 1938 | Motion | Aug. 9, 1940 |
| Joliet Elks Building Association | do | do | Jan. 10, 1939 | Feb. 2, 1939 | Request | Feb. 6, 1939 |
| Kentucky Fuel Gas Corporation | E. D. Ky | Sec. 77-B | Oct. 25, 1935 | Nov. 1, 1935 | do | Mar. 28, 1939 |
| Keystone Realty Holding Co | W. D. Pa | Ch. X | Feb. 10, 1939 | Feb. 11, 1939 | do | Mar. 8, 1939 |
| King Edward Hotel Corporation | S. D. N. Y | do | Sept. 13, 1939 | Sept. 13, 1939 | Motion | Sept. 26, 1939 |

| | | | | | | |
|---|---|---|---|---|---|---|
| Kings County Postal Building Corporation | E. D. Mo. | Ch. X | Nov. 7, 1938 | Nov. 7, 1938 | Motion | Mar. 17, 1939 |
| Kinsey Distilling Co | E. D. Pa. | do | Mar. 9, 1939 | Mar. 9, 1939 | do | Do. |
| LaFrance Industries | do | Sec. 77-B | July 24, 1936 | July 24, 1936 | do | Jan. 19, 1939 |
| Pendleton Manufacturing Co | do | do | Sept. 24, 1936 | Sept. 24, 1936 | do | Do. |
| La Salle Petroleum Co | N. D. Okla. | Ch. X | Mar. 9, 1939 | Mar. 9, 1939 | do | Apr. 6, 1939 |
| Lemp (Wm. J.) Brewing Co | E. D. Ill. | do | Aug. 30, 1940 | Aug. 30, 1940 | Request | Nov. 30, 1940 |
| Los Angeles Lumber Products Co., Ltd | S. D. Calif. | Sec. 77-B | Jan. 28, 1938 | Jan. 28, 1938 | Motion | Jan. 29, 1940 |
| Majestic Radio & Television Corporation | N. D. Ill. | Ch. X | Nov. 6, 1939 | Nov. 6, 1939 | do | Nov. 10, 1939 |
| Mara Villa Realty Co | E. D. Mich. | Sec. 77-B | Feb. 16, 1937 | Feb. 18, 1937 | Request | Dec. 6, 1938 |
| Mar-Tex Oil Co. (The) | N. D. Tex. | Ch. X | Oct. 31, 1940 | Nov. 1, 1940 | Motion | Dec. 5, 1940 |
| Mar-Tex Pipeline Co | do | do | Nov. 1, 1940 | do | do | Do. |
| Willard Pipe Co | do | do | do | do | do | Do. |
| Martin Co. of Utica (Hotel) | N. D. N. Y. | Sec. 77-B | June 6, 1935 | June 19, 1935 | do | June 24, 1939 |
| Mason Block Realty Corporation | S. D. Tex. | Ch. X | Jan. 11, 1941 | Jan. 15, 1941 | do | Mar. 1, 1941 |
| Maxfield-Wilton & Associates, Inc | S. D. Calif. | Sec. 77-B | Aug. 11, 1938 | Aug. 11, 1938 | Request | May 23, 1939 |
| Residential Income Properties, Inc | do | do | Aug. 22, 1938 | Aug. 22, 1938 | do | Do. |
| Wilton-Maxfield Management Co | do | do | do | do | do | Do. |
| McKesson & Robbins, Inc | S. D. N. Y. | Ch. X | Dec. 8, 1938 | Dec. 8, 1938 | Motion | Dec. 8, 1938 |
| Metropolitan Holding Co | E. D. Mich. | Sec. 77-B | Mar. 25, 1937 | Apr. 3, 1937 | Request | Dec. 6, 1938 |
| Midland United Co | D. Del. | do | June 9, 1934 | June 9, 1934 | Motion | Jan. 10, 1940 |
| Midland Utilities Co | do | do | do | do | do | Do. |
