ANNUAL
REPORT

of the Federal Trade Commission

For the FISCAL YEAR

ENDED JUNE 30, 1952

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Letter of Transmittal

FEDERAL TRADE COMMISSION,
Washington, D.C.,

To the Congress of the United States:

I have the honor to transmit herewith the Thirty-eighth Annual Report of the Federal Trade commission, for the fiscal year ended June 30, 1952. The Federal Trade Commission is having printed a limited number of copies of the report.

By direction of the Commission.

JAMES M. MEAD, Chairman

THE PRESIDENT OF THE SENATE.
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Contents

1 Protecting Free Competitive Enterprise

THE UNDERLYING PRINCIPLE which governs the American economy is competition. It is the free play of competitive forces, the higgling in the market place, the unseen hand of competition which protects the public interest. It is the constant rivalry among numerous firms for a greater share of the market which, over the long run, protects the consumer from high and extortionate prices. It is free and open markets which safeguard the independent producers in their efforts to offer new and better products.

Generally speaking, there are only two types of exceptions to competition as the all-pervading regulator of the economy. The first exception applies to fields—for example, public utilities—where the number of sellers is too few, or the possible injury to the public too great, to permit the free play of competitive forces. The other exception arises in times of national emergency when demand far exceeds supply, resulting in the need for direct but temporary price controls in certain fields. In all other circumstances and on all other occasions it is competition which is relied upon to make the best possible use of our existing resources and through the promotion of new technologies to create new and better resources.

The role of the Federal Trade Commission in this setting is that of protecting competition against those forces and practices which, if allowed to have free rein, would result in its destruction. The Federal Trade Commission Act was passed in 1914, nearly a quarter of a century after the enactment of the Sherman Act. The Commission was created largely because of public dissatisfaction with the accomplishments under the older statute. As a result of the Standard Oil and the American Tobacco dissolution suits in 1911, the power of the Government to dissolve existing monopolies had been clearly established. But waiting for a monopoly to be created and then dissolving it seemed to leave much to be desired in the way of an effective antitrust policy. Instead, it was argued, what was needed was some new agency, or "Interstate Trade Commission" as it was originally termed, which would be able to prevent the creation of monopoly in the first instance, that is, to nip it in the bud.

The essentially preventative character of the Federal Trade Commission is clearly borne out in the report accompanying the Clayton Act in which the Senate Judiciary Committee on July 22, 1914, stated:

> Broadly stated, the bill, in its treatment of unlawful restraints and monopolies, seeks to prohibit and make unlawful certain trade practices which, as a rule, singly and in themselves, are not covered by the Act of July 2,1890 [the Sherman Act] or other existing antitrust acts and thus, by making these practices illegal, to arrest the creation of trusts, conspiracies, and monopolies in their incipiency and before consummation.[1]

In order to prevent monopoly in its incipiency, a new regulatory body was created, the Federal Trade Commission, which was given two basic types of powers, legal powers to issue cease and desist orders and broad economic fact-finding powers.

The legal powers were of two types, general and specific. The former, represented by the Federal Trade Commission Act, gives to the Commission the broad power to prevent "unfair methods of competition" and "unfair or deceptive acts or practices" in commerce. The latter, represented by the Clayton Act, gives to the Commission the authority to prohibit those specifically enumerated practices which tend either substantially to lessen competition or to injure, destroy or prevent competition.

In addition to authorizing legal proceedings for these purposes, the Federal Trade Commission Act also vests in the Commission economic reporting functions designed to provide, for the Congress, the President, and the public, information on matters affecting the competitive economy.

In all these activities, emphasis is placed on fostering equal opportunities for the successful operation of both small and large businesses, and on preserving for the consuming public, as well as for all businesses, the benefits of free and fair competition in industry and trade.

Other statutes administered by the Commission are the Export Trade Act, the Wool and Fur Products Labeling Acts, and certain sections of the Lanham Trade-Mark Act. The Fur Products Labeling Act, effective August 9, 1952, expands and strengthens the Commission's jurisdiction over the misbranding and false advertising of furs and fur products.

Under the statutes it administers, the Commission's principal functions are:

To promote free and fair competition in interstate commerce in the interest of the public through prevention of price-fixing agreements, boycotts, combinations in restraint of trade, other unfair methods of competition and unfair or deceptive acts or practices.

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[1] 63rd. Cong., 2d Sess., Senate Committee on the Judiciary, S,. Rep. No. 695, to accompany H. R. 15657, July 22,1914, p. 1. [Italics added.]

To safeguard the consuming public by preventing the dissemination of false or deceptive advertisements of food, drugs, cosmetics, and therapeutic devices.

To prevent discrimination in price, exclusive-dealing and tying arrangements, corporate mergers, and corporate stock acquisitions when the effect of such practices or arrangements may be the substantial lessening of competition or a tendency toward monopoly; the holding of illegal interlocking directorates; the payment or receipt of illegal brokerage; and illegal discrimination among customers in the furnishing of or payment for advertising or promotional services or facilities.

To protect producers, manufacturers, distributors, and consumers from the unrevealed presence of substitutes and mixtures in manufactured wool products.

To receive and file articles of association or incorporation of associations organized under the Export Trade Act; investigate their operations which may adversely affect competition within the United States; make recommendations to the associations for readjustments deemed necessary therein; and, where considered appropriate, make recommendations to the Attorney General for penal action.

To petition for the cancellation of the registrations of trade-marks which were illegally registered or which have been used for purposes contrary to the intent of the Trade-Mark Act of 1946.

To gather and make available to the Congress, the President, and the public, factual data concerning economic and business conditions as a basis for remedial legislation where needed, and for the guidance and protection of the public.

The Commission's law enforcement work falls into two general categories: (l) Enforcement through formal litigation leading to cease and desist orders against offenders, and (2) law observance achieved by action of a voluntary and cooperative nature.

RECOMMENDATIONS TO CONGRESS

The Commission submits for the consideration of Congress the same recommendations on legislation that it presented in its annual report for the fiscal year 1951 (pp. 7, 8, 9, and l0).

2 The Commission and Its Staff

THE FEDERAL TRADE COMMISSION was organized as an independent administrative agency March 16, 1915, under the provisions of the Federal Trade Commission Act, which was approved September 26, 1914. It consists of five members, appointed by the President with the advice and consent of the Senate. Not more than three of the Commissioners may be members of the same political party.

Appointment of a Commissioner is for a term of 7 years, unless he succeeds a Commissioner relinquishing office prior to expiration of his term. In such cases, the statute provides that the new member shall be appointed only for the unexpired term. Upon the expiration of his term of office, a Commissioner continues to serve until the appointment and qualification of his successor.

The Chairman of the Commission is appointed by the President.

Members of the Commission as of June 30, 1952, were James M. Mead, Democrat, of New York, Chairman; Lowell B. Mason, Republican, of Illinois; John Carson, Independent, of Michigan; Stephen J. Spingarn, Democrat, of New York, and Albert A. Carretta, Democrat, of Virginia.

Each case coming before the Commission is assigned to a Commissioner for examination and report before it is acted upon. The Commission meets regularly for the consideration of cases and for the transaction of other business. The Commissioners hear oral argument in formal cases and frequently preside individually at industry trade-practice conferences.

Under the President's Reorganization Plan No. 8, effective May 24, 1950, the administrative management of the Commission is vested in the Chairman. Subject to specified limitations, the Chairman is responsible for the appointment and supervision of personnel, the distribution of business among personnel and among administrative units, and the use and expenditure of funds. Under this arrangement, the other Commissioners are relieved of many administrative details.

The Commission as a whole retains responsibility for decisions required by law to be made by the Commission, and for general poli-

cies including management matters of primary significance such as revision of budget estimates, distribution of appropriated funds according to major programs and purposes, and approval of appointments of heads of major operating and administrative units.

Staff Organization

Commission employees, as of June 30, 1952, numbered 672,[1] including attorneys, economists, accountants, statisticians, and administrative personnel stationed in Washington and in branch offices in New York, Chicago, San Francisco, Seattle, and New Orleans.

The Commission's staff organization at the close of the fiscal year included the following bureaus and divisions:

Office of the Secretary and Executive Director.—The Office of the Secretary and Executive Director is the central office of the Commission through which most of the work flows to and from the Commission. The duties of the office are of a dual nature.

In his capacity as Secretary to the Commission, the Secretary and Executive Director receives and handles mail on all phases of the Commission's work, either assigning it to the appropriate officials for attention or preparing and dispatching replies for or at the direction of the Commission. He signs all orders and certain other official documents and papers of the Commission; keeps the minutes of the Commission and the calendar of pending matters for the Commissioners; arranges for oral arguments before the Commission; issues the directives of the Commission; and is the legal custodian of the seal, papers, records, and property of the Commission.

In his capacity as Executive Director, the Secretary and Executive Director assists the Chairman in the general management of the Commission. He examines and surveys the operations of the Commission and makes recommendations for organizational and procedural improvements. He also is director of the Bureau of Administration, composed of the staff units engaged in administrative functions. These units are the Division of Budget and Finance, Division of Personnel, Division of General Services, and Division of Information and Library.

Office of the General Counsel.—The General Counsel is the principal legal officer of the Commission, advising it on questions of law, policy, and procedure arising in connection with litigation before the agency or in the Federal courts, or in connection with legislative and other matters. Grouped under the General Counsel are five divisions, each leaded by an Assistant General Counsel. These divisions and their duties are as follows: (1) Assistant General Counsel in Charge of Appeals—representing the Commission in appellate proceedings in

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[1] Number of employees as of November 30, 1952—657.

the Federal courts; (2) Assistant General Counsel in Charge of Special Legal Assistants—furnishing legal assistance to the Commission or its individual members in connection with formal proceedings before the Commission; (3) Assistant General Counsel in Charge of Compliance—representing the Commission in matters involving compliance with or enforcement of orders to cease and desist; (4) Assistant General Counsel in charge of Industry Cooperation— advising the Commission on legal and other problems involved in its program of industry cooperation and directing the work of the Planning Council as its chairman; and (5) Assistant General Counsel in Charge of Trade-Marks and Insurance—representing the Commission before the Patent Office and United States courts in the prosecution of petitions in trade-mark cancellation proceedings, and advising the Commission on jurisdictional and other problems in applying the Federal Trade Commission Act and the Clayton Act to the interstate insurance business.

Bureau of Antimonopoly.—This Bureau is responsible for the investigation and trial of all Antimonopoly cases and the administration of the Export Trade Act. Headed by a Director and Assistant Director, the Bureau consists of the Division of Investigation and Litigation, which makes field investigations of monopolistic practices and handles the trial of antimonoply cases before trial examiners and the Commission; and the Division of Export Trade, which is charged with the duty of supervising the export trade associations pursuant to the provisions of the Export Trade Act.

Bureau of Antideceptive Practices.—Centered in this Bureau are the functions of investigating and trying cases involving unfair and deceptive practices in violation of the Federal Trade Commission Act and misbranding of wool products in violation of the Wool Products Labeling Act. Headed by a Director and an Assistant Director, it comprises the Divisions of Litigation, Investigation, Wool and Fur Labeling, and Medical and Chemical Opinions.

Bureau of Industry Cooperation.—This Bureau comprises the Division of Trade Practice Conferences and the Division of Stipulations. It is headed by a Director and an Assistant Director.

The Division of Trade Practice Conferences consists of a rulemaking unit, which is responsible for the initiation and conduct of trade practice conferences and the development of rules to the point of final promulgation; and a rule-administration unit, which handles matters concerning interpretation of and compliance with promulgated rules. The Assistant Director of the Bureau is chief of this Division.

The Division of Stipulations consists of a chief, assistant chief, and a staff of attorney-conferees. All matters considered appropriate

for settlement by the Commission's stipulation procedure are referred to this Division for the negotiation of voluntary agreements to cease and desist from unlawful practices. The Division takes no part in the investigation or prosecution of any matter.

Bureau of Industrial Economics.—The Bureau of Industrial Economics acts as a general economic staff in obtaining and analyzing the economic information used by the Commission in developing its antimonopoly programs. It renders economic and accounting services to the legal staff in the investigation and trial of antimonopoly cases and in the enforcement of the Commission's orders in such cases. The Bureau performs those statutory functions of the Commission which relate to general economic surveys and investigations (as distinguished from legal investigations arising out of charges of violation of the law) of the practices and policies of corporations in interstate commerce. It prepares economic and financial reports. The work of the Bureau is in charge of a Director who is also Chief Economist. An Assistant Chief Economist, the Chief Accountant and the Chief Statistician supervise the three operating Divisions.

The Division of Economics[2] conducts general economic surveys and investigations for the purpose of ascertaining the competitive practices, the nature and significance of monopolistic arrangements, and the degree of concentration in a given industry, and for the purpose of reporting on general economic conditions within the field of the Commission's jurisdiction. It assembles and analyzes economic information needed in the development of an antimonopoly program. In addition, it provides economic assistance at all stages in the preparation and conduct of legal cases, including the evaluation, from an economic viewpoint, of pricing policies and distribution practices in relation to the legislative issues of collusive price-fixing and monopoly controls. Economic information in connection with trade-practice conference proceedings is likewise furnished by this division.

Accounting services in connection with the investigation and trial of cases, as well as in connection with general economic investigations, are performed by the Division of Accounting. It prepares cost and price studies and its staff members act as witnesses in cases arising under the Clayton Antitrust Act and the Federal Trade Commission Act. It also prepares the financial and cost data in general economic investigations.

The Division of Financial Reports collects, summarizes, and analyzes the financial operating statements of American corporations engaged in manufacturing, wholesale trade, and retail trade. On the basis of these data, it prepares quarterly reports on the financial

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[2] The Division of Economics of the Bureau of Industrial Economics was abolished on August 18, 1952, and its work was divided between two newly established divisions, the Division of Economic Reports and Division of Economic Evidence.

position and operating results of the Nation's manufacturing industries and distributive trades.

Hearing Examiners.—Hearing examiners are the officials of the Commission's staff to whom the Commission delegates the initial exercise of its adjudicative powers. They are appointed by the Commission in accordance with the provisions of the Administrative Procedure Act and the Civil Service regulations. They function autonomously as presiding officers in adjudicative proceedings instituted pursuant to the provisions of the Commission's enabling acts.

Upon the issuance of a complaint, the proceeding so initiated is assigned to a hearing examiner, in rotation so far as practicable. Thereafter the hearing examiner, pursuant to the Commission's Rules of Practice, presides at hearings, regulates the course thereof, administers oaths and affirmations, issues subpoenas, rules upon orders of proof, receives relevant evidence, takes or causes depositions to be taken whenever justice would be served thereby, holds conferences for the settlement or simplification of issues by consent of the parties, and disposes of procedural requests or similar matters. At the conclusion of the reception of evidence, and after considering proposed findings when submitted by the parties, the hearing examiner files an initial decision consisting of findings as to the facts and conclusions upon all material issues of fact or law presented on the record, together with the reasons therefor, and an appropriate order. Such initial decision, unless appealed to the Commission or stayed or docketed for review by the Commission within 30 days after service thereof, becomes the decision of the Commission.

In the performance of their duties as adjudicative officers, hearing examiners are exempt from all direction, supervision or control. Administrative supervision of hearing examiners is exercised by a Director and an Assistant Director, who are themselves qualified and active hearing examiners.

Planning Council.—On September 14, 1950, the Commission reorganized and reactivated the Central Planning Council to plan and recommend a sound program of work to be undertaken by the Commission each fiscal year, to submit recommendations for the allocation of appropriations among adopted programs, and to report quarterly on progress made on such programs. As reorganized, the Planning Council consists of the Assistant General Counsel in charge of industry Cooperation as Chairman, the General Counsel, the Directors of the Bureau of Antimonopoly, Bureau of Industrial Economics, Bureau of Antideceptive Practices and Bureau of Industry Cooperation, and the Secretary and Executive Director.

The membership of the Council is representative of the Commission's work, and the reorganized Council is functioning more effec-

tively in assisting the Commission in programming its activities, with the view of achieving its objective.

In its report on the Regulatory Commissions, the Hoover Commission found that the chief criticism that could be made of these commissions was that they become too engrossed in case-by-case activities and thus fail to plan their roles and to promote the enterprises entrusted to their care. The Hoover Commission also recognized that adequate planning cannot be decreed. The reorganization and reactivation of the Central Planning Council in the Commission recognizes that program planning is of first importance in achieving fulfillment of the Commission's objective.

3 A Vital Commission Problem

THE FEDERAL TRADE COMMISSION finds itself confronted with an increasing volume of work to be done by a staff smaller than it had 35 years ago. As a result the Commission is often criticized by its friends for inaction or slowness and by its foes for insufficient consideration of matters they think relevant to the issues before it.

The change in the size of the Commission's workload can be roughly measured by the change in the scale on which American business is done. There are more business enterprises and more commodities to cover, and business operates in a much lager market. When the Federal Trade Commission was set up in 1915, the total number of business firms in the United States was a little over 2 million. Today it is over 4 million. The gross national product—that is the total output of goods and services—was $39.5 billion in 1915. Today it is about $341 billion. After making allowance for the decrease in the purchasing power of the dollar, the real increase in the gross national product since 1915 has been more than threefold. The advertising, which it is the Commission's duty to keep truthful, cost American business about $200 million a year in 1909; in 1951 it cost business $6.5 billion.

Meanwhile the Commission's staff has not grown but instead has declined. In 1918 the Commission employed 689 persons, and in 1939, 687, but as of June 30,1952, it has only 672 employees.[1] There has been an increase in the Commission's appropriations since 1918, but this is entirely due to the change in the level of salaries and expenses. In 1918 the average salary of a Commission employee was $1,750; in 1939 it was $2,880; today it is about $5,800.

The current salary level is not excessive for an agency approximately half of whose total employees are highly trained professional personnel.

Thus the Commission resembles a city which, while doubling in population and tripling its volume of trade, has slightly reduced the size of its police force and fire department. Maintenance of effective operations has become steadily more difficult.

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[1] Number of employees as of November 30, 1952-657

The problem is aggravated by the fact that the Commission's statutory duties are substantially greater than when it was created. Highlights of this expansion of functions have been as follows:

1. In 1936 the Robinson-Patman Act materially enlarged the scope of the law against price discrimination. The Commission is now spending more than $600,000 a year in the enforcement of this act.

2. In 1938 the Wheeler-Lea Act materially expanded the Commission's functions in the prevention of false advertising.

3. In 1940 the Wool Products Act assigned to the Commission the duty of maintaining surveillance over the labeling of wool textiles. The Commission now spends more than $200,000 a year in the administration of this act.

4. In 1946 the Trade Mark Act assigned to the Commission new duties with regard to the unlawful use of registered trade marks.

5. In 1948 the McCarran Insurance Act gave the Commission a jurisdiction over insurance which is highly complex because its scope varies from State to State in accord with variations in State law.

6. In 1950 the Anti-Merger Act gave the Commission jurisdiction over acquisitions of assets by corporations where there is an adverse effect upon competition. The Commission's previous jurisdiction in such matters had been limited to acquisitions of stock. In signing the law, the President said he would expect the Commission to be alert and vigorous in its enforcement.

7. The Fur Products Labeling Act, effective August 9, 1952, gives the Commission authority over the labeling of fur products similar to that already assigned in the case of wool textiles. The Commission has received no increase of appropriation for the enforcement of this statute.

At a conservative estimate, the Commission is now spending upon functions assigned to it by these additional statutes at least $1,250,000 or about 29.9 percent of its total appropriation; and a full enforcement of these additional statutes probably would cost double this sum. he diversion of personnel to these new duties has necessitated a corresponding shrinkage in the other activities assigned to the Commission by the original Clayton Act and the Federal Trade Commission Act.

The problem created by this growing discrepancy between duties and resources has been evident in every major part of the Commission's work. An example is the Commission's approach to the problems created by the concentration of economic power.

In establishing the Commission more than 35 years ago, a basic purpose of the Congress was to reverse the trend toward monopoly which was then considered to have reached alarming proportions. In assigning the Commission fact-gathering functions of unusually

broad scope, the Congress presumably intended that the Commission should keep close watch over any tendencies toward monopoly and promptly call public attention to them. The Commission is aware of situations in which there appears to be a monopolistic tendency that it has been unable to investigate with a view to taking whatever corrective action may be needed. Both in economic reporting and corrective action the Commission has succeeded often enough to show that the means at its disposal can be effectively used; but the scale of its operations has been too limited to keep pace with the problem because of limited appropriations.

The Commission has not been able to inform the public adequately as to the trend of industrial concentration. Throughout most of its history, it has made occasional spot reports of the extent of concentration in a given industry at a given time. Such limited studies of the trend as have been available have come sporadically from a variety of sources and have been insufficient to provide a solid basis for the development of public policy.

The scattered figures that are available indicate that in some parts of the economy concentration is a growing problem. In 1909, shortly before the Commission was created, the 200 largest nonfinancial corporations in the United States had about 33 percent of the assets of all such corporations. In 1929 the same number of concerns had about 48 percent of the assets of all of them. In 1933 they had about 55 percent of all such assets. These figures, which were not compiled by the Commission, are not conclusive as to the trend in competitive industry, for they cover public utilities as well as competitive enterprises.

Moreover, comparable figures are not available after 1933. On the basis of fragmentary information, controversy has developed as to the subsequent trend of business concentration in manufacturing as a whole and in the economy as a whole.

There can be no doubt, however, that, whether or not concentration has grown during the last two decades in the economy as a whole, it has done so in a considerable number of industries. Figures that are comparable for the years 1935 and 1947 show that between those years there were 58 industries in which the four largest companies increased their share of the industry's total shipments.

Some of these increases were large enough and reflected a level of concentration high enough to suggest persuasively that there may be jeopardy to competition. For example, in cereal preparations the share of the four largest companies grew in 12 years from an initial 68 percent to 75 percent; in cork products, from 77 percent to 82 percent, in distilled liquors (except brandy), from 51 percent to 75 percent; in matches, from 70 percent to 83 percent; in leavening

compounds, from 57 percent to 83 percent; and in window shades from 34 percent to 72 percent.[2]

In 1947 a high degree of concentration was so widely prevalent as to constitute a major competitive problem. Out of 452 industries surveyed, there were 147 in which the four largest manufacturers supplied more than half of the total product. In 11 industries the share of the four largest was more than 90 percent; in 31 industries, more than 80 percent; in 59 industries, more than 70 percent; and in 96 industries, more than 60 percent. Industries in which a few large concerns overshadowed the market have become so common that much of the Nation's economics has been rewritten to describe competition among the few as the typical pattern of competition; and there is general agreement among the observers who have developed this type of economic analysis that such modified competition involves behavior approaching that of monopoly.

For nearly three-fourths of the industries of the United States there are no figures to show the trend of concentration, and for most of the other industries the available information pertains only to one or two particular years. There is either controversy or ignorance where there should be reliable knowledge. To supply the facts as to this trend is a proper part of the Commission's function. The Commission would have done it in the past had its resources been adequate. It is endeavoring to begin to do it now, but without adequate facilities. In the fiscal year 1953 the Commission expects to publish the first of a series of annual reports from which the trend of concentration can be reliably measured for manufacturing as a whole and for a considerable number of industries separately. The methods that will be used are capable of use to cover the trend of concentration in every important manufacturing industry, but resources are not available to undertake the work on this scale.

Through legal proceedings the Commission has endeavored to check concentration of economic power that seemed likely to reduce com-

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[2] The standard definitions of industries that were used by the Department of Commerce in computing these percentages are not wholly satisfactory for the measurement of economic concentration. In some instances an "industry" covers different kinds of goods that are not competitive with one another; in other instances goods that are sufficiently similar to be competitive are classed in two or more industries. Little information is available to show whether the degree of concentration in the production of commodities that are competitive is greater or less than the concentration in the "industries" to which those commodities are attributed. In general, there is a reasonable presumption that where the competitive field is narrower than the industry, the significant concentration is greater than that shown for the industry, and that where the competitive field is wider than a single industry, the significant concentration is less shall that shown for some or all of the industries involved. Where both conditions exist together—that is, where the competitive field consists of parts of two or more industries—the concentration rations for the industries involved may be either greater or less than that for the competitive field. Hence, the percentages mentioned above should be regarded as roughly indicative of the scale of the problem, but not as exact.

petition insofar as it had jurisdiction to do so. During most of its existence, its power to take corrective action has been limited by statute. For example, until late in 1950, it had authority to prevent a corporation from acquiring another's stock if competition might be significantly lessened thereby but had no corresponding authority over a corporation's acquisition of another corporation's assets. Prior to the amendment of this statute, however, the Commission's resources did not permit it to use its existing power fully, and since the amendment is has continued under a similar handicap.

The existence of this discrepancy between duties and resources has been recognized in every major inquiry into the administration of the antitrust laws during the last 15 years. In a number of these inquiries, various aspects of the Commission's work have been vigorously criticized; and through major changes in organization and procedure the Commission has sought to remove legitimate ground for such criticism. With or without accompanying criticism, however, there has been the reiterated comment that the Commission's funds were insufficient for its task. Outstanding examples are as follows:

1. In 1939 the Temporary National Economic Committee unanimously reported as to both the Federal Trade Commission and the Department of Justice that:

> We strongly urge the absolute necessity of providing funds for these agencies adequate to the task which confronts them.[3]

2. In 1946 a report issued by the Monopoly Subcommittee of the Small Business Committee of the House said:

> Any shortcoming of the Federal Trade Commission which may be pointed out in this report should not be allowed to obscure the highly salient fact that the appropriations to the Federal Trade Commission, even if the agency were devoting all its time to handling the most significant antitrust cases, would be insufficient to allow it to fulfill its function in helping to reverse the trend of concentration
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> The unfavorable odds against which the staff of the Federal Trade Commission must work is nowhere more glaringly illustrated than by the case against the Cement Institute. In this case only three Commission attorneys participated in the trial, yet they were opposed by lawyers from 41 law firms, many of them amongst the largest and most successful in the country. Press releases, according to the Federal Trade Commission, have appeared to the effect that the defendants in this case spent in excess of $5,000,000—$5,000,000 against three Commission Attorneys.[4]

3. In 1949 the Hoover Commission Task Force said of the Federal Trade Commission in its report on regulatory commissions:

> The Commission has been hampered by inadequate funds.[5]

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[3] S. Doc. No. 35, 76th Cong., p 35

[4] House Doc., H. Res 64, 79 cong., p. 29

[5] Appendix N, Feb 9, 1949

4. In 1951 a report issued by the Small Business Committee of the House once more emphasized the point made in 1946. It said:

> No other major regulatory agency is faced with so huge a task as the Commission with such feeble weapons.

It said further:

> The need for larger appropriations to finance our business regulating programs has been repeatedly pointed out. The Committee believes that more and better men, and hence more money, are basic to the necessary enhancement of the effectiveness of the antitrust laws. We are convinced that this is true of the Federal Trade Commission. * * * [6]

5. In 1951 the Committee on Cartels and Monopolies of the Twentieth Century Fund said:

> The appropriations and the staff provided for the Federal Trade Commission should be made adequate to the task at hand.[7]

The basic difficulty created by the discrepancy between duties and resources has slowed the Commission's work but has not prevented the Commission from proceeding in specific cases which illustrate the services it can render in the performance of its assigned functions. A few examples are listed below:

1. Automotive Parts Case.—The Hardy Subcommittee of the House Expenditures Committee reported earlier this year after hearings that the Government had spent during a period of three years over $305,000,000 which it could have saved in connection with the purchase of automotive parts. The Committee alleged that this was the case because automotive parts manufacturers were either refusing entirely to sell to the Government or would not sell except at a price above that charged by their own distributors. At the request of the Subcommittee, the Federal Trade Commission has been investigating this matter. If the allegations which have been made by the Committee are proven and the Commission's action results in eliminating the restraints of trade which create this situation, large savings will accrue to the Government. (If the Commission could have thrown a task force of 12 or 15 investigators into the field full time on this case, the investigation would have long since been completed.)

2. Steel Scrap Investigation.—For almost a year the Commission has been investigating allegations that restraints affecting the channels through which tile steel companies purchase their supplies of iron and steel scrap were impeding the flow of this scrap to the steel mills. The steel mills and foundries of this country depend upon scrap flowing through these channels for about one-fourth of their total supply of metallic materials. Scrap has been in very short

[6] House Doc. 3236, 81st Cong., pp. 29, 44.

[7] Stocking, George W., Watkins, Myron, Monopoly and Free Enterprise, Twentieth Century Fund, 1951, p. 565.

supply. The investigation is now almost completed and a staff recommendation to the Commission will be forthcoming shortly. If Commission action in this case should result in a greater flow of steel scrap, it is apparent that a most important contribution will have been made to the defense mobilization effort. (If the Commission had had sufficient personnel to investigate this matter on a task force basis, with 10 or 12 investigators working full time, the investigation would have been completed at least 6 months earlier.)

3. Metal Lath Case.—This case, now pending before the Commission for decision, involves an alleged price-fixing conspiracy in the metal lath industry. Metal lath is used in housing as a base on which to build walls. If the Commission should find that price fixing conspiracy has existed in this industry and should effectively terminate it, substantial savings should result not only to private home builders but also to the Government in connection with its own building program.

4. Drug Advertising Cases.—The Commission has recently brought a number of cases against the advertising of alleged miracle drugs for rheumatism, arthritis, and other related ailments. The therapeutic effect of these products is confined to the relief from pain afforded by their aspirin content, although they sell for as much as six times the price of aspirin. In the case of Imdrin, the Commission sought an injunction against a continuance of false advertising pending the final disposition of the Commission's case against this product. The Federal District Court refused to grant it. The Federal Court of Appeals reversed that decision and remanded the matter to the District Court, which then granted the injunction. According to counsel for the Imdrin Company at a recent hearing before the Commission, the sales of Imdrin dropped from a rate of about $2 million per year to a rate of about one-half million dollars per year after the questioned advertising was stopped by the injunction. The Commission has now issued its own order against the false Imdrin advertising.

5. Deep Freezes Tied in With "Wholesale Price" Food Sales.— Various schemes have been developed to exploit the consumer's concern over the present level of food prices. One is a campaign to sell deep freezers with the purported right to buy food at "wholesale prices," with alleged enormous savings in food costs. The Department of Agriculture has advised that many of these representations are entirely false;—that when the cost of the deep freezer and of its operation and upkeep are figured, the cost of the food may actually be higher than it otherwise would have been. This advertising campaign has been very effective, however, and there have been reported instances of five-fold increases in the sale of deep freezers. With its existing

personnel, the Commission has only been able to issue one complaint. It is investigating other cases as rapidly as available personnel will permit.

6. GI Schools for Korean Veterans—The new legislation extending educational rights to Korean veterans provides that the State accrediting agencies shall give due weight to any existing Federal Trade Commission cease and desist orders involving schools before accrediting them for availability to veterans at Government expense. The Commission has sent to each of the 48 States and to the territories and possessions an index covering some 385 schools which have been the subject of orders or stipulations. (If it had available funds, the Commission could and should do a great deal more work on this matter on a project basis, which probably would save the Government money and protect the veteran from inadequate educational institutions.)

7. 1947 Copper Report.—In 1947 the Commission made a study of the copper industry which produced a report of over 400 pages. This report revealed that large integrated companies controlled the domestic sources of copper and that independent fabricators were unable to compete by purchasing foreign copper because of- the import tax of 4 cents per pound ($80 per ton). The situation was serious; some concerns ran advertisements saying that they were closing down because of their inability to get copper. The report produced a complete picture of the situation. A few weeks after it was released, Congress suspended the import tax on copper. That suspension is now in force.[8]

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[8] The tariff was restored, however, for the period from July 1, 1950, to March 31, 1951.

4 Economic Reports

THE FACT-FINDING and economic reporting functions of the Federal Trade Commission and its predecessor agency have constituted, within the limited range made possible by the resources available for such reports, one of the Nation's most important instruments of antimonopoly action for almost half a century. This is indicated (1) by the diversity and quality of reports issued under the enabling legislation, and (2) by the contribution these investigations have made in the enactment of new legislation and in the improvement of business practices.

Current trends and pressures toward business concentration are increasing the importance of the Commission's reporting powers. The need is obviously greater than when the Federal Trade Commission was created in 1914. Increased concentration of business was recognized by the Hoover Commission in a report by its task force which stated: "Our industrial organization is more complex, larger concerns have grown in size and importance, trade practices in many industries form an intricate network of controls."

Economic Reporting in 1952

During the fiscal year of 1952, five economic reports were completed in the Commission.

The "Report to the Federal Trade Commission by its Staff on the International Petroleum Cartel"[1] published by the Subcommittee on Monopoly of the Senate Select Committee on Small Business.

This report describes the activities of seven major oil companies and their control over the international oil industry. The study includes descriptions of the world's oil reserves, production and marketing agreements among the international companies, pricing practices and interlocking directorates.

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[1] It appears that a bitter propaganda attack against the report is now being launched. Editorials and articles in petroleum periodicals and speeches by petroleum executives have attacked it repeatedly. One of the petroleum trade journals has reported that one of the oil companies is distributing about 8,000 copies of a 32-page booklet to government officials, editors, and "molders of public opinion" in 67 countries in which the company operates. This booklet is a compilation of reprints of critical newspaper and magazine articles about the petroleum report.

It states that there are four separate and distinct divisions of the international oil industry. However, by vertical integration, the operations in all four divisions are controlled by the large integrated companies. Outside of the United States and the Soviet Union, the seven major companies control the bulk of production and marketing of oil moving in international commerce. Many pairings and groupings of these seven companies and their affiliates conduct joint operations in most parts of the world. The seven international companies operate through layers of jointly owned subsidiaries and affiliated companies. Through this corporate complex of companies, they control not only most of the oil but also most of the world's foreign petroleum refining, cracking, transportation, and marketing facilities. Thus, control of the oil from the well to the ultimate consumer is retained in one corporate family or groups of families. These groups have extended their spheres of potential influence over the United States oil industry through indirect interlocking directorates. This high degree of concentration facilitates the development and observance of international agreements regarding price and production policies.

Control over foreign reserves has been achieved through the use of two techniques:(1) joint ownership and (2) long-term contracts for the sale of crude oil. In the Middle East, the interests of seven international oil companies have been woven together by joint ownerships of subsidiary companies, each holding interests in one or more of these joint enterprises. In Venezuela, three international oil companies own the bulk of that nation's oil reserves and production and re closely bound together through long-term contracts for the sale of crude oil. Closely allied to these agreements, which in effect bind the three companies together in a partnership, are other agreements designed to impose restrictive controls on the production of two of these companies.

Production and marketing of petroleum have been controlled by four international oil agreements, dated from 1928 to 1934. The primary movers in all of these international agreements, and in efforts to implement them, were the three major international groups of the oil industry, namely, the Standard Oil Co. (New Jersey) group, the Royal Dutch-Shell group, and the Anglo-Iranian Oil Co., Ltd. (formerly Anglo-Persian Oil Co., Ltd.) group. Each of these consists of a central controlling company and its subsidiary and affiliated producing, refining, transportation, and marketing interests. In addition, each of these groups is associated in interest with each of the others and, in some instances, with outside interests, (1) through joint ownership of reserves, (2) through control of producing, re-

fining, and marketing facilities, and (3) through agreements for the purchase and sale of crude oil and refined products.

The report also discusses the use of the Gulf-plus basing point system, both in its original and modified forms. This staff report states that the use of this system to price crude oil and refined petroleum products has served two basic purposes of the major international oil companies:

1. It has eliminated differences in delivered prices among the various sellers at any given point of destination, thereby making the selection of one seller over another a matter of indifference to the buyer insofar as price was concerned.

2. It has made the relatively high United States Gulf prices the basis for both crude oil and refined prices throughout the world.

Control of Iron Ore

The second major report completed during the year was a study of the concentration of iron ore supplies, entitled The Control of Iron Ore. The study begins with an analysis of the amounts of iron ore consumed in 1948 and the sources of that ore, whether derived from owned mines or purchases. There is (1) an estimate of the ore reserves held by the major companies and (2) an estimate of their competitive relationships in terms of those vital ore supplies. For comparative purposes, there is a section on the iron ore position of the smaller unintegrated companies. The study indicates (1) that the big companies are not likely to feel the shortage of iron ore supplies as keenly as the small companies, and (2) that consequently the effect of the ore shortage probably will be to increase economic concentration unless offsetting measures are taken. One such measure, to which the report gives attention, is the development of new technological processes that might permit the use of small local ore bodies.

Distribution of Steel Consumption

The Commission's report entitled Distribution of Steel Consumption, 1949-50, compares steel distribution in 1949 with that in the fourth quarter of 1950. It points out that 1949 was a year of relatively free supply, while the final quarter of 1950, following the invasion of South Korea in June 1950, was a period of scarcity. The study is concerned with four matters (1) changes in the amount of steel consumed by the different steel-using industries; (2) changes in the proportion of steel which was used by the four largest consumers in each industry; (3) changes in the proportion of steel shipments to warehouses which went to those warehouses that are affiliated with the steel companies; and (4) changes in the relative importance of hot- and cold-rolled steel.

The report shows substantial increases in steel consumption in five major industries: (1) heating and cooling apparatus, (2) bolts and nuts, (3) metal stamping, (4) wirework, and (5) metal barrels and drums. One of these industries, metal barrels and drums, is largely owned by the steel industry itself and steel producers have important interests in two of the other industries—wire-work, and bolts and nuts. With respect to change in consumption of steel by the four largest steel consumers relative to the rest of the industry, the report shows changes that appear to be significant in 15 industries. In general, the size of the percentage decreases was greater than that of the percentage increases.

With respect to the relative importance of hot and cold-rolled steel, the report shows a slight increase in the proportion of cold-rolled sheet and bars and a slight decrease in the proportion of cold-rolled strip. The part of the report dealing with the position of the warehouses affiliated with steel producers suggests that the emergency has created special difficulties for independent warehouses and for those small consumers of steel who rely upon such warehouses.

Monopolistic Practices

At the request of Senator John Sparkman, Chairman of the Senate Select Committee on Small Business, the Commission's staff prepared a report on Monopolistic Practices and Small Business. The report describes business practices which have the most immediate and significant impact in jeopardizing small concerns, particularly denial of supplies, price squeezes, price discrimination, and coercive and predatory practices.

Denial of supplies involves refusal by the integrated firm to sell its smaller, nonintegrated competitors raw materials which the latter must have in order to compete with the former in the sale of finished products. Generally, the importance of this practice rises and falls with business activity, becoming of greatest significance during periods of business prosperity and short supply.

The practice of price squeezing is somewhat similar to denial of supplies except that the weapon used against the small, nonintegrated firm is the narrowing of the margin between the price of the raw material which it must purchase from its integrated competitor and the price of the finished goods which it sells in competition with the integrated firm.

The practice of price discrimination is particularly destructive to small firms. W hen discriminatory price concessions are made, they are seldom, if ever, granted to the small buyer. Having to pay a higher price for his merchandise than his large competitor, the small buyer is handicapped at the very beginning of the competitive race. Price discrimination is also a handy and effective

instrument by which small sellers are disciplined and brought into line by their larger rivals.

The report includes an analysis of changes in the degree of concentration of economic power within individual industries. It identifies some factors which appear to be associated with increases and with decreases in the level of economic concentration.

Rates of Return

A report on Rates of Return (after taxes) for 512 Identical companies in 25 Selected Manufacturing Industries, 1940, 1947-51 was also issued by the Commission. Like similar reports for earlier postwar years, it compares prewar and postwar rates of return on stockholders' investment after taxes for identical companies in 25 narrowly defined and homogeneous manufacturing industries. The industries covered by the study constitute a substantial segment of the economy, with their combined assets in 1940 accounting for about half the total assets of all manufacturing industries.

The report shows that for the companies studied rates of return (after taxes) on stockholder investment were higher in 1951 than in the prewar year of 1940 in 19 of the 25 industries. The industries in which the profit of reporting companies were lower in 1951 than in 1940 were (1) cigarettes, (2) cigars, (3) plug, smoking and snuff; (4) wool carpets and rugs; (5) soap, cleaning and polishing preparations; and (6) motor vehicle equipment.

The industries in which the reporting companies showed the most substantial increases in their rates of return from 1940 to 1951 were: (1) paper and allied products, from 9.6 to 15.1 percent; (2) petroleum refining, from 6.7 to 15.7 percent; (3) tires and inner tubes, from 9.0 to 16.3 percent; and (4) matches, from 5.3 to 11.7 percent.