| Minnesota & Ontario Paper Co | D. Minn. | do | June 11, 1934 | July 11, 1934 | do | Feb. 10, 1939 |
| Mortgage Guarantee Co | D. Md. | Ch. X | Sept. 16, 1939 | Sept. 16, 1939 | do | Sept. 27, 1939 |
| Druid Park Apartments Co. (The) | do | do | Dec. 8, 1939 | Dec. 8, 1939[2] | do | [2]. |
| Saratoga Building & Land Corporation (The) | do | do | Sept. 25, 1939 | Sept. 25, 1939 | do | Sept. 27, 1939 |
| Wyman Park Apartments Co. (The) | do | do | Dec. 8, 1939 | Dec. 8, 1939 [2] | do | [2]. |
| Mt. Forest Fur Farms of America, Inc | E. D. Mich. | Sec. 77-B | Aug. 15, 1938 | Aug. 15, 1938 | Request | Sept. 28, 1938 |
| Mountain States Power Co | D. Del. | do | Dec. 31, 1937 | Dec. 31, 1937 | Motion | Feb. 27, 1940 |
| Mutual Creamery Co | D. Utah | Ch. X | Mar. 11, 1939 | Mar. 11, 1939 | do | Apr. 4, 1939 |
| National Realty Trust | N. D. Ill. | Sec. 77-B | Dec. 26, 1934 | Apr. 25, 1935 | do | Oct. 29, 1940 |
| Nebel (Oscar) Co., Inc. (Pa.) | E. D. Pa. | Ch. X | Feb. 6, 1939 | Feb. 6, 1939 | Request | Apr. 5, 1939 |
| Nebel (Oscar) Co., Inc. (Va.) | do | do | do | do | do | Do. |
| 1934 Realty Corporation | S. D. N. Y. | do | Dec. 23, 1938 | Dec. 21, 1940 | Motion | Jan. 8, 1941 |
| Northern Redwood Lumber Co | N. D. Calif. | Sec. 77-B | Apr. 4, 1936 | Apr. 4, 1936 | do | Apr. 13, 1939 |
| Northwest Cities Gas Co | E. D. Wash. | do | Jan. 13, 1938 | Janl 15, 1938 | do | [3]June 26, 1939 |
| Ohmer Fare Register Co | S. D. Ohio | do | Dec. 29, 1937 | Dec. 29, 1937 | Request | May 16, 1939 |
| Oklahoma Railway Co | W. D. Okla. | Ch. X | Sept. 27, 1939 | Sept. 27, 1939 | Motion | Oct. 13, 1939 |
| Old England Brewing Co., Inc. (The) | D. Conn. | do | Dec. 6, 1939 | Dec. 6, 1939 | Request | Feb. 23, 1940 |
| 188 Randolph Building Corporation | N. D. Ill. | Sec. 77-B | Aug. 5, 1935 | Dec. 30, 1935 | Motion | Jan. 17, 1939 |
| Ozark Corporation (The) | E. D. Mich. | do | Jan. 15, 1938 | Jan. 17, 1938 | Request | Mar. 2, 1939 |
| Paloma Estates, Inc | S. D. N. Y. | Ch. X | June 18, 1941 | | do | June 23, 1941 |
| Penn Timber Co | D. Oreg. | Sec. 77-B | Feb. 18, 1938 | Feb. 18, 1938 | do | Jan. 5, 1939 |
| Philadelphia & Reading Coal & Iron Co | E. D. Pa. | do | Feb 26, 1937 | Feb. 26, 1937 | Motion | Jan. 27, 1939 |
| Philadelphia & Western Ry | do | do | July 2, 1934 | July 3, 1934 | do | Dec. 17, 1940 |
| Pine Hill Collieries Co | do | Ch. X | May 16, 1939 | May 16, 1939 | Request | May 19, 1939 |
| Pine Hill Coal Co | do | do | do | do | do | Do. |