Rates of return for the reporting companies for 1951 were lower than those for 1950 in all but 2 of the 25 industries—petroleum refining and engines and turbines. The rate of return for the reporting companies engaged in petroleum refining increased from 14.3 percent in 1950 to 15.7 percent in 1951. For the companies in the engines and turbines industry, the rate of return increased from 13.5 percent in 1950 to 14.0 percent in 1951.

Other Reports

Considerable time was devoted to two economic studies which were not completed during fiscal 1952. The first is a survey of the value of shipments of each important type of commodity produced in 1950 by about a thousand of the largest manufacturing companies. This is a spot inquiry and is not intended to be the beginning of an annual collection of similar figures. The data secured from this survey will be used by the Commission in checking the importance of industrial

mergers in order to determine whether they should be investigated as possible violations of Section 7 of the Clayton Act. If the data appear to indicate the existence of a public problem to which the attention of the Congress should be directed, the Commission will prepare a report upon the relevant phases of the structure of American manufacturing in 1950. Because of this possibility, it was indicated to the companies included in the survey that the Commission reserved the right to make the data public.

The second survey in progress is part of the Commission's effort to develop measures of concentration that can be kept reasonably current and thus provide reliable information as to the trend of concentration. The survey will produce concentration ratios based on employment for the leading 4 and 8 companies in each of 290 industries where large and moderately large companies do the bulk of the business. The Commission proposes to use the data thus far obtained, together with data available for 1935, to compare changes in concentration between 1935 and 1950.

Financial Reports

In addition to the economic reports described above, the Commission continued, in cooperation with the Securities and Exchange Commission, the preparation and publication of quarterly financial reports of United States manufacturing corporations. These reports provide a current indication of conditions in the manufacturing economy and in the various segments of industry. The reports provide:

1. Quarterly estimates for specific items of income, expense, assets, liabilities, and net worth for all United States manufacturing corporations, for different; sizes of manufacturing corporations, and for major manufacturing industries.

2 Trends in various financial items by corporate size-class and by major manufacturing industry group and comparisons of these financial items among different corporate size classes and among different major industries.

3. Financial indicators used in formulating stabilization controls during a mobilization period.

The financial reports lave become the only reliable source of information concerning profits of small manufacturers; they are the only complete sources of data as to the current financial status of major manufacturing industries. The reports are used extensively by other agencies of the Government, such as the Department of Commerce, the Council of Economic Advisers, the Federal Reserve Board, and the Treasury Department, and also are widely used by banks, manufacturing corporations, trade associations, labor unions, insurance companies, other business enterprises, public accountants, attorneys, investors, universities, and private research organizations.

Beginning with the first quarter of calendar year 1952, the Commission increased the number of asset-size groups by which the data were presented from five to seven. It was considered that the data would have more significance and be more valuable to other Government agencies and the general public if this change were made. Further refinements of the data will be made as the workload permits.

The Quarterly Financial Report, United States Manufacturing Corporations, 4th Quarter 1951, which includes data for the previous three quarters as well as calendar year 1950, shows that profits of manufacturing corporations after taxes were 12 percent lower in 1951 than in l950, but 26 percent higher than in 1949. Profits before taxes in 1951, on the other hand, were 12 percent higher than in 1960 and 80 percent higher than in 1949; sales in 1951 were 17 percent higher than in 1950 and 37 percent higher than in 1949.

Retail and Wholesale Corporations

In fiscal 1952 the Commission published for the first time a report of financial data for retail and wholesale corporations (merchant wholesalers only), entitled Quarterly Financial Report, United States Retail and Wholesale Corporations, 1950-51. The report contains data for 17 industrial segments of retailing and merchant wholesaling and also for seven different sizes of businesses in retailing and six in merchant wholesaling. The report is basically similar to the quarterly financial reports for United States manufacturing corporations and as prepared jointly by the Commission and the Securities and Exchange Commission.

The collection of data from retail and wholesale corporations was undertaken by the Commission at the request of the Office of Price Stabilization. With the establishment of price controls in 1950, the Office of Price Stabilization found that the information collected by the Federal Trade Commission from manufacturing corporations was essential to its operations. OPS also desired information for retailing and wholesaling corporations. The Director of Price Stabilization delegated to the Commission his authority to require such reports in order to supplement the Commission's authority, which applies only to corporations engaged in interstate commerce. The report mentioned above was compiled from the data collected at the request of OPS.

During the spring of 1952, OPS determined that it would be unable to continue to sponsor the collection of financial data from wholesale and retail corporations at the previous scale of operations. As a result of this decision, the trade sample was reduced by more than 90 percent of its previous size. This small program will be continued during the conning fiscal year and will be financed jointly by the Office

of Price Stabilization and the Board of Governors of the Federal Reserve System.

During the year, in addition to the regularly published quarterly reports, numerous tabulations and special studies based on the five years of data of manufacturing corporations previously collected by the Commission were prepared for the Office of Price Stabilization. These special studies were reports on specific industries such as steel, meat packing, brewing, tobacco, bread and other bakery products, biscuit, crackers and pretzels. Also special reports were prepared for OPS from the newly collected trade data.

Special Reports

One report, Quarterly Financial Report, Five Manufacturing Industries, 1947-51, was released to the public by the Commission. This report shows the averages of the quarterly income statements and balance sheets for the total operations of representative samples of manufacturing corporations in specific industries and in a specific geographical region. The data are restricted to 14 income, expense, and asset accounts for five manufacturing industries in one quarter (the second quarter) in each of the years 1947 to 1951, inclusive. The data are also limited to one range of annual sales for each of the five industries and to one geographical region for two of the industries.

At the request of Congressional Committees, two reports were prepared for their use. The first was a series of tabulations for the Senate Select Committee on Small Business, giving the sales, net income before taxes, net income after taxes, and net worth in 1950 and 1951 for 12 manufacturing industries, classified by three groups of asset sizes. The second was a report about the alcoholic beverages industry, prepared at the request of a subcommittee of the House Judiciary Committee.

A great many other requests for special tabulations were received from Government agencies, business enterprises, universities, and others. Unfortunately, the Commission was unable to fulfil these requests because of budgetary limitations.

Accounting Report

At the request of the Post Office Department, an intensive study was made by the Commission's accountants of the cost of production of stamped envelopes of various styles and sizes and of the different grades of paper used in the manufacture of the envelopes for the Government. The purpose of the study was to determine whether or not there had been an increase of 20 percent or more in the cost of producing and delivering stamped envelopes. A contract between the Government and the manufacturer provided for a revision of the contract prices for stamped envelopes when such an increase occurred.

5 Antimonopoly Work

THE COMMISSION'S antimonopoly work consists of a wide range of activities designed to effectuate national policy directed toward insuring to the public the full benefit of free and fair competition. The Federal Trade Commission Act, which the Commission alone has the duty of enforcing, contains a sweeping addition to the basic antitrust laws, the Sherman and Clayton Acts. Section 5 of the statute makes unlawful unfair methods of competition and unfair or deceptive acts or practices in interstate commerce. The Commission's investigatory powers are commensurate with its broad duties.

The efforts of parties engaged in commerce to lessen, suppress, restrain, and eliminate competition are of many kinds. Some of such efforts are forbidden by the Sherman Act; others fall within the Clayton Act; and others fall within the broad scope of section 5 of the Federal Trade Commission Act. In performing its duty under the latter act to stop unfair methods of competition, the Commission frequently proceeds against practices which may also violate the Sherman Act or the Clayton Act or the public policy reflected in those acts.

The Commission also has a broad jurisdiction over certain Clayton Act violations. That act specifically prohibits several practices which unfairly restrain or injure competition; (1) price discrimination, (2) tying contracts, (3) mergers suppressive of competition, and (4) interlocking directorates.

A major portion of the Commission's antimonopoly activities consists of putting a stop to price fixing on the part of entire industries. Complaints issued against members of an industry for lessening price competition reach combinations and conspiracies in restraint of trade. Legally and in actual operation the Commission's antimonopoly activities and the work of the Antitrust Division of the Department of Justice supplement each other to a substantial extent. In the Commission's antimonopoly work, however, particular emphasis is placed upon stopping in their incipiency the use of acts, practices, and methods that lead to monopoly and contracts, combinations and conspiracies which unfairly restrain competition.

Investigations of practices employed in commerce play an important part in preventing use of practices contrary to public policy, and a substantial number of formal complaints are issued each year. Investigations provide material for the issuance of reports on competitive conditions in industries as well as background for complaints. In preparing and handling antimonopoly complaints there is a close cooperation between the Commission's economic and legal staffs.

The type of matters dealt with in complaints during the past fiscal year illustrates the Commission's jurisdiction in the field of antimonopoly and the action taken in carrying out its functions.

LEGAL CASE WORK

Orders to Cease and desist	[1]26
Complaints issued	29
Cases dismissed or closed	2
Cases investigated	333

[1] Includes two (2) modified orders

Orders Against Monopolistic Practices

The following cases are illustrative of the importance to the public of the cease and desist orders that were issued during the past fiscal year.

Docket 5508, American Iron and Steel Institute et al. Order issued August 10, 1951.

This order concluded an action involving 98 percent of the American steel industry. Producers of steel were charged with lessening and restraining price competition between and among themselves by collectively arriving at price quotations for their products. It was alleged that their planned common course of action deprived the purchasing public of an opportunity to buy at the mills where steel was produced and to bargain independently with sellers. Among other things, it was also alleged that producers were acting collectively to establish extra charges for non-base items. In a large measure, this case was a follow-up of an earlier proceeding against the United States Steel Corporation and certain of its subsidiaries, but this proceeding included substantially all of the steel industry in this country. It was also a follow-up for the steel industry of the action the Commission took against the cement industry to break up price fixing, the order in which case was affirmed by the United States Supreme Court.

The order entered in the steel case in effect requires the steel producers to refrain from acting together on prices for, or the method of pricing base products or extras. It is intended to restore competition among sellers, and to enable purchasers to take advantage of all normal competitive factors in contrast to the situation that

prevailed whereby such advantages had largely been denied to them. It is designed to produce genuine price competition as contrasted with the situation which existed when the complaint was issued, of a common delivered price at each destination which resulted from concert of action among the producers.

Docket 5794, Atlas Supply Company et al. Order entered July 19, 1951.

In this case five Standard Oil Companies and Atlas Supply Co., which they controlled, were ordered by the Commission to discontinue monopolistic practices resulting from their combined operations in the purchase and resale of tires, tubes, batteries and other automobile accessories. The order also prohibited the six corporations from receiving unlawful brokerage fees or allowances and from inducing or knowingly receiving unlawful price discriminations in connection with the purchase of automobile tires, tubes, batteries or other automobile parts or accessories. The order also prohibited the six corporations from entering into, continuing or carrying out any combination, conspiracy or planned common course of action to exert the influence of their combined purchasing power in jointly buying the products involved so as to obtain any price discount, rebate or allowance from a seller which is preferential to that allowed or made available by such seller to competitors of the respondents.

Docket 5484, Clay Sewer Pipe Association et al. Order entered August 20, 1951.

In this case the Commission ordered nineteen manufacturers of vitrified clay sewer pipe and their trade association, Clay Sewer Pipe Association, Inc., et al., to cease and desist from their price-fixing activities which had destroyed competition among them.

Docket 5857, Marlboro Tobacco Board , et al. Order entered September 5, 1951.

This case involved an attempt by existing tobacco warehouses in the community of Marlboro, Md., to exclude a newcomer in the field by action taken in and through a local Tobacco Board of Trade. It was charged that the established warehouse operators maintained their control of the market by denying membership to a tobacco warehouse corporation and that without such membership it was impossible to enter the market. The order required the respondents to cease and desist from refusing to grant membership and from establishing by collective action, fees for services rendered. Thus, it was aimed at preventing a monopolization of a trade area by established firms and at opening the door to new competition.

Docket 5883, International Cellucotton Products Company. Order entered November 13, 1951.

The respondent in this case was by far the largest producer of sanitary products in this country and substantially dominated that field. The complaint charged it with monopolistic practices in the sale of such products by offering promotional allowances to its dealers and distributors under terms and conditions which effectively prevented them from accepting the offers and promoting the sale of the products of respondent's competitors. The order to cease and desist required the respondent to discontinue offering or granting any promotional allowances which caused or tended to cause the dealers or distributors of these products to refrain or abstain from accepting or using promotional activities or allowances offered or paid by competitors.

Docket 5575, Gamble-Skogmo, Inc., et al. Ordered entered June 11, 1952.

Section 3 of the Clayton Act prohibits sellers from requiring customers to deal exclusively in the products of such sellers where the effect may be substantially to lessen competition or to tend to create a monopoly. In a proceeding against the Gamble-Skogmo Company the Commission's order freed some 1,735 independently owned dealer stores, situated over an area of 25 States from restrictions which theretofore required them to purchase their merchandise from Gamble-Skogmo to the exclusion of other sellers. In view of the fact that the record in that case disclosed that in 1947, Gamble-Skogmo sold over $60,000,000 worth of merchandise to dealers under such restrictions, the Commission's order removing those restrictions opens a very substantial potential market to competing suppliers which theretofore had been foreclosed to them.

Complaints Charging Monopolistic Practices

The Commission issued 29 antimonopoly complaints during the fiscal year.

On April 24, 1952, the Commission issued a complaint charging suppression of competition on the part of the manufacturers and retailers of surgical goods and equipment. It charged that the majority of the industry serving hospitals and doctors and other users of medical equipment, hospital beds, hypodermic needles, syringes, scalpels, rest room equipment, etc., and the dealers in these products, with effectuating working arrangements whereby the manufacture and distribution of these products could be largely limited to those who participated in the working arrangement. It was alleged that the

members of this industry through collective action had sought to cultivate trade for themselves and prejudiced nonmembers of their group, with the result that the public was being adversely affected, both price-wise and from the standpoint of service. Almost all of the products used by hospitals and doctors, in giving medical care, are involved. Thus the action has direct bearing upon the cost of one of the necessities of life, with a correspondingly important public interest ratio.

On March 14, 1952, the Commission issued its complaint against Anchor Serum Co., one of the largest producers of antihog-cholera serum and hog cholera virus, charging violation of section 3 of the Clayton Act. These products are of basic importance and must be used by substantially every farmer who raises hogs. The complaint alleges that Anchor has tied up numerous large purchasers of such products, including the Iowa Farm Serum Co., Illinois Farm Bureau Serum Association and Missouri Farmers' Association, inc., by so called full requirement contracts under which the contracting buyers agreed to purchase all of their requirements of such products from Anchor. In view of the fact that Iowa, Illinois, and Missouri constitute the largest hog-producing States in the United states, and that the purchasers named are the largest buyers of serum and virus within such States, it appears that a vast potential market is foreclosed to competitors by such practices. The entry of a cease and desist order may open this market to smaller serum producers.

Among other cases of like character now in the course of trial are Outboard Marine and Mfg. Co., involving exclusive dealerships for outboard motors, and Harley Davidson Motor Co., whose products include motorcycles, accessories and parts.

During the year the Commission issued a complaint against more than 20 companies operating tomato processing plants, including Heinz, Campbell, and Stokely Van Camp, charging them with combining to boycott and destroy a cooperative association of tomato growers in Ohio, Michigan, and Indiana, and to fix the prices they would pay the growers. The Ohio, Michigan, and Indiana tomato growing area is the third largest in the United States. The complaint alleges that respondent processors control and dominate substantially all the factors surrounding the growing and marketing of tomatoes, as well as the amount of acreage to be planted. An effective order in this proceeding, if warranted by the facts, should be of great benefit to the tomato growers in that area by enabling them to grow tomatoes on a scale they believe to be warranted and to sell their products on a competitive market. It should also benefit consumers proportionately.

The Commission has vigorously continued to enforce the Robinson-Patman Act. During the year it issued 15 complaints under the

various provisions of this act. Under subparagraph 2 (f) of the Robinson-Patman amendment of section 2, the Commission on May 14, 1952, instituted proceedings against Safeway Stores, Inc., and against the Kroger Company, charging them with knowingly receiving price discriminations from suppliers and vendors of grocery products. It is alleged that suppliers of grocery products had sold to Safeway and Kroger at prices 15 percent lower than those charged competitors for products of like grade and quality.

Antimerger Activities Under Section 7 of the Clayton Act.

The original section 7 of the Clayton Act made it unlawful under certain circumstances for a corporation to acquire the stock of another corporation. It was so construed that if the physical assets were also acquired the element of illegality was eliminated and corrective action was prevented.

On December 29, 1950, Section 7 was amended to close the loophole which had developed under the old Clayton Act. The amended section 7 bans mergers or consolidations of corporations where the effect may be substantially to lessen competition or tend to create a monopoly in any line of commerce in any section of the country, regardless of whether the transaction was accomplished by acquisition of capital stock or by purchase of assets.

The Commission has instituted a program for listing and making preliminary examinations of all mergers involving corporations within the Commission's jurisdiction. On the basis of information from financial manuals and from Government statistics and files, those mergers are eliminated from further study which, because of the smallness of the companies or for other reasons, cannot have an adverse effect upon competition. Questionnaires are sent to companies involved in the remaining acquisitions, and where necessary field investigation is undertaken for the purpose of determining which of the acquisitions appear to require corrective action.

Under its present program of listing, the Commission has been recording mergers at the rate of about 720 a year, covering a wide variety of industries and products. Many of these are screened out during the preliminary stages. Those which are left and which appear to require corrective action are carefully studied and analyzed, and in some instances extensive field investigation must be made. The whole process of screening and investigating mergers is unavoidably slow because of the necessity for full information and careful study.

Merger Action

On June 16, 1952, the Commission instituted its first formal proceeding under the amended section 7 of the Clayton Act. It issued

a complaint against Pillsbury Mills, Inc. (Docket 6000), the second largest flour milling company in the United States, with assets of over $201,000,000. The complaint alleges that Pillsbury acquired tile assets of Ballard & Ballard Co., a large flour milling company in the southeast, with which it was in competition in the sale of family flour, bakery flour, flour base mixes and animal feeds, and, that it also acquired the Duff Baking Mix Division of American Home Foods, Inc., a large flour base mix manufacturing company with which it was in competition in the sale of flour base mixes throughout the United States.

Studies and investigations of a number of other questionable acquisitions are well advanced, and it is anticipated that during the ensuing year additional formal proceedings will be instituted under this new law.

From time to time proposed acquisitions are brought to the Commission's attention by the corporations involved for the purpose of ascertaining whether or not they would be questioned if consummated. In such instances the information obtained form the companies and elsewhere is analyzed, and the inquiring companies are informally advised by the Director of the Bureau of Antimonopoly as to whether or not it appears that the proposed acquisition may substantially lessen competition within the meaning of the law. In a few such instances proposed acquisitions have been abandoned when the companies were advised that they appeared to be of questionable legality.

Recent studies disclose that mergers among large concerns and among concerns producing the same type of product are increasing as compared with other kinds of mergers. Thus the Commission feels it important to intensify its efforts in the future in this antimerger field, within the limitations of its appropriation.

Compliance Activities

Recognizing the importance of strictly enforcing its orders to cease and desist, the Commission, on March 18, 1947, established within the office of the General Counsel the Division of Compliance (1) to undertake a study of outstanding orders and (2) to secure reports showing the manner and form of compliance with orders as issued.

There are now outstanding in excess of 4,000 cease and desist orders. Acting within the limitations of its budget, the Commission has expended as much time as possible in policing its orders to insure that they will be respected and obeyed.

The compliance function includes the processing of reports of compliance with current cease and desist orders, the holding of conferences with the rendering of opinions to respondents and their attorneys in respect thereto, and the investigation of alleged violations of outstanding orders.

A large number of cases in which the Commission issued orders to cease and desist were given consideration with respect to the manner of how the respondents were complying. One hundred and twenty-nine reports of compliance in antimonopoly cases were processed, of which 122 received the final action of having been accepted and filed. Final action was pending at the close of the year on the remainder, and in addition 28 other antimonopoly compliance cases were under investigation and study. (For reports of compliance processed in antideceptive practice cases see page 47. For civil penalty suits to enforce compliance see, page 48.)

Investigations of Monopolistic Practices

Investigations pending on July 1, 1951	341
Entered for investigation during the year	566
Completed during the year	333
Investigations pending on June 30, 1952	574

One of the principal duties of the Director of the Bureau of Antimonopoly is to study and evaluate each application for complaint for the purpose of determining whether investigation is warranted. Where sufficient basis for field investigation is present, the matter is docketed for investigation. It is then referred to the Bureau's Division of Investigation and Litigation for transmittal to the appropriate branch office and subsequent assignment to an attorney-examiner. Cases in the antimonopoly field docketed for investigation progress under the direction of the Commission to the status either of formal complaint, consolidation with other cases, or closing.

Most of the requests for Commission investigation of cases involving restraint of trade, monopolistic tendencies or discriminatory practices are received from individuals or firms who fear that the successful operation of their businesses may be threatened by the illegal practices of others. Complaints are also received from members of Congress, from Government agencies, and from trade associations. Applications for complaint, especially in the area of price-fixing, are frequently received from Government officials—National, State and local—who have been unable to obtain competitive bids as required by the laws governing their purchases of supplies and materials for Government use.

A far-reaching illustration of this was involved in the case of Federal Trade Commission v. Cement Institute, et. al. (333 U.S.

683, 712-713). In the decision of the Supreme Court of the United States it is referred to as follows:

> Thousands of secret sealed bids have been received by public agencies which correspond in prices of cement down to a fractional part of a penny.[15]

The Commission also dockets for investigation a substantial number of complaints on its own motion. During the fiscal year 566 such applications were entered for investigation.

Investigations involving charges of restraint of trade usually arise in connection with the administration of section 5 of the Federal Trade Commission Act and sections 2, 3, 7, and 8 of the Clayton Act, as amended.

Investigations under section 5 of the Federal Trade Commission Act related to such unfair practices as price-fixing agreements, collusive bidding, conspiracy to control production and limit supplies, interference with source of supply, boycott, and refusal to sell and selling below cost with the intent and effect of injuring competition or eliminating a competitor. Some of the more important products involved were steel and steel scrap, food products, insurance, paper products, surgical and dental instruments, floor covering, and lumber.

Clayton Act investigations covered, (1) price discrimination, unlawful payment or receipt of brokerage, (2) discrimination in the payment of allowances for advertising and promotional services and in the furnishing of services and facilities, and (3) the unlawful inducement and receipt of discriminatory prices. Among the products involved were petroleum products, automotive parts and accessories, television sets, food products, drugs, glass, books, candy, and watches.

Under section 3 of the Clayton Act investigations dealt with exclusive dealing and tying contracts relating to such products as fuel oil, artificial gas, hog serum, and dairy products.

Section 8 of the Clayton Act provides that no person shall serve as a director in two or more corporations, any one of which has capi-

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[15] (Footnote by the Court.) The following is one among many of the Commission's findings as to the identity of sealed bids:

"An abstract of the bids for 6,000 barrels of cement to the United States Engineer Office of Tucumcari, N. Mex., opened April 23, 1936, shows the following:

Name of bidder	Price per barrel
Monarch	$3.286854
Ash Grove	3.286854
Lehigh	3.286854
Southwestern	3.286854
U.S. Portland Cement Co.	3.286854
Oklahoma	3.286854
Consolidated	3.286854
Trinity	3.286854
Lone Star	3.286854
Universal	3.286854
Colorado	3.286854

"All bids subject to 10 cents per barrel discount for payment in 15 days." (Com. Ex. 175-A.) See 157 F. (2d) at 576.

tal, surplus, and undivided profits aggregating more than $1,000,000 if such corporations are competitors, so that the elimination of competition by agreement between them would constitute a violation of the antitrust laws. During the fiscal year six investigations involving alleged violation of this section of law were conducted. Among the products covered by such investigations were bread and bakery products, textile machinery, toilet preparations, and kitchen utensils.

In both the investigation and trial of antimonopoly cases, members of the economic and accounting staffs of the Bureau of Industrial Economics work in close cooperation with the Bureau of Antimonopoly. Such activities included notification concerning proposed or consummated acquisitions, mergers and consolidations; economic evaluation of data relating to such acquisitions; and the preparation of cost and price studies for use in cases arising under both the Clayton Act and the Federal Trade Commission Act.

ANTIMONOPOLY CASES IN FEDERAL COURTS[1]

During the fiscal year nine cases involving antimonopoly proceedings by the Commission were decided in the United States Courts of Appeals and one of these was also reviewed by the Supreme Court. Five antimonopoly cases were pending in the United States courts at the end of the fiscal year, three of them in the Supreme Court and two in the Courts of Appeals. Two other cases decided by the Federal courts were pending on remand to the Commission for further proceedings.

On Petitions To Review

Alexander Film Co., Colorado Springs, Colo. Petition filed before the Tenth Circuit (Denver) to review and set aside cease and desist order prohibiting unfair method of competition through the use of exclusive screening contracts in the distribution of motion picture advertising films. Court dismissed for failure by the company to prosecute.

Automatic Canteen Co. Of America, Chicago, Ill. Petition filed before the Seventh Circuity (Chicago) to review and set aside cease and desist order prohibiting price discrimination and tying contracts in the sale of candy vending machines. The order was affirmed and enforcement granted. Petition for writ of certiorari was filed in the Supreme Court on May 29, 1952 (infra.).

Minneapolis-Honeywell Regulator Co., Minneapolis. Petition filed before the seventh Circuit (Chicago) to review and set aside a cease

[1] United States Courts of Appeals are designated by Circuits, such as First Circuit (Boston), etc.

and desist order prohibiting sales practices tending to restrain trade and to create a monopoly in the sale of automatic temperature controls in violation of the Federal Trade Commission Act and sections 2 (a) and 3 of the Clayton Act. The Commission's order was in three parts: Parts I and II were not challenged; Part III was challenged and the Court reversed the Commission and dismissed count III of the complaint on which the order was based. Pending in the Supreme Court on petition for writ of certiorari (infra.).

The Ruberoid Co., New York. Petition filed before the Second Circuit (New York) to review and set aside order prohibiting the sale of its products of like grade and quality at different prices to competing purchasers. In its brief the Commission asked for affirmance and enforcement. In its initial decision the Court affirmed and enforced the order. On petition of rehearing on the question of enforcement the Court by a two to one decision reversed its decision on enforcement and granted affirmance only. The Supreme Court granted cross-petitions for certiorari and sustained the lower court's decision affirming the Commission's order and denying enforcement. The Supreme Court held that to be entitled to an order of enforcement the Commission, under the statute, must show a violation of its order. This case was of extreme importance as it involved the question of whether the Commission must include in its order the statutory provisos in reference to cost justification and meeting the lower price of a competitor in good faith. The Supreme Court held that on the basis of the facts the Commission was not required to included such provisos in its order.

Middle Atlantic Distributors, Inc., Washington, D.C. Petition was filed in the District of Columbia Circuit (Washington) to review and set aside the Commission's order prohibiting restraint of trade in sale of alcoholic beverages. Dismissed upon stipulation that the order will be complied with.

Douglas Fir Plywood Association and others, Tacoma, Wash., and Fir Door Institute and others, Tacoma, wash. Petitions were filed in the Ninth Circuit (San Francisco) to review and set aside the Commission's order prohibiting conspiracy to fix prices of plywood products and Douglas fir doors. The two cases were consolidated and the Court vacated the Commission's order on the ground that there was no evidence int eh record that the practices complained of would be resumed by petitioners.

Motion Picture Advertising Service Co., Inc. New Orleans, La. On review by the fifth Circuit (New Orleans), the Commission's order against the use of exclusive screening contracts in the distribution of advertising films was set aside. Pending in the Supreme Court on petition for writ of certiorari (infra).

Application for Enforcement

Whitney & Co., Seattle, Wash. The Commission filed before the Ninth Circuit (San Francisco) an application for enforcement of its order prohibiting Whitney & Company from paying or granting unlawful brokerage in violation of section 2 (c) of the Clayton Act. The Court affirmed the Commission's order but remanded the case to the Commission to act as Special Master to take and receive evidence on the question of violation and report its conclusion, together with the evidence, to the Court. The matter is now pending (infra).

Cases Pending

Automatic Canteen Co. Of America, Chicago, Ill. Petition for writ of certiorari filed in Supreme Court May 29, 1952. Price discrimination and exclusive-dealing contracts in the purchase and sale of candy in violation of section 2 (f) and 3 of the Clayton Act.

Independent Grocers Alliance Distributing Co., Chicago, Ill. Petition filed in the United States Court of Appeals for the seventh Circuit (Chicago) to review an order to cease and desist prohibiting illegal brokerage in the sale of merchandise.

Minneapolis-Honeywell Regulator Co., Minneapolis. Pending in the Supreme Court on petition for writ of certiorari. Sales practices tending to restrain trade and to create a monopoly in the sale of automatic temperature controls in violation of the federal Trade Commission Act and sections 2 (a) and 3 of the Clayton Act.

Motion Picture Advertising Service Co., Inc., New Orleans, La. Petition for writ of certiorari filed in Supreme Court May 26, 1952. Exclusive-screening contracts in the distribution of motion picture advertising films in violation of the Federal Trade Commission act.

Standard Oil Co. (Of Indiana). Case remanded to Commission by Supreme Court for preparation of modified findings on the question of good faith. The Commission issued its modified findings as to the facts and conclusions on this issue on March 24, 1952. The matter is now pending on brief and oral argument on these modified findings as to the facts and the conclusions. On May 1, 1952, Commission issued order granting the Retail Gasoline Dealers association of Michigan, Inc., and National Congress of Petroleum Retailers, Inc. leave to file briefs and an opportunity to be heard orally on the question of the modified findings and conclusions.

United Film Co., Kansas City, Mo. Eighth Circuit (St. Louis). Exclusive-screening contracts in the distribution of motion picture advertising film in violation of the Federal Trade Commission Act. This case is being held in abeyance pending the decision in the Motion Picture advertising Service Co. Case.

Quantity-Limit Rule

The B. F. Goodrich Co., et al. v. Federal Trade Commission, et al. These are civil actions which were filed on and after March 3, 1952 in the U. S. District Court for the District of Columbia, to enjoin enforcement of Quantity-Limit Rule 203-1. The Rule fixes the carload quantity of 20,000 pounds ordered at one time for delivery at one time as the quantity limit on replacement tires and tubes. It would operate to prevent the cost justification, under the cost-justification proviso of section 2 (a) of the Clayton Act as amended by the Robinson-Patman Act, of discriminations in the price of such commodities based on differences in quantity greater than the quantity fixed in the rule. The rule was issued in a rule-making proceeding providing for due investigation and hearing to all interested parties pursuant to the so-called quantity-limit proviso of section 2 (a). In that proceeding the Commission (Commissioner Mason dissenting) found that such limit was reasonably necessary to prevent or lessen unjust discriminations against purchasers of smaller quantities and promotion of monopoly in the lines of commerce in which the sellers and purchasers respectively are engaged. The pending actions challenge the validity of the Rule with respect to the procedure under which it was formulated and promulgated and with respect to the basis and sufficiency of findings which accompany it. The commission and all of the Commissioners, except commissioner Mason, filed pending motions to dismiss the actions for lack of jurisdiction. These motions are set for argument in October 1952.[1] Motions by Commissioner Mason to dismiss as to him for lack of jurisdiction have been denied.

Supervision of Export Associations

The Export Trade Act grants certain exemptions from the Sherman Antitrust Law to associations engaged solely in export trade which conduct their operations in accordance with the provisions of that act. Such an association is required to file with the Commission a first report and copies of its organization papers, an annual report as of January first of each year, and such other information as the Commission may require as to its operation and relations to other parties or groups. The Division of Export Trade assists in forming the associations and receives their reports and documents. Periodic checks are also made at the association offices.

Such an association must not restrain the trade of a domestic competitor, and it must not artificially or intentionally enhance or depress prices within the United States, substantially lessen competition or otherwise restrain trade in this country.

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[1] Motions to dismiss were granted on Nov. 25, 1952.

At the close of the fiscal year there were 42 associations filing papers with the Commission. These associations represented 460 mills, mines and factories scattered throughout the united States whipping to all parts of the world. One new association was formed during the year, Anthracite Export Association. It was organized in February, 1952, by nine producers of Pennsylvania anthracite, with offices located in New York City.

Products exported by the association are varied, and their volume of exports fluctuates with current trade conditions. The dollar volume in 1951 was $748,787,477. This was more than in 1950, but less than the peak year of 1947 when volume totaled more than a billion dollars. Reports covering 1951 show the largest increases in lumber, rubber and textiles.

Total exports by the associations during the past two years were as follows:

	1950	1951
Metals and metal products	$50,778,293	$49,529,368
Products of mines and wells	43,863,159	41,314,591
Lumber and wood products	7,892,288	16,450,567
Foodstuffs	82,467,160	72,346,110
Miscellaneous (including abrasives, alkali, cerium, flints, motion pictures, pencils, scientific instruments, textiles and typewriters)	305,427,247	569,146,841
Total	490,428,147	748,787,477

6 Antideceptive Practices Work

PROTECTION of the consumer from deception and the businessman from unfair methods of competition is the purpose of the Commission's antideceptive practices proceedings. The voluntary cooperative phases of the program are administered by the Bureau of Industry Cooperation. The investigation and trial of legal cases arising in this field are centered in the Bureau of Antideceptive Practices and are directed toward the prevention (1) of false and misleading advertising, (2) unfair and deceptive acts and practices, (3) misbranding of a variety of products, and (4) other forms of misrepresentation.

The basic statutory authority for the antideceptive practices program is contained in section of the Federal Trade Commission Act. This section makes unlawful the use in commerce of unfair methods of competition and unfair or deceptive acts or practices, and directs the Commission to prevent such practices. Other sections of the statute deal specifically with false advertising of food, drugs, therapeutic devices, cosmetics, and oleomargarine.

In addition, the Wool Products Labeling Act requires truthful disclosures of the total fiber content, weight and other essential information of wool or purported woolen products which are manufactured for or marketed in commerce. The Fur Products Labeling Act, effective August 9, 1952, provides for the mandatory labeling of fur articles of wearing apparel, and the truthful invoicing and advertising of furs to show certain informative facts, among them being the true English name of the animal from which the fur was taken.

Under these statutes, the Commission institutes proceedings aimed at stopping practices which are unfair because characterized by deception, bad faith, or fraud. In cases in which a formal complaint is issued, and where the facts justify it, the method used is an order to cease and desist from specified practices. Other means of obtaining compliance with the law are also used. Some formal cases, and a much larger number of informal matters, are settled without litigation when the alleged offender voluntarily signs an agreement to discontinue challenged practices. Others are disposed of in the informal stage by obtaining correction administratively. The public

interest is the paramount consideration in determining which of these methods will result in the most effective and adequate corrective action.

LEGAL CASE WORK

Orders to cease and desist	108
Agreements to desist in formal cases	4
Complaints issued	75
Dismissed or closed	15

Cases and Desist Orders

The Commission issued orders to cease and desist during the fiscal year involving a great variety of unfair and deceptive acts and practices and covering a large number of commodities.

Matters involving medicinal remedies were most numerous. Others included (1) vocational and Civil Service schools and diploma mills; (2) so-called skip tracing cases; (3) a substantial number of cases dealing with failure to disclose the foreign origin of products; (4) encyclopedias and books; (5) orthopedic shoes; (6) inflammable sweaters, and many others.

Of the more widely advertised and known products may be mentioned Ovaltine, manufactured and distributed by the Wander Co. The Commission prohibited the company from advertising that the use of Ovaltine (1) will correct many conditions and symptoms of general debility and deficiencies due to a lack of vitamins and minerals; (2) will be therapeutically effective in iron deficiency anemia and its symptoms; or (3) will have any effect in the treatment of colds.

Of a more serious nature was the case against Koch Laboratories. In impressively scientific language the respondents recommended a number of preparations, among them being Malonide, Ketene, and Glyoxylide, as treatment and cure for arthritis, osteoneuritis, allergies, cancer, leprosy, pneumonia, heart disease, tuberculosis, epilepsy, asthma, and a host of other diseases. The Commission's order required that the respondents to cease and desist from representing (1) that any of their products have any therapeutic merit or (2) that their use will be of benefit in the treatment of any disease of the human body or in animals.

Zonite Products Corp. and its advertising agency were ordered to discontinue representing that massaging the gums or brushing the teeth with Forhan's toothpaste is of value in preventing gingivitis or pyorrhea; or that inferior results are obtained by using competing toothpastes. The Commission found that the merit of Forhan's is limited to its use as a cleansing agent. It also found that the preponderance of expert dental opinion is that massaging the

gums in the sense of indiscriminately rubbing them is of no value and may be harmful.

A total of 18 cases were decided involving medicinal preparations, foods, cosmetics, and devices. Included were orders against: William A. Reed Co., inhibiting therapeutic claims made for Medrox soap and ointment in treating skin disorders, and Nulfex tablets in treating sciatica, gout, rheumatism, and similar ailments; Seydel Chemical Co., for claims that its product Subenon will correct the underlying causes or cure any form of rheumatism or arthritis; Foley .P Co. for advertising that Foley's Honey & Tar Compound is a remedy or effective treatment for coughs due to colds or that it has any therapeutic merit beyond giving temporary relief, or that its value has been proved clinically by hospital tests.

The Elmo Co consented to an order inhibiting therapeutic claims for its oils, ointments, gargles and cleansers used with an ear-vibrator device; and the Koken Companies, Inc., was prohibited from making claims that their preparation "Vanish" is a cure or remedy for dandruff.

Failure to disclose the foreign origin of numerous products continues to be the subject of the Commission's attention. In these cases, the Commission has found: (1) that there is a decided preference by the purchasing public for articles of American manufacture; and (2) that the failure to inform the public that either the entire article or essential parts thereof were manufactured in foreign countries is unfair and deceptive. The label showing that an article was manufactured in Japan or other foreign countries is usually obliterated or hidden when the article is finally assembled.

The Commission issued six orders against sewing machine companies, requiring them to disclose the foreign origin of the heads of sewing machines imported from Japan. These orders were directed against the State Sewing Machine Co., Motool Machine Co., Globe Machine Co., Home Machine Supply Co., Sewing Machine Exchange, Inc., and Roman Raichert Co.

Orders were also issued in three other cases involving watch bands and mechanical pencils, the working mechanism of which was imported from Japan. The respondents were required to show clearly the foreign origin of their merchandise.

The mislabeling of wool products continues to occupy the attention of the Commission to a considerable extent. During the fiscal year, a total of 23 orders to cease and desist were issued against firms for failure to give accurate information on tags and labels as to the wool content of the articles or garments ordered for sale in violation of the Wool Products Labeling Act. Other phases involved (1) misbrand-

ing; (2) the use of reused or reprocessed wool; and (3) the loading and milling of cloth.

Three textile concerns: Plymouth Textile, Inc.; Union Mill Ends, Inc.; and Quality Patch Co., were ordered to cease and desist from misrepresenting the size and quality of the remnants and patches that were offered to the public. The orders also included an inhibition against certain price representations and free goods orders.

Of a similar character are the cases involving misrepresentations and false labeling of pillows. In four cases, the Commission required the manufacturers to discontinue labeling pillows as "down" when the filling is composed of various types of feathers.

Of substantial interest to the public are the Commission's actions, prohibiting the deceptive sales approach and other unfair practices employed by many national distributors of aluminumware, cooking utensils, china, silverware, books and encyclopedias. The most commonly used form of deception is: salesmen gain entrance to the homes of prospects on the pretext of making surveys or conducting advertising campaigns for well-known soap manufacturers, food processors, for newspapers; the salesmen tell the prospects that if they mail in box tops or clippings from advertisements, indicating their interest in the survey or advertising programs, they would be entitled to special or reduced prices on the articles offered. None of the nationally known firms mentioned by the salesmen has been found to have had any connection whatever with these distributors or had authorized any surveys or advertising programs. The Commission issued appropriate orders to cease and desist against Consumer Sales Corp. and Quaker Distributors, Inc.

The Commission also issued orders involving (1) misrepresentations regarding printed greeting cards as being engraved; (2) the misleading use of the name "Pennsylvania" in connection with the sale of motor oils containing no oil obtained in the State of Pennsylvania known to produce oil of superior quality; (3) the disparagement of aluminumware by claiming it to be unsafe in cooking, by manufacturers of stainless-steel utensils; (4) misrepresentations regarding the effectiveness of electroplating devices; (5) the misuse of the words "U. S. Navy" in the trade name and in the publication of a magazine when in fact there is no connection whatever with the Navy or any part of the Armed Forces; (6) the misleading use of first prizes and blue ribbons in connection with the sale of bread, implying that the product of a specific bakery had earned such awards in competitive contests when in fact the entire scheme was no more than an advertising promotion; (7) the misrepresentation of prices and quality in fur garments; and (8) the misuse of the word "Free" in advertising

to refer to any article of merchandise which is not in fact a gift or is not given without requiring the purchase of other merchandise or the performance of some service inuring, directly or indirectly, to the benefit of the advertiser.