[1] "Request" denotes participation at the request of the judges; "motion" refers to participation upon approval by the judge of the Commission's motion to participate.
[2] Order approving petition also consolidated the proceedings with those involving Mortgage Guarantee Company and the Saratoga Building and Land Corporation.
[3] Amended notice of appearance filed July 14, 1939.

TABLE XIV.—*Reorganization proceedings in which the Commission participated during the fiscal year ended June 30, 1941*—Continued

| Debtor | District court | Proceedings instituted under— | Petition— | | Participation [1] | Securities and Exchange Commission notice of appearance filed |
|---|---|---|---|---|---|---|
| | | | Filed | Approved | | |
| Pittsburgh Railways Co | W. D. Pa | Sec. 77-B | May 10, 1938 | May 10, 1938 | Request | Jan. 4, 1939 |
| Pittsburgh Motor Coach Co | do | do | do | do | do | Do. |
| Pittsburgh Terminal Coal Corporation | do | Ch. X | Dec. 4, 1939 | Jan. 2, 1940 | do | Jan. 6, 1940 |
| Plankinton Building Co | E. D. Wis | do | June 25, 1940 | June 27, 1940 | do | July 16, 1940 |
| Portland Electric Power Co | D. Oreg | do | Apr. 3, 1939 | Apr. 3, 1939 | do | Apr. 18, 1939 |
| Porto Rican American Tobacco Co | S. D. N. Y | do | July 13, 1939 | July 13, 1939 | Motion | July 18, 1939 |
| Postal Telegraph & Cable Corporation | do | Sec. 77-B | June 14, 1935 | June 14, 1935 | Request | Feb. 29, 1940 |
| Associated Companies (The) | do | do | June 21, 1938 | June 21, 1938 | do | Do. |
| Radio-Keith-Orpheum Corporation | do | do | June 7, 1934 | June 28, 1934 | do | Aug. 14, 1939 |
| Real Estate Mortgage Guaranty Co | E. D. Pa | Ch. X | July 11, 1940 | Nov. 12, 1940 | Motion | Nov. 12, 1940 |
| Realty Co. (The) | N. D. Ohio | do | Oct. 1, 1938 | June 21, 1939 | do | July 1, 1939 |
| Realty Guarantee & Trust Co. (The) | do | do | do | do | do | Do. |
| Union Land & Building Co. (The) | do | do | do | do | do | Do. |
| Reb Holding Co | E. D. Wis | do | Apr. 20, 1939 | Apr. 20, 1939 | Request | July 29, 1940 |
| Rentals Building Corporation | S. D. Ohio | do | July 31, 1939 | Nov. 1, 1939 | Motion | Apr. 23, 1940 |
| Reo Motor Car Co | E. D. Mich | do | Dec. 16, 1938 | Dec. 17, 1938 | Request | Jan. 9, 1939 |
| Reynolds Investing Co., Inc | D. N. J | Sec. 77-B | May 18, 1938 | June 22, 1938 | do | Dec. 6, 1938 |
| Ritz-Carlton Restaurant & Hotel Co. of Atlantic City (The) | do | Ch. X | Jan. 17, 1939 | Jan. 20, 1939 | do | Jan. 23, 1939 |
| Roach (W. R.) & Co | W. D. Mich | do | Jan. 9, 1941 | Jan. 9, 1941 | Motion | Feb. 1, 1941 |
| Roberts & Oake, Inc | N. D. Ill | do | Apr. 19, 1941 | Apr. 19, 1941 | do | May 28, 1941 |
| Saltex Looms, Inc. (The) | D. Conn | do | Nov. 10, 1939 | Nov. 10, 1939 | do | Dec. 2, 1939 |
| San Francisco Bay Toll-Bridge Co | N. D. Calif | do | Aug. 17, 1939 | Aug. 18, 1939 | do | Aug. 28, 1939 |
| Sayre & Fisher Brick Co | D. N. J | Sec. 77-B | Aug. 20, 1934 | Aug. 20, 1394 | Request | Feb. 2, 1940 |
| Shelbourne Apartment Co | E. D. Wis | Ch. X | June 26, 1939 | June 26, 1939 | do | Dec. 29, 1939 |
| South State St. Building Corp | N. D. Ill | do | Oct. 17, 1938 | Oct. 18, 1938 | Motion | Nov. 29, 1938 |
| Southeastern Gas & Water Co | D. N. J | do | Aug. 17, 1940 | (2) | do | Feb. 25, 1941 |
| Southport-Irving Building Corporation | N. D. Ill | Sec. 77-B | Aug. 18, 1938 | Aug. 29, 1938 | Request | Dec. 23, 1938 |
| Standard Commercial Tobacco Co., Inc. (The) | S. D. N. Y | do | Apr. 15, 1938 | Apr. 15, 1938 | Motion | Dec. 2, 1938 |
| Tampa Union Terminals, Inc | S. D. Fla | Ch. X | Nov. 29, 1940 | Nov. 29, 1940 | do | Dec. 12, 1940 |
| Thomas Allec Corporation (The) | N. D. Calif | do | May 12, 1939 | May 13, 1939 | do | June 26, 1939 |
| Title Bond & Mortgage Co | W. D. Mich | Ch. X | Dec. 23, 1940 | Dec. 23, 1940 | Motion | Jan. 31, 1941 |
| Toledo Theatres & Realty Co. (The) | N. D. Ohio | do | June 21, 1939 | June 30, 1939 | Request | Sept. 15, 1939 |
| Transportation Building Corporation of Chicago | N. D. Ill | do | Jan. 16, 1941 | Feb. 13, 1941 | do | Feb. 21, 1941 |
| Turnbow Petroleum Corporation (W. C.) | E. D. Tex | do | Feb. 21, 1940 | Feb. 21, 1940 | Motion | Apr. 18, 1940 |
| 263 West 38th St. Corporation | S. D. N. Y | do | Dec. 26, 1940 | Dec. 26, 1940 | do | Jan. 29, 1941 |
| Ulen & Co | do | do | June 14, 1940 | June 14, 1940 | do | June 17, 1940 |
| Utilities Power & Light Corporation | N. D. Ill | Sec. 77-B | Jan. 4, 1937 | Jan. 4, 1937 | Request | May 31, 1940 |
| Van Sweringen Corporation | N. D. Ohio | do | Oct. 13, 1936 | Oct. 15, 1936 | Motion | Jan. 23, 1940 |
| Cleveland Terminals Bldg. Co (The) | do | do | do | do | do | Do. |
| Vermont Lighting Corporation | D. Vt | Ch. X | Jan. 7, 1939 | Jan. 17, 1939 | do | Feb. 9, 1939 |
| Warner Sugar Corporation | S. D. N. Y | do | June 7, 1940 | July 9, 1940 | Request | July 9, 1940 |

| | | | | | | |
|---|---|---|---|---|---|---|
| Warren Brothers Co. | D. Mass. | Sec. 77-B | Feb. 1, 1937 | Feb. 1, 1937 | Motion | Jan. 30, 1939 |
| Watson Realty Co. | E. D. Mich. | do. | Apr. 28, 1936 | Apr. 28, 1936 | Request | Jan. 7, 1939 |
| Webster Apartments Co. | do. | do. | May 4, 1935 | May 4, 1935 | do. | Nov. 27, 1939 |
| Whitmore Plaza Corporation | do. | do. | May 4, 1937 | May 5, 1937 | do. | Dec. 6, 1938 |
| Wilton Realty Corporation | do. | do. | May 27, 1937 | June 1, 1937 | do. | Do. |
| Windsor-Wilson Liquidation Trust | N. D. Ill. | Ch. X. | Mar. 18, 1941 | May 28, 1941 | do. | June 12, 1941 |

[1] "Request" denotes participation at the request of the judge; "motion" refers to participation upon approval by the judge of the Commission's motion to participate.
[2] Petition not approved. Proceedings dismissed Mar. 10, 1941.

TABLE XV.—*Miscellaneous cases in which the Commission appeared as a party litigant arising by reason of its duties under Chapter X of the Bankruptcy Act* [1]

| Name of case | Court | Nature and status of case |
|---|---|---|
| In the Matter of Penfield Distilling Co., debtor. Securities and Exchange Commission *v.* Jacob Goldman, Harold H. Goldman (ancillary proceedings). | United States District Court, Northern District of Illinois, Eastern Division. | Due to the necessity of obtaining personal jurisdiction over the parties involved, the Commission brought ancillary proceedings to enforce an order of the United States District Court of Kentucky for an accounting and to enforce a contempt order issued by the same court. In this ancillary proceeding the defendant, Jacob Goldman, was adjudged in contempt of the original orders and a writ of *commitment* issued. The defendant was committed to jail and released on bail when he promised to file the accounting. Sometime later the accounting was filed and the Commission has objected to its sufficiency as an accounting. At the present the proceedings are awaiting the outcome of a Commission inquiry into the accuracy of the information furnished by the defendant, Jacob Goldman. The Commission is also attempting to subpena said defendant for further questioning in connection with the purported accounting. |
| In the Matter of Reinforced Paper Bottle Corporation, debtor. | United States District Court, District of Delaware. | The Commission filed motions for leave to intervene and to dismiss proceedings for an arrangement under Chapter XI of the Bankruptcy Act on the ground that the district court ought not to entertain proceedings under Chapter XI involving the debtor, a large corporation with publicly held securities. The court has as yet rendered no decision. |

[1] See pp. 142 to 153 *supra*, for a list and discussion of the cases under Chapter X of the Bankruptcy Act in which the Commission participated as appellee or filed briefs as *amicus curiae* during the fiscal year ended June 30, 1941.