A rather comprehensive order was issued against Zlotnick The Furrier, whose advertising had become nationally known. The order included inhibitions against (1) representations that prices at which fur products were sold regularly were special or reduced prices; (2) using misleading illustrations of fur garments; (3) that its prices were lover than those of competitors for merchandise of like grade; (4) that the conditions of guarantees covering fur garments are different from those actually prevailing. Additional inhibitions dealt with defective or inferior workmanship, trade-in allowances, delivery and terms of payment, work-ups, removal of identifying marks, and refusing refunds where the company refused delivery.

Rhodes Pharmacal Co. of Cleveland, Ohio, manufacturers, sells, and distributes a drug preparation designated Imdrin, composed principally of aspirin, thiamine chloride, calcium succinate, and caffeine. In Nation-wide advertising programs in newspapers and radio broadcasts, Imdrin was represented to be an adequate, effective, and reliable treatment for all kinds of arthritis and rheumatism, neuritis, sciatica, gout, neuralgia, fibrositis, and bursitis. The complaint alleged those representations were false and that the effects of Imdrin are limited to temporary and partial relief of minor aches and pains and fever.

On January 30, 1951, the Commission sought a temporary injunction to stay the advertising of the product pending a final determination of the proceedings before it. The District Court of the Northern District of Illinois, Eastern Division, denied the petition for a preliminary injunction on the ground that the respective affidavits supporting the petition and the answer present serious debatable questions which could not be determined by the pleadings. The Commission appealed to the Circuit Court of Appeals, and on July 5, 1961, the lower court was reversed on the ground (1) the District Court had failed to apply appropriate equitable and legal principles which in this case only required the Court to determine whether the Commission had reason to believe that it would be in the public interest to enjoin the dissemination of alleged false advertisements pending final disposition of the administrative proceeding; and (2) the District Court was not required to find the charges made to be true but to find reasonable cause to believe them to be true. The case was accordingly remanded and injunction issued on September 25, 1951.

Complaints Charging Deceptive Practices

The largest number of complaints was issued on two commodities: Sewing machines and wool products. Fourteen complaints were issued against manufacturers and distributors of sewing machines involving the unfair and deceptive practice of representing the machines as American made when the lead, in some instances the entire machine, was manufactured in Japan, the label "Made in Occupied Japan" being hidden, or obliterated. Eleven cases dealt with the improper labeling and misrepresentation as to material and fiber content of wearing apparel, in violation of the Wool Products Act. Two complaints were issued against concerns offering products as being imported when in fact the product is of domestic manufacture, one against the Argentum Laboratories offering perfumes and toilet water which, by such French names as "Parfum du Soir" were implied to be of French origin; in addition the firm was charged with misleading representation that the gold content in perfume caused the scent to remain longer, when in fact, gold has no such property. The other complaint was against Stewart-Allen Co. for falsely representing that its smoking pipes were of foreign origin.

A number of complaints dealt with medicinal preparations and other articles and devices alleged to have therapeutic merit. Complaints were issued against several concerns manufacturing and selling shoes, for making representations that the shoes (1) have special orthopedic features; (2) are constructed for foot health and scientifically designed; (3) have built-in features that safeguard against foot ills; (4) assure proper posture and similar representations. The Commission contends these claims are exaggerated and misleading; that the shoes are stock shoes and do not possess the therapeutic properties or bring about the benefits to foot health claimed for them.

The effectiveness of rodenticide is questioned in two cases.

Of concern are also the Commission's proceedings against manufacturers of sweaters which may be dangerous because of the inflammable brushed rayon material, and the failure of the manufacturers to give appropriate warnings to the purchasing public of the dangerous character of such garments. These complaints were issued against the Bradford Sportswear, the dean Merchandising Co., and Harrison Mills, Inc.

Unsafe material and appliances and failure to apprise the purchaser of the dangerous character of the article are likewise charged in complaints against Will-Weld Manufacturing co., offering a so-called atomic arc welder, and the Nuclear Products Co., offering radioactive devices.

A complaint issued against the Natural Foods Institute, which offers a variety of foods and drug products and for which greater therapeutic merits are claimed than the facts appear to justify. The products include: (1) "Chic Tablets" for reducing; (2) "Garlic Capsules" as an intestinal disinfectant; (3) "Soy Milk Powder" to prevent mastitis; (4) "Alfalfa Tea" to help produce muscle and bone; () "Red Beet Juice" to build red blood; (6) "Celery Juice" for arthritis and rheumatic conditions; (7) the "NFI Vibrator" for aches and pains; and in addition, a number of health books containing among the questioned statements representations (1) that raw fruits and vegetable juices will cure arthritis, asthma, or heart trouble and numerous other ailments, (2) that eating carrots will keep one healthy and cure indigestion and other disorders, and (3) that the "Grape Cure" will relieve cancer. The use of the term "Institute" is also questioned.

A complaint issued against Foster-Melbourne Co. charges that in distribution, Doan's Pills the company has engaged in false and misleading therapeutic claims by representing that Doan's Pills constitute a cure or remedy in the treatment of any disease or disorder of the kidneys or bladder. The complaint alleges they will not relieve or have any beneficial effect upon any symptom or condition which may arise by reason of any disorder or disfunction of these organs.

Another complaint questions the merits attributed to "NHA Complex" manufactured and distributed by National Health Aids; charges that through radio and TV lectures respondent implies that its product, a vitamin and mineral dietary supplement, will be beneficial in and cure a number of diseases such as rheumatism, neuritis, arthritis, and other disorders; and avers that the product has no therapeutic value and has no curative effect in the treatment of the diseases and conditions described by respondents.

In an amended complaint, the Commission challenged the many therapeutic claims made by LeBlanc Corp. for its product "Hadacol" (presently in the process of reorganization under the Bankruptcy Act). The claims made for Hadacol, a widely advertised vitamin and mineral dietary supplement, included representations, largely in the form of testimonials, that Hadacol is an effective and competent treatment for an impressively large number of diseases, including neuritis, delirium tremens, dyspepsia, constipation, heart trouble, tuberculosis, and many other diseases, disorders, and symptoms. Other representations are (1) that vitamins and minerals must be taken together; (2) that Hadacol brings new hope to people over 50 and insures good health; and (3) that it contains no drugs. It is charged that (1) these representations are false advertisements

as that term is defined in the Federal trade Commission Act; (2) that Hadacol is of no value in the treatment of the numerous diseases named; (3) that vitamins and minerals need not be taken together; (4) that only a skilled physician can diagnose deficiency diseases; and (5) that while Hadacol may in time relieve some symptoms due to mild deficiencies, it has no value as a treatment for symptoms not caused by vitamin and mineral deficiencies..

Other cases involving medicinal products include complaints against Mueller Hair Experts, for hair and scalp treatment; Marlene's Inc., challenging the merit of its weight reducing "Mynex Tablets" and cases involving diathermy treatments, trusses and body supports.

The complaint against Industrial Engineering Associates charges that its "Sportsman Athletic Truss" and "Sportsman Athletic Lift" will not retain all reducible hernias or permit their wearers to engage in strenuous exercise, or that said devices are self fitting or will be effective where other trusses fail, and that representations to that effect are false and misleading.

A number of other complaints included charges of violation of the Commission's Act in a variety of commodities including (1) rope and cordage allegedly made of old material; (2) automobile springs alleged to be made from old parts; (3) false advertising inn connection with the sale of men's clothing, upholstery material, patches and remnants; (4) colored enlargements of photographs; and (5) fictitious prices in the sale of pianos.

Compliance Activities

Compliance work in this field involves an appraisal of factual information, secured through reports of compliance or by investigation, to determine whether the Commission's orders have been effective in eliminating unfair business practices. During the year 273 reports of compliance were processed. In 51 cases where preliminary information indicated a probability that orders had been violated, full scale investigations were instituted. (See also pp. 32-33).

Cases in Federal Courts

Judgments were obtained in two penalty cases charging violations of Commission orders to cease and desist:

U. S. v. Oland D. Redd, (W.D.N.Y). $4,500 penalty paid for violating an order prohibiting false representations in connection with the sale of photographic enlargements.

U. S. v. Thomas Management Corp. And others (N.D. Ill.). $11,500 penalty paid for violating an order prohibiting false claims for curing scalp ailments and growing hair.

Penalty suits were filed in 3 cases:

U.S. v. Purofied Down Products Corp. (N.D.Ind.). Suit for $35,000 for violation of a Commission order requiring that pillows containing used or secondhand feathers be properly labeled.

U. S. v. National Titanium Co. (S. D. Calif.). Suit for $20,000 for violation of a commission order requiring that paint containing used materials be properly labeled.

U. S. v. Midwest Studios, Inc. (D. Ore.). Suit for $40,000 for violation of a Commission order prohibiting false representations in connection with the sale of photographic enlargements.

In addition to the above, there were pending during the year 7 cases seeking penalties for violations of Commission orders and the Wool Products Labeling Act.

U.S. v. Lady Carole Coats, Inc., and others (S. D. N. Y.). Suit for failure to keep records under the Wool Products Labeling Act.

U. S. v. Shelbrooke Coats, and others (S. D. N. Y.). Suit for failure to keep records under the Wool Products Labeling Act.

U. S. v. Korjena Medicine Co., and others (W.D.N.Y.). Suit for civil penalties for violation of a commission order prohibiting false representations in connection with the sale of a medicinal preparation designed to be used as a reducing agent.

U. S. v. Standard Education Society, and others (N.D.Ill.). Suit for civil penalties for violation of a Commission order prohibiting false representations in connection with the sale of encyclopedias.

U. S. v. Domestic Diathermy Co. (S. D. N. Y.). Suit for civil penalties for violation of a Commission order prohibiting false representations in connection with the sale of diathermic devices.

U. S. v. United Diathermy, Inc. (S. D. N. Y.). Suit for civil penalties for violation of a Commission order prohibiting false representations in connection with the sale of diathermic devices

[1] U. S. v. Gerald A. Rice, and others (W. D. Wash.). Suit for civil penalties for violation of a Commission order prohibiting false representations in connection with the sale of correspondence courses designed to prepare students for civil service examinations.

INVESTIGATIONS OF DECEPTIVE PRACTICES

Scheduled investigations completed	1,225
Complaints received from outside sources	2,544
Preliminary inquiries disposed of	2,457

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[1] Judgment for $25,500 entered on September 8, 1952

SURVEY OF ADVERTISING

Source of advertising	Number of advertisements	
	Examined	Set aside as questionable
Mail-Order Catalogs	36,627 (pages)	233
Periodicals	287,093	13,331
Radio	228,051	7,204
Television	84,325	3,648
Total	636,096	24,416

Division of Investigation

The Division of Investigation performs investigations to determine the facts in deceptive practice cases, other than those involving wool and fur labeling. It investigates alleged violations and obtains necessary information to support a determination as to whether corrective action shall be undertaken by the Commission.

Its field investigators are the Commission's antennae for detecting false advertising, misbranding, misrepresentation, and other unfair and deceptive business practices throughout the United States. As an additional means of bringing questionable advertising claims to the attention of the Commission, the Division maintains a continuous sampling survey of major advertising media; and it carefully screens and evaluates complaints of alleged deceptive practices received from consumers, businessmen, and other outside sources. Through its detective and investigative functions, the Division lays the groundwork for the Commission to carry out its statutory mandate (1) to protect consumers from deception in the marketplace and (2) to protect businessmen from practices which unfairly divert trade to their competitors.

The investigations conducted by the Division include not only initial violations of the Federal trade Commission Act, but also questions of compliance with outstanding stipulations, orders to cease and desist, and trade practice rules. Investigations looking to the institution of criminal or injunctive court proceedings are undertaken where fraud or danger to health is involved in the advertising of food, drugs, devices and cosmetics. The Division also investigates on an industry wide or project basis when such action appears to be required in the public interest.

Possible violations are first subjected to preliminary inquiry, usually by correspondence, to determine initially whether further investigation or other action is warranted. This procedure serves to weed out those matters which are not proper subjects for Commission action. It serves also to obtain in many instances, prompt, voluntary cessation of unlawful practices.

If a matter cannot be satisfactorily disposed of in the preliminary inquiry stage and it appears to involve a probable violation and substantial public interest, it is scheduled for more extended investigation, either in the field or by correspondence, or both. For field investigation the case is transmitted to one of the Commission's six field offices. There it is assigned to an attorney-examiner for development of all necessary information. The proposed respondent is normally advised of the nature of the charges against him, and is afforded full opportunity to submit information in explanation or justification of his practices. Upon completion of the investigation, a report to the Commission is prepared, summarizing the evidence and the applicable law, together with a recommendation for disposition, which may be for (1) issuance of a formal complaint; (2) negotiation of a stipulation-agreement in which the respondent agrees to cease and desist from the practices challenged as unlawful; or (3) closing where in certain types of cases the illegal practices were discontinued without intent to resume, or where the charges were not sustained..

Advertising Survey

In its advertising survey, the Division examines advertisements appearing in current issues of magazines, newspapers, farm and trade journals, mail-order catalogs, and radio and television commercial continuities. The survey (1) brings to light advertisements which form the basis for scheduling deceptive practice investigations; (2) provides an inexpensive method of checking on the activities of advertisers covered by outstanding cease-and-desist orders and stipulations; (3) furnishes evidence which facilitates investigations and trials in advertising cases; (4) supplies information for determining the need for, and the extent of compliance with, trade practice rules; and (5) provides a readily available cross section of advertisements with respect to particular products and industries for use in conducting industry-wide investigations. Advertisements observed in the survey are also utilized by the Alcohol Tax Unit of the Treasury Department in its enforcement of the advertising provisions of the Federal Alcohol Administration Act. The survey exerts a salutary effect upon advertising generally.

Some newspapers and magazines are examined on a continuing basis because of the high percentage of questionable advertisements published in them. Copies of most of the 20,000 publications circulated in this country, however, are procured three times yearly.

Mail order catalogs and circulars are received from 50 mail order houses, 5 of which have combined annual sales of over $4 billion.

The frequency of calls for commercial continuities from the 3,100 radio and television stations covered by the survey is in proportion.

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The frequency of calls for commercial continuities from the 3,100 radio and television stations covered by the survey is in proportion

to the population of the cities in which the stations are located. Radio stations in small cities submit samples of commercial script once yearly; stations in cities of intermediate size, twice yearly; and stations in large cities, three times yearly, for seven specified dates on each sampling. The national and regional radio networks respond on a continuous weekly basis, and producers of electrical transcriptions submit texts of commercial recordings once each month. Television networks, individual television stations and producers of television advertising films and records also submit samples of their commercial script periodically. Material for the survey is furnished on a voluntary basis.

Advertisements examined in the survey during the fiscal year 1952 totaled 636,096, of which 24,416 or about four percent were set aside as questionable.

A total of 14,106 such advertisements were supplied to operating divisions of the Commission for (1) use in connection with the investigation and trial of cases, (2) the preparation of scientific opinions, (3) the administration of trade practice rules, or (4) the enforcement of outstanding orders and stipulations to cease and desist.

Complaints from outside sources alleging false advertising or other deceptive practices totaled 2,544. Of 2,457 disposed of, 460 were scheduled for investigation; 270, referred to other divisions of the Commission; 537, added to other Commission files; 95, referred to other government agencies; and 126, disposed of administratively. The remainder were filed without action.

Scheduled investigations completed during the year totaled 1,225, of which 837 involved false advertising and misrepresentation generally, including 13 insurance cases; 386, false advertising of food, drugs, cosmetics, and devices; and one each, a trade-mark matter under the Lanham Trade-Mark Act, and misbranding under the Wool Products Labeling Act. Included in the total were 49 investigation for the purpose of determining compliance with Commission orders to cease and desist, and four involving alleged false advertising of oleomargarine.

In addition to false and misleading advertising, the charges in cases investigated included (1) misbranding; (2) fictitious price marking; (3) disparagement of competing products; (4) offering second-hand goods as new (5) concealment of hazard; (6) failure to disclose foreign origin; (7) simulation of competitor's trade name or product; and (8) lottery methods of sale. Among the important products covered by the investigations were clothing, food, medicines (human and animal), therapeutic devices, building materials, automotive products and accessories, insecticides and related products,

sewing machines, furniture, rugs, cosmetics, correspondence courses, encyclopedias, magazines, jewelry, electrical appliances and cigarettes.

The Division during the year devoted its major effort to investigations involving the necessities of life, and continued (1) to give priority of attention to drugs, cosmetics and devices that might be harmful to the user or () concerning which flagrant misrepresentations were made, to the end that maximum protection against unfair and deceptive practices would be provided.

Special Fields of Activity

Although the work of this Division in many fields during the past fiscal year is reflected in part in the work of the Division of Litigation of this Bureau and in the work of the Division of Stipulations of the Bureau of Industry Cooperation, some specific fields of activity merit special mention.

One of the Division's major accomplishments was the part it took in focusing public attention on the sale of sweaters, ladies' hats and dresses made from rayon yard goods brushed in such a way as to make the yard goods or end products manufactured therefrom dangerously inflammable unless chemically treated.

As soon as these products appeared on the market the Division assigned nearly one-half of its field force to investigations of the major concerns involved and recommended complaints in seven cases, criminal action under the Wool Act in one, and administrative treatment under Trade Practice Rules for the Rayon Industry in seven other cases where dangerous inflammability was not a factor.

The Division was required to and did continue to give special attention to products of foreign origin where that fact was concealed or inadequately disclosed.

Oleomargarine Amendment

Under the Oleomargarine Amendment to the Federal Trade Commission Act, the Division instituted a program of surveying the advertising of the major producers in that field with the purpose of enforcing requirements of the amendment that such products not be referred to or described in terminology suggesting dairy products as well as correcting any other practices found to be violative of the Act.

Food Supplement

Dietary supplements, especially vitamin compounds, received special investigational attention during the year and several complaints and stipulations were recommended and issued or negotiated in this field. Injunctive proceedings were also instituted in one such case.

Hearing Aids

The Division's project consideration of the advertising of the major hearing aid companies was continued during the year and important unwarranted claims were corrected by stipulation or other informal means.

Letters and Affidavits of Discontinuance

It is within the discretion of the Commission, according to numerous court decisions, to determine whether an order to cease and desist should be issued in cases where unlawful practices have been discontinued.

In order to conserve its investigational facilities for use against more important and persistent violations, the Division of Investigation may discontinue its inquiry in certain cases where satisfactory assurance is received that the objectionable practice has been discontinued without intent to resume. In addition, scheduled investigations involving the same types of cases may be reported to the Commission with recommendations for closing if similar assurances are received and the public interest is thereby served.

During the fiscal year, 269 cases, including 143 scheduled investigations and 126 preliminary inquiries, were thus settled administratively by acceptance of letters or affidavits of discontinuance.

Medical and Chemical Opinions

The Division of Medical and Chemical Opinions furnishes the Commission with scientific facts and opinions concerning the composition and efficacy of foods, drugs, curative devices, cosmetics and other commodities where questions of science arise in relation to questioned advertising claims. It arranges for analysis of samples of products under investigation and gathers information with respect to their composition, nature, effectiveness and safety. The Division provides medical opinions and scientific information needed in (1) the preparation of formal complaints, (2) the negotiation of stipulation-agreements, and (3) the drafting of affidavits of scientific experts. It assists the Commission's legal staff in its preparation for hearings involving questions of science and secures the services of expert scientific witnesses essential to the determination of scientific facts.

During the fiscal year the Division of Medical and Chemical Opinions prepared 426 written opinions with respect to medical and scientific matters; and rendered 487 oral opinions in cases where the advertising of foods, drugs, devices, cosmetics and other commodities were under investigation and 244 oral opinions in cases where formal complaints had been issued. During the year the personnel of the Division attended 17 informal conference-hearings and 43 hearings

in cases were complaints had been issued. A substantial number of the formal hearings involved situations where scientific witnesses were under cross-examination. During the year the Division arranged for the appearances of 37 expert scientific witnesses in cases where it was necessary to determine scientific questions.

The Chief of the Division of Medical and Chemical opinions is the Commission's liaison officer with the Food and drug Administration and with the Insecticide Division, Livestock Branch, Production and Marketing Administration, Department of Agriculture. Cooperation with these agencies has brought to the Commission necessary information and other assistance in handling cases involving foods, drugs, devices, cosmetics, and "economic poisons" such as insecticides, fungicides, rodenticides and weed exterminators. Through the Division of Medical and Chemical Opinions the Commission maintains cooperative contact with other Government agencies concerned with foods, drugs, devices, cosmetics and other commodities which involve questions of science. Included among these are the National Bureau of Standards, the U.S. Public Health Service, the Bureau of Animal Industry and the Bureau and the Bureau of Plant Industry, soils, and Agricultural Engineering. Similar contacts also are maintained with many nongovernmental clinics, hospitals, laboratories and scientists.

ANTIDECEPTIVE CASES IN FEDERAL COURTS[2]

Petition for review dismissed	7
Commission order affirmed	16
Commission order affirmed after modification	5
Commission order reversed	1
Certiorari denied by Supreme Court	2
Certiorari pending in Supreme Court on June 30, 1952	2
Petitions pending in Circuit Court on June 20, 1952	12

Cases Decided

During the fiscal year 1951 the Commission instituted a suit for a preliminary injunction against Rhodes Pharmacal Co., Chicago, to stop allegedly false advertising of the medicinal preparation Imdrin. When the injunction was denied by the U. S. District Court in Chicago, the Commission appealed. The United States Court of Appeals for the Seventh Circuit (Chicago) reversed the decision and remanded the case to District Court. Preliminary injunction was granted September 25, 1961.

Twenty-nine cases were decided on petitions for review of Commission cease and desist orders. Twenty-eight of these decisions we favorable to the Commission, including seven dismissals of petitions for review and five cases in which the orders were affirmed after

[2] United States Courts of Appeals are designated as First Circuit (Boston), etc.

some modification. Cases in which the Commission's orders were affirmed without change were:

Consolidated royal chemical corp., Chicago, Ill. Seventh Circuit (Chicago). False advertising of the medicinal preparation New Pe-Ru-Na.

C. Howard Hunt Pen Co., Camden, N.J. Third Circuit (Philadelphia). Misrepresentation in the sale of fountain pen points.

Jacob Colon (E. & J. Distributing Co.), New York. Second Circuit (New York). Sale of lottery devices in interstate commerce.

Globe Cardboard Novelty co., New York. Third circuit (Philadelphia). Sale of lottery devices in interstate commerce.

L. Heller & Son, Inc., New York. Other petitioners were D. Lisner & Co., Colonial Bead Co., Royal Bead Novelty Co. And Coro, Inc., all of New York. Seventh Circuit (Chicago). Deceptive failure to reveal the foreign origin of imitation pearls. The five cases were consolidated in this petition for review.

Mary Muffet, Inc., St. Louis. Other petitioners were Irene Karol, National Dress Goods Co., Daresh Garment Co., Inc., Frelich, Inc. and Wax Bros. & Rosenberg Dress Co., Inc., all of St. Louis. Seventh Circuit (Chicago). Deceptive failure to reveal the rayon content of wearing apparel. The six cases were consolidated in this petition for review.

Joseph Rosenblum (Modern Manner Clothes), New York. Second Circuit (New York). The Supreme Court denied petition for writ of certiorari to review the decision of the Second Circuit affirming the Commission's order to cease and desist use of the word "free" in connection with the sale of wearing apparel.

Dismissed for Lack of Prosecution

Walter W. Gramer, Minneapolis. Ninth Circuit (San Francisco). False advertising of drug products.

Rembrandt Studios, Washington, D.C., Fifth Circuit (New Orleans). False advertising of photographs.

World Syndicate Publishing Company, Cleveland, Ohio. Second Circuit (New York). Unfair methods of competition in sale of dictionaries.

Dismissed Upon Agreement to Comply with Orders

Amasia Importing Corporation, New York. Ninth Circuit (San Francisco). False advertising in sale of foundation garments.

W. H. Brady & Company, Eau Claire, Wis. District of Columbia Circuit (Washington). Sale of lottery devices in interstate commerce.

Quaker Distributors, Philadelphia, Pa. Third Circuit (Philadelphia). Misrepresentation in sale of aluminum cooking ware.

Orders Affirmed After Modification

Bork Manufacturing Co., Brooklyn, N. Y. Ninth Circuit (San Francisco). Sale of lottery devices in interstate commerce.

Galter, et al., Chicago, Ill. The Supreme Court denied petition for writ of certiorari to review the decision of the Seventh Circuit (Chicago) modifying and affirming and enforcing as modified the Commission's order banning misrepresentation in the sale of razors, clocks, and other merchandise.

Hamilton Manufacturing Co., Minneapolis, Minn. District of Columbia Circuit (Washington). Sale of lottery devices in interstate commerce.

Lichtenstein, et al., Chicago, Ill. Ninth Circuit (San Francisco). Sale of lottery devices in interstate commerce. This case is now pending on petition for writ of certiorari (see. infra).

R. J. Reynolds Tobacco Co., Winston-Salem, N. C. Seventh Circuit (Chicago). False advertising of cigarettes.

There was one decision adverse to the Commission in the Fourth Circuit (Richmond). In New Standard Publishing Co., Richmond, Va., the Commission's order was vacated because the evidence of false advertising in the sale of encyclopedias was too remote in point of time to support the order, without prejudice, however, to the entry of such order as may be appropriate under present circumstances should the Commission wish to pursue the case further.

Pending Cases

David Bernstein (Affiliated Credit Exchange), Los Angeles, Calif. Ninth Circuit (San Francisco). False representation as to nature of business.

Robert O. Bennett, et al (National Service Bureau), Washington, D. C. District of Columbia Circuit (Washington). Misrepresentation as to nature of business (location of delinquent debtors).

Carter Products, Inc., New York. Ninth Circuit (San Francisco). False advertising in sale of drug preparation.

Jacob Colon (E. & J. Distributing Co.), New York. Supreme Court. Petition for writ of certiorari filed June 13, 1952, to review decision of Second Circuit (New York affirming the Commission's order against sale of lottery devices in interstate commerce.

Consolidated Manufacturing Co., Chicago. Fourth Circuit (Richmond). Other petitioners are: Container Manufacturing Company, St. Louis, and Superior Products, Inc., Chicago. The three cases were consolidated for purposes of this petition for review. Lottery scheme in interstate commerce.

Consumer Sales Corporation, New York. Second Circuit (New York). False advertising in sale of aluminum calker.

Dejay Stores, New York. Second Circuit (New York). Misrepresentation as to nature of business (location of delinquent debtors).

Bernice Feitler, Chicago. Ninth Circuit (San Francisco). Sale of lottery devices in interstate commerce.

William, F. Koch, Detroit. Sixth Circuit (Cincinnati). False advertising in sale of drug products.

Leo Lichtenstein, Chicago. Petition for writ of certiorari filed on May 26, 1952, in Supreme Court to review decision of Ninth Circuit (San Francisco) modifying and affirming the Commission's order against sale of lottery devices in interstate commerce.

National Toilet Company, Paris, Tenn. Seventh Circuit (Chicago). False advertising in sale of cosmetic preparation.

Radio Television Training School, Los Angeles. District of Columbia Circuit (Washington). False advertising of correspondence school in radio and television.

Lester Rothschild (Gen-O-Pak Company), Chicago. Seventh Circuit (Chicago). Misrepresentation as to nature of business (location of delinquent debtors).

Esther Zitserman, Newark, N.J. Eighth Circuit (St. Louis). Sale of lottery devices in interstate commerce.

INFORMATIVE LABELING OF WOOL PRODUCTS

Establishments covered in field inspection and industry counseling work	12,846
Wool Products inspected (by sampling method)	20,823,954
Opinions and interpretations rendered under the Wool Act and regulations	609
Labeling deficiencies in which compliance was effected administratively	14,696
Registered identification numbers issued	599
Continuing guaranties filed	1,479

The Wool Products Labeling Act provides that purchasers shall be informed as to the true content of products which are made or purport to be made in whole or in part of woolen fibers. It is designed to safeguard producers, manufacturers, merchants, and purchasers of wool products against deception and unfair competition arising from misbranding and nondisclosure of fiber content information.

The fiber content of articles containing, purporting to contain, or represented as containing "wool," "reprocessed wool" or "reused wool" must be disclosed by appropriate stamp, tag, label or other mark. The act applies to such articles, with specified exceptions, when manufactured for or marketed in commerce.

The act requires that the label or other means of identification disclose (1) the kind and percentage of each different fiber contained in the product, including the respective percentage of "wool," "re-

processed wool" and "reused wool"; (2) the maximum percentage of loading and adulterating material, if any; and (3) the identity of the manufacturer of the wool product or of a person or firm marketing the product in interstate commerce. The label, or a proper substitute containing the required information must not be removed or mutilated by the dealer but must remain on the merchandise when delivered to the purchaser-consumer.

Manufacturers of wool products subject to the act are required to maintain and preserve fiber content records and civil penalties are provided for failure to maintain such records.

Products covered by the act include not only finished articles such as wearing apparel and blankets but also the yarns and fabrics from which they were made. Approximately 100 industries and some 240,000 distributor and dealer outlets are engaged in producing and marketing these products.

Rules and Regulations Under Wool Act.—Rules and regulations promulgated by the Commission under the authority of the statute are available in booklet form upon request. They provide for manufacturers, distributors, and dealers guidance on how to comply fully with the law. Another publication available on request (W—31a) contains illustrations, with explanatory text, of tag and label forms acceptable under the statute.

Registered Identification Numbers.—the regulations provide that registered identification numbers may be assigned upon proper application not only to manufacturers of wool products but also to persons subject to the labeling requirements of the act who market wool products in interstate commerce. They also provide that a registered identification number may be used on the label, tag, or other mark as and for the name of the person to whom the number is assigned.

Continuing Guaranties.—For the purpose of protecting distributors, dealers, and other resellers, from the charge of misbranding when relying in good faith upon the statement of content furnished by the supplier, provision is made for a guaranty on the part of the supplier. It may be (1) a separate guaranty specifically designating the wool product guaranteed or (2) a continuing guaranty filed with the Commission and applicable to all products handled by the guarantor. Continuing guaranties are recorded and are open to public inspection.

Enforcement.—In cases involving misbranding which require corrective action by formal proceedings, the use of the cease-and-desist order procedure authorized by the Wool Act has proved adequate. The supporting procedure (condemnation and injunction) specifically provided by the Wool Act are available when needed, however,

and in cases of deliberate or willful violation, criminal penalties may be sought.

Administrative compliance work during the year included field inspection and industry counseling, which, in most instances, resulted in voluntary correction of labeling practices by concerns throughout the country.

Compliance inspections were carried on with 12,846 manufacturers, distributors, and other dealers in wool products in the fiscal year 1952 as compared with 12,091 in fiscal 1951.

In accordance with the Commission's policy of encouraging law observance through cooperation, many cases involving labeling deficiencies of a technical or minor nature have been corrected administratively. In relatively few cases has it been necessary to invoke formal corrective proceedings. Informal administrative compliance work has proved an effective and economical method of protecting the public interest in this field.

To give greater service to the public and to assist in the enforcement of the act, the Wool Division has been partly decentralized during the preceding fiscal year. Representatives of this Division have bee assigned to Boston, Mass.; New York, N. Y.; Philadelphia, Pa.; Chicago, Ill.; St. Louis, Mo.; Dallas, Tex.; Los Angeles, Calif.; and Seattle, Wash.; where offices have been established.

A screening laboratory has been added to the equipment of the Wool and Fur Labeling Division to make preliminary fiber content analyses of fibers and fabrics questioned by the field attorneys and investigators in the course of their inspections and investigations. In the short time this laboratory has been in operation it has proved to be of great value in the administration of the Wool Act.

INFORMATIVE LABELING OF FUR PRODUCTS

The Fur Products Labeling Act was approved by the Congress on August 8, 1951, to become effective one year after its enactment. This statute requires the following information: (1) the true English language name of the animal producing the fur as set forth in the Fur Products Name Guide; (2) that the fur or fur product is composed of used fur when such is the fact; (3) that the fur or fur product is bleached or dyed when such is the fact; (4) that the fur product is composed in whole or substantial part of paws, tails, bellies or waste fur when such is the fact; (4) the name or registered identification of the manufacturer or distributor of the fur product; and (6) the name of the country of origin of any imported fur used in the fur product.

The act covers the advertising and invoicing of furs and fur products, as well as the labeling of fur products.

Every manufacturer or dealer in fur or fur products subject to the act is required to maintain and preserve records for at least 3 years, and civil penalties are provided for failure to maintain such records.

Furs are defined as animal skins or parts thereof with hair, fleece or fur fibers attached thereto, either in the raw or processed state; fur products are defined as any articles of wearing apparel made in whole or in part of fur or used fur.

Fur Products Name Guide.—Section 7 of the act provides that, within 6 months after enactment, the Commission, in cooperation with the Departments of Interior and Agriculture and after public hearings, shall issue a register setting forth the true English names of hair, fleece, and fur-bearing animals. Public hearings were held and the Fur Products Name Guide was issued on February 8, 1952. Copies of this publication are available upon request.

Rules and Regulations Under Fur Act.—Public hearings were held on June 3, 1952, on rules and regulations governing the manner and form of disclosing information required under the act, together with rules that might be necessary for purposes of administration and enforcement. The rules and regulations were to become effective on and after August 9, 1952. Copies of such rules and regulations were to be made available after July 15, 1952.

Registered Identification Numbers.—The regulations provide that registered identification numbers may be used in lieu of the name of a manufacturer or distributor of fur products, and for assignment upon application to qualified persons residing in the United States. Forms and procedures for their issuance have been prepared.

Continuing Guaranties.—For purpose of protecting distributors, dealers, and other resellers, from the charges of misbranding, false advertising and false invoicing, when relying in good faith upon the statements furnished by the supplier, provision is made for a guaranty by the supplier. It may be (1) a separate guaranty specifically designating the fur product guaranteed or (2) a continuing guaranty filed with the Commission and applicable to all products handled by the guarantor. Continuing guaranties are to be recorded and made available for public inspection.

Enforcement.—In order to reduce cost of administration as much as possible, the enforcement and administration of the Fur Products Labeling Act is being integrated with the Wool Products Labeling Act of 1939, and the name of the Division of Wool Act Administration was changed to the Division of Wool and Fur Labeling. Preparatory to administration of the act, a fur expert was engaged to conduct a two weeks course for the attorneys and investigators of the Division. Plans were formulated to begin inspection work under this act immediately after the effective date of the statute August 9, 1952.

7 Industry Cooperation

THE BUREAU OF INDUSTRY COOPERATION operates under authority of the Federal Trade Commission Act, approved September 26, 1914, as amended March 21, 1938 (38 Stat. 717, 15 U.S.C.A. Sec 41; 52 Stat. 111), and the Administrative Procedure Act, approved June 11, 1946 (Public Law 404).

In eliminating and preventing unfair competitive methods and other business practices violative of the laws entrusted to its administration, the Commission does not rely solely on formal legal proceedings; it makes extensive use of voluntary and cooperative procedures as an effective supplemental means of preventing unlawful practices. The Bureau of Industry Cooperation administers the cooperative procedures of the Commission and consists of the Division of Trade Practice Conferences and the Division of Stipulations.

Trade practice conferences provide the means (1) for industry members to cooperate with the Commission in establishing for their respective industries trade practice rules interpretative of laws administered by the Commission and (1) for elimination and prevention of unfair trade practices on an industry-wide basis. The stipulation procedure permits the settlement of certain types of cases by agreement without the necessity for formal proceedings.

Securing voluntary observance of the law by means of industry-wide conferences and individual stipulation agreements without recourse to formal trial procedure results in substantial economy both to Government and industry. Moreover, industry obtains authoritative guidance and a substantial degree of certainty as to what it may do under the laws administered by the Commission, and consumers are afforded that degree of protection to which they are lawfully entitled.

The Commission in establishing the Bureau of Industry Cooperation expressed its encouragement in the increased interest on the part of industry through the use of cooperative procedures in wiping out unfair and deceptive practices and in developing programs which are in the interest of, and approved by, consumers. The cooperative procedures of the trade practice conference or stipulation agreement are not available for use in disposing of matters involving violations of the Clayton Act, combination or collective action in restraint of

trade, or practices which are fraudulent or inherently dangerous to health.

TRADE PRACTICE PROCEDURES AND REQUIREMENTS

In trade practice conference proceedings, members of industry work with the Commission in formulating and establishing rules which define and proscribe marketing and business practices which are unfair, deceptive, or otherwise unlawful. Trade practice rules are worked out in a friendly and cooperative atmosphere where every effort is made to clarify the applicable legal requirements and give guidance as to the manner in which such requirements can be met with minimum burden on industry members. The rules provide a basis for obtaining assistance from industry in maintaining industry-wide compliance with legal requirements.

The procedural steps and requirements applicable to industry proceedings for the establishment of trade practice rules are covered in the Commission Rules of Practice.

Trade practice conference proceedings may be instituted in the public interest by the Commission upon its own motion or in response to an application filed with it to that end. Any interested party or group in an industry, large or small, may apply to the Commission for the institution of such proceedings. The conference procedure is authorized when it is considered to be in the public interest and a constructive force for good in the industry. At all stages of the proceedings members of the Commission staff are available to afford guidance and assistance to industry in working out constructive solutions in conforming the industry's trade practices to the law.

At the conference a full and frank discussion is had of the unfair trade practices which beset the industry. Following the conference and on the basis of the information received thereat a draft of proposed rules tailored to meet the specific trade practice problems confronting the industry is prepared and made available by the Commission upon public notice whereby all industry members and other interested or affected parties such as consumers are given an opportunity to present their views, suggestions or objections to the proposed rules, either in writing or orally at a scheduled public hearing. The Commission only after full consideration of the entire record promulgates rules which set forth in detail, and in simple and concise fashion the practices deemed to be unfair and violative of the law.

Classification of Rules

Trade Practice Rules may include not only provisions which are illegal per se or are conducive to unfair competitive conditions in the industry, but also provisions for fostering and promoting fair com-

petition in the public interest. The Commission classifies promulgated rules as Group I or Group II rules.

Group I Rules.—Rules in this category embrace trade practices considered illegal under laws administered by the Commission as construed in the decisions of the Commission and the courts. The Commission is empowered to take appropriate action in the public interest to prevent the use of these unlawful practices in commerce by any person, partnership, corporation or other organization subject to its jurisdiction. Since Group I rules specify the inhibitions falling within the general statutory provisions, adherence to their requirements is mandatory upon all, quite irrespective of the fact that some industry members may have refused to take part in the establishment of rules or refused or failed to pledge obedience thereto.

Group II Rules.—These rules embrace wholly voluntary and recommended industry practices as distinguished from mandatory requirements expressed in Group I Rules. The Commission will not receive for promulgation rules of this type unless the provisions are in harmony with law and the public interest and are constructively in support of the maintenance of fair competitive conditions in the industry.

TRADE PRACTICE CONFERENCE PROCEEDINGS

Rule Making

Number pending July 1, 1951	31	
New Proceedings instituted	14	
Total proceedings to be disposed of		45
Disposition		
Closed	7	
Trade Conference rules promulgated	11	
		18

Trade Practice Conference proceedings pending June 30, 1952	27
Formal and informal conference held	763

Rule Administration

Cases pending July 1, 1951	197	
New cases started during year	925	
Total for disposition		1,122
Cases disposed of during year		949
Cases pending June 30, 1952		173

Incoming communications	4,910
Outgoing communications	4,172
Statements received of intention to comply with promulgated trade practice rules	2,018
Industry members contacted by letter to keep them alert to appropriate trade practice rules	813
Individual industry members, industry association executives and other industry representatives visited by field contact	179

The Commission has 179 sets of industry rules under administration comprising 2,393 Group I and 635 Group II rules, involving 954,398 individual members, with a total annual dollar volume of business of over $75 billion.

Rules Promulgated

During the fiscal year rules were promulgated for eleven industries, five of which were revisions of existing industry rules and in keeping with the Commission's efforts to relate trade practice rules to new industry conditions and problems. The work entailed in connection with promulgation of these rules was very substantial and involved extended research by the staff on technical industry problems so that the trade practice rules would truly reflect existing factual situations in the industry.

Cosmetic and Toilet Preparations Industry.—Rules were promulgated for this industry consisting of those engaged in the manufacture, importation, sale or distribution of cosmetic or toilet preparations or devices or accessories sold in combination therewith. The total annual sales of industry products at retail in 1951 are estimated to have been in excess of $600,000,000.

The most significant provisions of the 18 rules promulgated for this industry consist of those contained in Rule 1 which clarify the requirements of sections 2 (d) and 2 (e) of the Clayton Act with respect to the furnishing of promotional allowances or services by sellers to their customers. Set forth in paragraph VII of Rule l is an explanatory analysis of said sections of the Clayton Act and one method of complying therewith. These provisions furnish guidance to industry members desiring to follow the law and a survey is presently under way to determine which members are not in compliance with the rules. In those instances where industry members do not voluntarily comply with the rules, formal action by way of complaint and trial will be instituted when warranted by the facts.

The trade practice conference procedure was adopted in this instance primarily to avoid, to the extent possible, the time-consuming and expensive litigation which would be involved through the use of the formal litigation procedure since an industry investigation conducted prior to the trade practice proceeding disclosed that a large number of cosmetic suppliers were violating the provisions of the Clayton Act with respect to the furnishing of demonstrators, push money and other promotional aids to their customers.

Rayon and Acetate Textile Industry.—Rules were promulgated for this industry which constitute a revision and extension of the rules for the rayon industry, promulgated by the Commission on October 26, 1937. The primary purpose in revising the rules was to do away with the misunderstanding arising through the failure to make a distinction

in nomenclature between regenerated cellulose textile fibers and the cellulose acetate textile fibers. The rules require the use of the specific term "acetate" as identification of the textile products made from fibers of cellulose acetate and that textile products made from fibers of regenerated cellulose be identified as "rayon." The failure to require this distinction between the two classes of fibers resulted in misunderstanding and confusion, more particularly by reason of the fact that these fibers possess different properties, and different care and treatment are required for each fiber.

The rules not only cover the requirements for the identification of fiber content of products composed in whole or in part of "rayon" or "acetate" but they also deal, among other things, withe the use of construction and weave terms, the use of the terms "silk," "pure dye," "wool," "linen," "flax," "cotton," etc.; the use of trade-marks in connection with industry products and requirements for the disclosure of adulterants. In addition there are two rules dealing with labeling information as to the treatment and care of products and an educational program with view to enabling consumers to enjoy the full benefit and qualities of these products.

The proceeding not only provided a forum for members of the industry, but enabled consumers to voice their views concerning all the problems under consideration. These rules reflect the important role the consumer plays in the formulation of trade practice rules. For example, present and testifying at this proceeding, were representatives of the General Federation of Women's Clubs, the New York State Federation of Women's Clubs and such consumer organizations as Consumers Research and Consumers Union. Teachers of home economics in various schools and colleges and representatives of magazines whose reader audience is drawn from the American housewife expressed their views on the matters under consideration. Housewives themselves, standing alone and not affiliated with any group, testified as to their experience with textiles, and the problems that confronted them by reason of faulty and inadequate nomenclature.

The rules clarify the problems involved in this industry and furnish a definite guide as to informative labeling. The reactions of both industry and consumers to these rules has been most gratifying, and evidences the important role the Trade Practice Rules can play in bringing about substantial clarification of legal requirements and elimination of misunderstanding and confusion on the part of both industry and the consumer.

Pearl, Cultured Pearl and Imitation Pearl Industry.—These rules replace and supersede with respect to pearls, cultured pearls and imitation pearls, the provision relating to such products in the Wholesale Jewelry Industry rules promulgated by the Commission on March

18, 1938. The Industry for which these rules are promulgated is composed of all persons, firms, corporations, and organizations engaged in the importation, manufacture, processing, or marketing of any kind or type of pearls, cultured pearls, or imitation pearls, whether loose, strung, mounted, or affixed to another product. The total annual volume of business of the industry is estimated to be in excess of $20,000,000 at wholesale level.

The successful solution of an unusually large number of technical problems peculiar to this industry was greatly facilitated by the active cooperation received from all segments of the industry throughout the entire conference proceedings. Among these special problems were definition of the designations "Pearl" and "Cultured Pearl"; prohibition of the misuse of the terms "pearl," "cultured pearl," "cultivated pearl," "seed pearl," "oriental pearl," and the word "oriental"; prevention of misuse of the terms "reproduction," "synthetic," "replica," and of the words "real," "genuine," "natural," "wild," and "gem," misrepresentations as to the origin of products and disclosure of foreign origin of imitation pearls. Other important subjects covered by the rules are misleading illustrations, fictitious prices, misuse of terms like "close outs," use of push money and consignment distribution.

Grocery Industry.—This industry has over 600,000 members and its retail sales in 1951 exceeded $45 billion. The rules cover all segments of the industry, including manufacturers, brokers, wholesalers, retailers and other marketers of grocery products and constitute a revision and extension of rules for this Industry promulgated by the Commission on March 14, 1932. There are 22 rules of the Group I classification which set forth practices considered to be prohibited under the laws administered by the Commission. Of particular interest to consumers, are those prohibiting use of pricing practices which have the capacity and tendency or effect of deceiving purchasers and the rules prohibiting misrepresentation of the available supply of products, the use of misleading or deceptive selling methods and the use of deceptive schemes in the sale of grocery products.

Of paramount importance to the grocery trade are those rules dealing with the provisions of the Robinson-Patman Amendment to the Clayton Act prohibiting unlawful discrimination in price, payment or receipt of unlawful brokerage commissions and the furnishing of illegal promotional allowances or services.

Floor Machinery Industry.—These rules cover a relatively new but growing industry which had not previously operated under Commission trade practice rules. The industry is composed of persons, firms, corporations, and organizations engaged in the manufacture, distribution or sale of household, commercial, or industrial power driven

machines for wet or dry cleaning, polishing, resurfacing or maintenance of floors or floor coverings, or parts, accessories or attachments for such machines, but not including the type of machines commonly designated as dry-suction "vacuum cleaners" except when designed for use in connection with other products of the industry. The twenty-eight Group I and Six Group II rules illustrate the wide range of industry practices treated under the trade practice conference procedure. The total annual volume of business of the industry is in excess of $20,000,000 at the manufacturers level.

Set-up Paper Box Industry.—Members of this industry are engaged in manufacturing and marketing boxes of the set-up (noncollapsible) type which are fabricated from noncorrugated paperboard. Rules relating to important industrial problems cover tile practices of substituting lower quality products for those called for in the original order, selling below cost, and price discrimination.

Upholstery and Drapery Fabrics Industry—Industry members are engaged in the production (including the dyeing and finishing, or refinishing, of goods of foreign origin), and the sale or distribution of upholstery and drapery fabrics. The fabrics are composed of the various natural and man-made fibers as well as the innumerable mixtures or other combinations of fibers customarily used in such production. The rules constitute a revision and extension of those promulgated by the Commission on November 16, 1932, and are designed to prevent such unfair practices as misrepresentation of industry products, including misbranding and deception as to origin, prohibited discrimination in terms of sale, imitation of trade marks, and deceptive concealment of the fiber or material content of any product of the industry, as well as the deceptive nondisclosure of the fact that any industry product contains used fiber or material in whole or in part.

Gladiolus Bulb Industry.—Members of this industry are commercial growers and distributors of gladiolus bulbs. The major industry problems covered in the rules relate to deception as to the true size of bulbs advertised for sale, and the related problems of misrepresenting the blooming or flowering ability of immature bulbs. The rules also cover use of deceptive guarantees and deceptive pricing and include Group II Rules outlining trade standards of quality, with an endorsement by the industry of the use of diameter in preference to a circumference measure in designating bulb size.

Narrow Fabrics Industry.—On January 30, 1952, the Commission promulgated rules for the Narrow Fabrics Industry which produces annually approximately $75,000,000 worth of nonelastic woven fabrics for many thousands of end uses in such industries as the shoe, clothing, textile, electrical, rubber and ordnance industries. The application

for these rules was made by a segment of the industry representing more than one-half of the total domestic annual production. Among the subjects covered by the rules are selling below cost, disclosure as to foreign origin of imported narrow fabrics, unlawful coercion or combinations in restraint of trade and prohibited discrimination.

Sun Glass Industry.—Members of this industry are those engaged in the manufacture, sale or distribution of sun glasses and other glasses and lenses which are used to provide protection for the eyes against sun glare, strong light, or other similar conditions. Frames or parts for the glasses are also products of the industry. Included in the rules, which are a revision and extension of rules for this industry promulgated by the Commission on December 23, 1941, are, among others, provisions inhibiting misuse of the terms "ground," "polished" and "ground and polished"; misuse of the word "Crookes," and use of deceptive representations as to products conforming to a standard or specification, as well as a number of rules relating more specifically to certain objectionable commercial practices which both this Bureau and the Industry were anxious to eliminate.

Public Refrigerated Storage Industry.—The rules for this industry constitute a revision of the rules for the Commercial Cold Storage Industry promulgated by the Commission on November 9, 1931. Members of the industry are those engaged in the business of providing refrigerated storage space, issuing warehouse receipts for stored products and supplying services and facilities incidental to such storage. Some of the more important rules are those entitled "Deceptive Issuance of Warehouse Receipts," "Delivering Goods When Negotiable Warehouse Receipt Is Outstanding and Uncanceled," "Commercial Bribery," "Inducing Breach of Contract," and "Prohibited Forms of Trade Restraints."

Pending Conference Proceedings

Trade practice proceedings were undertaken for a number of other industries and were pending in various stages of progress at the close of the fiscal year.

Two formal and many informal conferences were held for the Radio and Television Industry. Practices to be covered by rules include the correct designation of tube and picture size, proper disclosure as to the rebuilt character of picture tubes, deceptive warranties and guaranties, misrepresentation as to the wood make-up of cabinets, as to service and replacement of defective parts, as to the utility of converters and adapters for color reception, and respecting antennas for ultra high frequency television reception.

Another industry for which a trade practice conference was held is the Photoengraving Industry of the southeastern States. This in-

dustry produces the art work, halftones, line etchings, process color and other plate work used in the production of newspapers, magazines, books, and advertisements which have become essential to our national economy, and it is the purpose of this proceeding to establish a comprehensive set of trade practice rules directed to the maintenance of fair competitive conditions in the industry and the protection of the purchasing public. Proposed trade practice rules for release for hearing are presently before the Commission.

A regional trade practice conference for the Athletic Goods Industry was held in Los Angeles, Calif., and an industry-wide conference is scheduled to be held in Chicago, Ill. Among the more important subjects considered for rules are illegal discrimination in price, services or facilities, and payment or acceptance of illegal brokerage, failure to differentiate between wholesale and retail transactions done in the same establishment, misuse of terms such as "official," "league," "regulation," etc., as descriptive of industry products.

Proposed trade practice rules for the Cedar Chest Manufacturing industry were released for the consideration of interested and affected parties and public hearing held thereon.

A number of other pending proceedings were given attention during the year including proceedings to revise rules for the Luggage and Related Products and the Hearing aid Industries and to establish rules for the Millinery Industry, Rerefined Lubrication Oil Industry, Watch Attachment Industry, Water Repellent Fabrics Industry, Floor Wax and Floor Polish Industry, Costume Jewelry Industry, and with respect to wool shrinkage.

The Bureau has also been giving consideration to the matter of establishing rules for all man-made fibers, other than rayon and acetate, to provide among other things for proper identification of such fibers in products containing the same so as to prevent deception of purchasers. There are a number of new fibers that have come on the market which present special problems of a highly technical nature to both industry and the consumer. An informal conference was had with all the manufacturers of the various types of man-made fibers. As a result of this meeting, such fibers were classified generally as acrylic, vinylidene chloride, mineral, polyethelene, polyester, vinyl, protein, or polyamide, and for each classification a separate industry committee was created for the purpose of giving consideration to the feasibility of adopting a generic name and definition for the fibers in these respective groups.

In some instances all fibers within one general classification may have physical properties which differentiate one from the other regarding, among other things, such characteristics as heat resistance, elasticity, sun fading and water absorption. These problems as they

relate to labeling and advertising, require and are being given detailed consideration concerning the relative merits of the respective fiber products in order that any rules which may be promulgated will fully cover deceptive practices, false and misleading advertising and unfair methods of competition.

Rule Administration

Cooperation is the keystone of rule administration and the expeditious and economical attainment through cooperation efforts of the highest possible degree of voluntary law observance is the fundamental objective of the work. Such cooperative efforts are exercised primarily through informal correspondence, office conferences and field visits between the staff and the members and various other representatives of industries operating under approved trade practice rules. It is by these informal administrative procedures that a close liaison is established and continuously maintained with industry members and representatives thereby enabling the Commission to ascertain promptly instances of rule violation and to seek immediately the cooperation of the offenders in voluntarily bringing their practices into conformity with the law.

These methods are constantly utilized as a means of keeping industry members cognizant of the rules and of insuring their thorough understanding of the provisions thereof. In this manner many potential law infractions are arrested in their incipiency. These same informal procedures serve as a means of determining promptly the efficacy of rules in coping with industry needs and problems and of keeping abreast of new or changing competitive conditions indicating a necessity for revision or amendment of rules or other appropriate action in relation thereto.

During the fiscal year 1952, 1122 cases embracing 2251 alleged rule violations were presented for attention under existing trade practice rules. The informal administrative procedures and cooperative efforts basic to rule administration accounted for the satisfactory disposition of 949 cases involving 1945 alleged rule violations leaving 173 cases and 306 alleged violations to be carried over into the fiscal year 1953.

A number of industries under rules received special attention during the year, of which the following are typical:

Cosmetic and Toilet Preparations Industry.—Administrative efforts under these rules which became operative February 1,1952, were and are being directed towards effecting compliance on a voluntary basis by all cosmetic manufacturers and wholesalers with paragraph VII of Rule 1 of the rules which is interpretative of the provisions of sections 2 (d) and 2 (e) of the Clayton Act as amended. To date over 100 of the larger manufacturers have been requested to furnish the terms and conditions of their sales plans, including copies of any

and all offers made to their customers in connection with the promotion of the resale of their products. Such material is being carefully reviewed to determine whether the firms are complying with the rules. Many of the plans submitted are complex and require detailed study of the practices involved. Considerable correspondence has been and will continue to be entailed in this work in order to obtain clarifying information from the industry members concerned. In a considerable number of instances informal office conferences have been and continue to be necessary in order to effect compliance with the rules. In those cases in which cooperative efforts are successful in bringing the industry members' plans into conformance with the rules, the matters are reported to the Commission with appropriate recommendation. In all those instances wherein efforts to secure voluntary compliance with the rules are unsuccessful, the cases are referred to the Commission with recommendations for investigation with the view of obtaining an order against the offending industry member if the facts so warrant.

Installment Sale and Financing of Motor Vehicles.—These rules are designed to eliminate and prevent deception in the installment sale and financing of motor vehicles and other practices which tend to suppress competition or restrain trade. The principal requirement of the rules is that the seller furnish the purchaser, before he becomes legally bound to purchase, an itemization in writing signed by the seller separately disclosing to the purchaser the finance charge, insurance costs, and other charges paid or to be paid by the purchaser. Due to the tremendous public interest in this subject, voluminous correspondence, entailing numerous administrative interpretations respecting the applicability of the rules to many and varied situations, was conducted with purchasers and prospective purchasers of automobiles on installment payment plans, forms engaged in the sale of motor vehicles, firms in the automobile financing business, Better Business Bureaus and even Federal and State banks not subject to the rules.

Pearl, Cultured Pearl, and Imitation Pearl Industry.—Shortly after promulgation of these rules on February 16, 1952, the Commission removed 52 investigational cases in the pearl industry from the suspense calendar and referred them to the Bureau for consideration and recommendation. The proposed respondents had been variously charged with failure to disclose the foreign origin or imported imitation pearls and the use of fictitious pricing practices contrary to the rule provisions. In less than 3 months from the time work was commenced on these matters the Bureau was able to recommend to the Commission that 51 cases be closed on the basis that the proposed respondents therein were not currently engaged in the practices charged and

had assured the bureau that they would observe the rule provisions in the conduct of their respective businesses. In only one case was it necessary to recommend reference for further action by another Commission Bureau.

Rayon and Acetate Textile Industry.—The promulgation of these rules which constituted a revision and extension of the 1937 Rayon Rules brought to the fore not only the intense interest of members of this industry but also the interest of members of related textile industries in the new rules and in the matter of fiber identification in general. As a consequence, there has been extensive correspondence conducted with weavers, converters, manufacturers, trade associations and trade publications, retailers, better business Bureaus, university representatives and research librarians, and, in instances, with others on the consumer level—innumerable questions and problems being posed with respect to the scope and application of the rules. For example, a primary problem confronting manufacturers at the time the rules became operative concerned labeling practices and the accompanying change-over to meet the fiber identification requirements of the rules necessitated by the differentiation of the rayon and acetate fiber content of the industry products. All of the various matters were resolved in the public interest, either through correspondence or by means of the numerous conferences held in the office and in the field.

A field survey of 80 garment manufacturers in the New York area, and the attendant conference with each manufacturer, revealed the remarkable degree of voluntary compliance prevailing in the industry, as well as an earnest effort on the part of the majority of those manufacturers contacted to foster a like observance of the rules throughout the industry in the realization of the significant benefits the disclosure of fiber content renders in the prevention and elimination of deception and confusion to the purchasing public.

In addition, a survey of the advertising practices of industry members was conducted in order to effect the elimination of any practices found to be contrary to the rule requirements, special emphasis having been placed upon the fiber identification aspects thereof.

Mail Order Insurance.—Under the continuing program of cooperative compliance negotiation, further progress has been made in an area of vital public interest in elimination of misrepresentation in advertising by firms engaged in the promotion and sale of insurance in commerce by mail. Success has been achieved particularly in the field of advertising of health, accident, and hospitalization insurance in securing modification of promotional material to avoid misrepresentation by including in such material disclosures of unusual exceptions, reductions and limitations in policies, and notice, in

instances where policies are so drawn, of provisions under which policy holders may be subject to assessments in excess of stated premiums.

Seam Binding Industry.—An intensive survey of the principal members of the seam binding industry was conducted in connection with the alleged widespread practice of delivering short yardage in violation of the industry rules. The purpose of the survey was to induce more strict adherence to the rule requirements and to effect the discontinuance of the practice in question. As a result of such field work, closer liaison with members of the industry was established and substantial progress made in attaining full compliance with the rule provisions.

Masonry Waterproofing Industry.—Elimination of misrepresentation in advertising, labeling, and promotional literature of the degree of water impermeability imported by industry products has been effected by constant administrative contact through the media of field interviews, office conferences, and correspondence with those industry members who had heretofore failed to comply with the rules. Also, misrepresentation of this nature have been averted by giving prompt attention to newcomers in the "waterproofing" field and acquainting them with the provisions of the industry rules prior to their preparation and dissemination of labeling and advertising copy. Information concerning industry conditions obtained through field contact was particularly helpful in achieving cessation of unfair trade practices.

Bedding Manufacturing and Wholesale Distributing Industry.—Progress has been made in the administration of the trade practice rules for this industry by securing through cooperative means the discontinuance of such unfair practices as fictitious pricing and misrepresentation of the therapeutic value of bedding products. Emphasis has been placed upon the elimination of the use in advertising and labeling of such terms as "orthopedic," "health," "custom built," "posturized," et cetera, as descriptive of ordinary stock mattresses and springs.

Canvas Cover Industry.—Complaints received, and examination of labels, advertisements, and other promotional material, having indicated that misuse of the terms "Fireproof," "Waterproof," "Sunproof," and "Mildewproof," and failure to disclose the finished size of industry products and the kind and weight of materials of which they were made, were the principal violations of the canvas cover rules, administrative action was directed, with considerable success, to their elimination. A field survey during which industry members in sections of New York, New Jersey, and Pennsylvania were visited showed that such infractions at the manufacturing level in those areas had been almost entirely eliminated.

Baby Chick Industry.—Rule enforcement through administrative action in this industry has modified and materially reduced unfair trade practices, such as deceptive claims as to quality, character, productivity, etc. of baby chicks. Through close cooperation with officials of the National Poultry Improvement Plan of the United States Department of Agriculture, its various executive committees, and participating State agencies, instances of misuse of plan terminology lave been corrected. In addition, progress was made in the matter of bringing about full disclosure of the sex and breed of baby chicks.

SETTLEMENT OF CASES BY STIPULATION

Summary of Case Work

The stipulation or informal settlement method is utilized extensively by the Commission as a means of settling cases by voluntary action of the parties, without resort to formal complaint and trial. Under this procedure businessmen are afforded an opportunity in appropriate cases to enter into a voluntary agreement to discontinue practices considered to be unlawful.

In the fiscal period the Commission disposed of 182 cases under the stipulation procedure, as follows:

Accepted executed stipulations, including 7 amendment or substitute stipulations	131
Closed without prejudice	23
Directed issuance of complaint	9
Referred for further investigation	7
Placed on suspense	11
Filed without action	1
Total	182

Negotiation of Stipulations

The Division of Stipulations in the Bureau of Industry Cooperation is charged with the duty of negotiating settlements under the stipulation procedure. The Division does not investigate or prosecute any matter. Its procedure is to notify the businessman concerned that certain of his business practices have been challenged as illegal. The notice includes a statement of the specific practices which preliminary investigation indicates should be discontinued. The businessman may reply by letter and submit for consideration any pertinent information or explanation he may care to present, or he may request an informal conference with a representative of the Division of Stipulations. Opportunity for such informal conference is always afforded, 133 having been held during the fiscal

year. At these conferences the facts and issues are discussed informally and every effort made to reach an amicable settlement.

The procedure encourages frank, informal, and thorough discussion of the questions involved, either by correspondence or in conference. The businessman is thereafter given an opportunity to enter into an agreement to discontinue such of the challenged practices as are considered to be unlawful on the basis of the facts presented. This proposed agreement is then presented to the Commission for its consideration in disposing of the case.

Unfair Practices Covered by Stipulation

Cases disposed of by stipulation agreements during the fiscal year covered a wide range of unfair or deceptive practices, particularly in the field of false and misleading advertising. The following are some of the practices involved in cases disposed of in this manner:

Thirty-eight advertisers of shoes agreed to discontinue representations that their products were "orthopedic", "corrective" or "health" shoes or that they would prevent or correct abnormalities, deformities and disorders of the feet, weak ankles, fallen arches, poor posture or other similar conditions. Eight manufacturers of hearing aids agreed to discontinue advertising claims that devices which are not completely concealed are invisible, that hearing aids duplicate the functions of the human ear or that persons who are hopelessly deaf will be enabled to hear again. Nine sellers of woolen garments stipulated that they would label their garments truthfully as to the percentages of wool and other fibers contained therein.

A mail order insurance company agreed to stop making deceptive representations concerning requirements as to medical examinations and the payment of benefits under its family group life and accident policies. A manufacturer of crib mattresses stipulated to discontinue claims that his mattresses develop, strengthen and shape a baby's back, materially affect posture or insure development of a stronger back or better posture. Another stipulation brought about the discontinuance of claims that a device to be inserted in shoes will stop pains, aches, swellings, cramps in feet, legs, knees, thighs, neck or shoulders. A Vitamin preparation will no longer be advertised as containing all of the vitamins required in human nutrition. A corporation engaged in selling correspondence courses in theology agreed to stop calling itself a "college." A seller of mechanical pencils containing imported mechanisms agreed to disclose the foreign origin of such imported parts. Another company agreed to disclose that failure to follow directions for using its electric water heater might result in a dangerous electric shock.

Other stipulations provide for the discontinuance of claims that: a disinfectant advertised for use in sickrooms is effective against most

disease-producing bacteria; a dental plate refiner will accomplish permanent results in the refitting or tightening of dental plates or assure permanent comfort; a nerve tonic will beneficially affect the nerves except where a deficiency of vitamin B_1 exists; a mineral supplement supplies the mineral needs of livestock or protects livestock against all mineral deficiencies; a vitamin and mineral preparation will have any beneficial effect in preventing or relieving colds or respiratory infections; a garlic tablet has any therapeutic value in the treatment of high blood pressure or its symptoms; a plastic starch will double the life of garments; a water filter softens water and is effective for an unlimited time in removing chlorine taste and odor; a preparation for cleaning floors and rugs kills all germs, bacteria, moths and moth larvae; a fuel oil additive will reduce consumption of fuel oil; a detergent and water softener will reduce the use of soap by one-half.

Stipulation Compliance Activities

After stipulations are accepted by the Commission, the Division of Stipulations obtains reports showing the manner in which signatories are complying with their agreements. These reports must be in writing and signed by the interested parties. In cases involving false and misleading advertising, such reports must be accompanied by representative specimens of all advertising in current use. During the fiscal year 125 reports of compliance were obtained and submitted to the Commission.

8 Case Work Progress Under New Procedures

CHANGES in the organization and procedures of the Federal Trade Commission have speeded up and increased efficiency (1) in its handling of trade practice cases harmful to business and the consuming public and (2) in bringing its legal case work to a more current status.

LEGAL CASE WORK

Considerable progress was made during the year in the continuing program to bring the Commission's legal case work to a more current status. In fiscal 1952, the Commission disposed of 153 cases in which complaints had been issued. While 260 cases were pending at the close of the fiscal year 1951, this number was reduced to 212 by the end of fiscal 1952.

Of the cases disposed of during 1952, 132 resulted in cease and desist orders, as compared to 121 cease and desist orders issued in 1951. In addition, during 1952, 4 cases in which formal complaints had been issued were settled by acceptance of stipulations to cease and desist instead of by formal orders. Nine cases had been thus settled during 1951.

Cease and desist orders in antimonopoly cases totaled 24 as compared to 23 in 1951. In antideceptive practices cases 108 orders to cease and desist were entered as compared to 98 in 1951. When cases settled by stipulation are included, the respective antideceptive case totals are 112 and 107.

In informal cases—that is, where formal complaints were not issued—131 initial and substitute stipulations were accepted during 1952. Informal cases disposed of by administrative treatment—that is, by letters or affidavits of discontinuance—aggregated 269 during the fiscal year 1952. Under the Wool Products Labeling Act, labeling deficiencies in which compliance was effected administratively totaled 14,696 during the fiscal year. A total of 949 cases involving alleged violations of trade practice rules for industries were disposed of by administrative treatment.

Consent Settlement Amendment

The consent settlement rule became effective on August 4, 1951, 30 days after publication in the Federal Register. It provides that at any time after the issuance of complaint and prior to the commencement of the taking of evidence, all respondents in any case may jointly move the hearing examiner to suspend proceedings before him for a reasonable time to permit negotiations by counsel upon a consent settlement dispositive of the proceeding. Such suspension, and the time thereof, is in the discretion of the hearing examiner, after considering representations of counsel for both sides and the reasonable probability of an agreement being reached that would result in a substantial saving in time and expense.

This rule may not be invoked after the Commission has begun to present the evidence necessary to prove its case, so that it cannot be used as a dilatory tactic or become a means for seeking to negotiate a remedy less than that warranted by the evidence already presented in support of the complaint.

A motion to suspend the proceedings for the purpose of negotiating a consent settlement must be made to the hearing examiner, and whether or not the motion is granted is in his discretion. The time allowed for such negotiations is also controlled by the hearing examiner. Unless the hearing examiner believes that there is "reasonable probability of an agreement being reached that would result in a substantial saving of time and expense" the motion is not granted. Negotiations under the rule are handled by the Commission's trial attorney, but responsibility for seeing that the case is not unduly delayed remains with the hearing examiner.

The rule further provides that in the event a consent settlement is agreed upon by counsel, it shall be submitted to the Commission through the hearing examiner, who transmits with such proposal any comment thereon he deems appropriate and the record in the proceeding in which the settlement is tendered. Thus no decision is made by the hearing examiner and he neither accepts nor rejects the proposal. It assures that each proposal will go direct to the Commission informally and off the record, and gives the Commission free access to all available information in the investigational files and elsewhere in considering the adequacy of the proposal.

In the event the proposal is rejected by the Commission, the case is returned to the hearing examiner to proceed in regular course and the proposal does not become a part of the record. In the event a consent settlement is accepted, the case is concluded by the entry therein by the Commission of an order and other matters included in such settlement in accordance with its terms which constitute final disposition of the proceeding.

The Commission accepted 13 consent settlements in cases in which it issued orders to cease and desist from unlawful practices during the fiscal year 1952. Eight of these cases involved antimonopoly violations and five antideceptive practices violations of law.

While we know that many thousands of dollars were saved by the Commission, and perhaps more by the parties respondent, through the use of the new consent settlement rule, it is not practicable to estimate the total savings with any precision. We believe that as the consent settlement method of disposing of formal cases becomes better understood by the legal profession, the number of cases disposed of by consent settlements will increase.

Default Orders Amendment

In another of a series of moves designed to expedite the disposition of cases, the Commission amended its Rules of Practice to provide for the entry of "default orders" in uncontested cases. The revised default order procedure became effective in the Commission on August 4, 1951, thirty days after publication in the Federal Register.

Under the former rule, the Commission's practice was to hold hearings for the reception of evidence supporting the allegations of the complaint even though the respondent failed to answer and to appear for hearing. Under the revised rule, no hearings will be necessary in such uncontested cases.

Default orders were issued in two cases under the revised rule during the fiscal year 1952. While it is not possible to particularize, we do know that use of the new default order procedure in these cases resulted in savings of several hundred dollars.

Operations Under New Procedures

Since the Commission's major revision of its Rules of Practice in 1950, inaugurating the initial decision procedure whereby the Commission delegated to its hearing examiners the initial exercise of its adjudicative powers, substantial savings have been effected in the time and expense involved in the adjudication of cases. As a result, the time of the Commissioners has been conserved for important matters of planning and policy.

In 1950, 16 trial examiners submitted 47 recommended decisions, each of which required complete adjudication by the Commission, and one initial decision, which through the operation of the new procedure was adopted by the Commission in its decision. In 1951, a reduced staff of 10 hearing examiners issued 102 initial decisions, 40 of which, within that fiscal year and without further proceedings, were adopted as the decisions of the Commission. During the second month of the fiscal year 1962 the new consent settlement rule and revised default order procedure, described above, became effective and the improve-

ment continued, with 9 hearing examiners issuing 109 initial decisions, of which, 34 became, within that fiscal year, the decisions of the Commission without appeal or review. The value of the new procedures has thus been demonstrated in actual practice by the fact that ten hearing examiners during 1951 and nine during 1952 have disposed of approximately twice as many cases per year as did the 1950 staff of 16 trial examiners.

Proceedings adjudicated by the initial decision rule during fiscal 1952, and their subsequent history to June 30, 1952, are summarized as follows:

Total number of initial decisions issued in the fiscal year 1952		109
Adopted by the Commission without appeal or review	54	
Appealed to the Commission	34	
Subsequent Commission action on appeals:		
Adopted	8	
Modified	2	
Reversed	1	
Pending	23	
Reviewed by the Commission on its own motion	5	
Subsequent Commission action on reviews:		
Complaints amended, case remanded to hearing examiner	3	
Pending	2	
Initial decisions issued, but not yet acted upon at the close of fiscal year 1952	16	

Clearance of Docket

On June 1, 1950, the Commission had 183 formal complaints pending which had been docketed prior to January l, 1949. Since then we have had a continuing program to bring our formal case work to a more current status and as of June 30, 1952, the Commission had rendered decisions in 126 of these 183 cases, reducing the number of these old cases still pending to 57. All of these old cases are active. Much of the work necessary to bring them to final conclusion was accomplished during the fiscal year 1932. We anticipate that each month of the coming fiscal year decisions will be rendered in several of the remaining 57 cases and that all but a very few of them, which are on suspense awaiting court decisions in cases involving comparable issues, will be finally adjudicated during the fiscal year 1953.

At the end of the fiscal year the Commission had a total of 212 formal complaint cases pending. Eighty-five of the 212 cases are antimonopoly cases and 127 antideceptive practices cases.

Other Improvements

In addition to procedural changes, the Commission made a number of other improvements under its Management Improvement plan promoting efficiency and economy in its operations, including the following improvements in its library, which specializes in the field of

trade regulation. During the fiscal year 1952, a larger number of published and processed materials were added to the collection than in any previous year in the history of the library. Progress was made towards completing the organization of the library collections and services which were begun in 1948, and in compilation of an extensive bibliography of trade regulatory materials.

Reorganization of the serials section was completed and the backlog of unbound and unfiled materials in the section was eliminated. Some reduction also was made in the long existing backlog of materials to be catalogued.

Incentive Awards Program

The purpose of the incentive Awards Program is to encourage employee participation in management improvement, to provide the means for such participation, and to recognize by appropriate awards employees who make outstanding contributions to efficiency and economy in the operation of the Commission.

The Efficiency Awards Committee of the Commission, composed of the General Counsel, the Director of the Bureau of Industrial Economics, and the Secretary and Executive Director of the Commission, representing respectively the legal, economic, and administrative services, administers the program in the Commission. All recommendations of the Committee for awards are submitted to the Chairman of the Commission for approval.

The Commission made 26 awards under the Incentive Awards Program during the fiscal year. These awards included two cash awards for adopted suggestions aggregating $45.00; two salary increase awards for efficiency and savings made in the conduct of the employees own duties; 6 salary increase awards for superior accomplishment; and 16 honor awards, including one group honor award.

Twenty-four employees' suggestions were submitted, of which 4 were adopted, 16 rejected, and 4 remained pending.

9 Work in Defense Mobilization Program

PARTICIPATION in the defense mobilization program by the Federal Trade Commission has been of a threefold nature: (1) Carrying out responsibility assigned to it by the Defense Production Act; (2) undertaking work for defense agencies in the field in which its experience gives it special competence, and (3) proceeding with its regular work—both legal and economic—so aligned as to give priority to the job of preventing practices detrimental to defense production.

Clearance of Antitrust Exemption

Section 708 of the Defense Production Act authorizes the President to consult with representatives of industry, business, finance, agriculture, labor, and other interests, with the view to encouraging the making by such persons, with the approval of the President, of voluntary agreements and programs to further the objectives of the act. It further provides that no act, or omission to act, if requested by the President pursuant to a voluntary agreement or program approved thereunder and found by the President to be in the public interest as contributing to the national defense, shall be construed to be within the prohibitions of the antitrust laws or the Federal Trade Commission Act. Copies of such requests must be furnished to the Attorney General and the Chairman of the Federal Trade Commission. In authorizing the President to delegate to certain officials his authority under section 708 (b) relating to exemptions from the antitrust laws and the Federal Trade Commission Act, the statute provides that such officials must consult with the Attorney General and the Chairman of the Federal Trade Commission before making any request or finding under the exemption proviso. It provides further, in effect, that such exemptions become effective only with the approval of the Attorney General.

Under this provision, when a defense agency has a matter coming within the scope of section 708 of the Defense Production Act, copies of the proposal are submitted through the appropriate liaison officers to the Attorney General and the Chairman of the Federal Trade Commission. Through interagency staff consultation, the matters involved are explored and a basis is established for the clearance pro-

vided in the act. Before such clearance is granted, the matters are examined with the view of minimizing, so far as possible, without interference with the defense effort, factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power

In handling the work, close coordination and collaboration are maintained between the Department of Justice and the Federal Trade Commission, in cooperation with the defense agencies concerned.

Up to the close of the fiscal year, 50 voluntary industry programs and agreements were processed under section 708 of the Defense Production list.

Compliance Surveys for NPA

The Commission was designated in February 1951 as the agency through which the Administrator of the National Production Authority may exercise his power to conduct surveys and investigations on the operation of NPA orders and regulations and the extent of compliance by business firms. This designation was made in accordance with the policy of utilizing existing Government agencies, insofar as possible, in carrying out the defense mobilization program. It was recognized that the Commission, with its staff of experienced attorney-examiners and accountants, was especially equipped to make the needed surveys and investigations. This work was assigned to the Division of Defense Surveys which was established in the office of the Federal Trade Commission Chairman.

The curtailed budget of NPA necessitated termination of the work of the Division of Defense Surveys as of December 31, 1951. But prior to that date Commission attorney-examiners investigated compliance with NPA orders, regulations and directives involving (l) maintenance of inventories; (2) the level of production and delivery of orders; (3) the selection of and uses for materials; (4) the use of supplies acquired for maintenance and repair; (5) the treatment of rated and unrated orders; (6) the use of scrap; (7) the operation of tool conversion and repurchase agreements; and (8) the progress of plant conversion to essential defense production. The surveys involved field investigations, including plant and inventory inspections. The scope, timing, and technical aspects of each survey were determined in advance by conference between NPA and the Commission.

The factual record assembled in these surveys was transmitted directly to NPA through the Chairman, and NPA made all decisions concerning possible violations of orders and applications for modifications, adjustments, or exceptions.

During the period July 1, 1951, to December 31, 1951, the Federal Trade Commission completed surveys (1) of a representative cross-

section of various heavy industries, (2) users of cans, and (3) an audit of consumer operations under the Controlled Material Plan Regulations.

The cross-section survey covered maintenance, repair, and operating supplies in such industries as iron and steel, machinery, chemicals, power equipment, and leather. This project covered the operations of 920 business firms located in 41 States and the District of Columbia, and included brokers and distributors as well as manufacturers. A total of 57 attorneys were engaged in making the survey from May 14 to July 12, 1951.

The can survey covered 333 large, medium, and small companies located in 43 States, all of which came within the classifications of "users" (as distinguished from "manufacturers") of cans made in whole or in part of tin plate, terneplate, and black plate. A total of 49 attorneys were engaged in the survey from July 12 to October 5, 1951.

The detailed audit project determined the degree of compliance by consumers with Controlled Material Plan Regulations. This audit covered 243 companies located in 10 States, and required the services of 55 attorneys from October 2 to December 28, 1951.

In a communication to Chairman James M. Mead on December 14, 1951, Administrator Manley Fleischmann of the National Production Authority, stated: "* * * The information developed in these surveys by the Federal Trade Commission staff has been of material assistance in our compliance work. * * * I am grateful for the assistance which was afforded me by you and the Agency of which you are Chairman during the period when the allocation and priorities program was getting under way."

Economic Reporting

The Commission's regular function of publishing economic reports has become more important because of the defense emergency. The Nation is preparing for continuous military and industrial mobilization for a decade, or possibly longer. Under these circumstances, the Commission's reporting and recommendatory function takes on added significance as a means of identifying problems confronting free private enterprise during this period and suggesting ways in which these problems can be resolved. [1]

Financial Reports

The Commission's financial reporting program has made vital contributions to the information needed by emergency Government agencies. The regularly published quarterly financial reports of manufacturing corporations have been used extensively by the Office

[1] These reports are more fully described on pages 18-23.

of Price Stabilization, National Production Administration, the Department of Defense, and other Government agencies concerned with the national emergency. Also, the Commission initiated a program of collecting financial data from retail and wholesale trade corporations at the request of OPS. From these data, numerous special reports and tabulations have been made for use by the Office of Price Stabilization and by Congressional Committees.

The financial reports are of use not only in price control but also in the development of military procurement and contract renegotiation policies and in work on excess profits taxes. They have general usefulness to any Government agency or business firm which needs to ascertain average rates of profits for different kinds of business and different sizes of business.

Note.—These reports are more fully described on pages 23 to 25.

10 Appropriations and Obligations

FUNDS AVAILABLE FOR FISCAL YEAR

Funds appropriated to the Commission for the fiscal year 1952 amounted to $3,940,400. In addition, the Second Supplemental Appropriation Act, 1952 (Pub. 234, 82d Cong.), approved November 1, 1951, provided $100,000; and the Third Supplemental Appropriation Act, 1952 (Pub. 375, 82d Cong., 2d Sess.) approved June 5, 1952, provided $274,000, making a total available of $4,314,400.

The Commission also received by transfer the following amounts: from the Economic Stabilization Agency the sum of $238,257 to cover the cost of the expansion of the current quarterly financial report series; and from the National Production Authority the sum of $170,000 to finance the cost of conducting surveys, inquiries, and investigations for the purpose of determining the facts concerning the operation of, and the degree of compliance with, the orders and regulations issued by the National Production Authority.

OBLIGATIONS BY ACTIVITIES, FISCAL YEAR 1952

1. Antimonopoly:	
Investigation and litigation	$1,693,806
Economic and financial reports	229,511
2. Antideceptive practices:	
Investigation and litigation	1,229,400
Trade practice conferences	217,696
Wool and fur trade act administration	308,104
Lanham act and insurance	23,691
3. Executive Direction and Management	299,412
4. Administration	305,297
Total	4,306,917

OBLIGATIONS BY OBJECTS, FISCAL YEAR 1952

Personal services	$3,934,960
Travel	184,653
Transportation of things	3,982
Communication services	29,599

Rents and utility services	$9,587
Printing and reproduction	35,030
Other contractual services	40,159
Supplies and materials	46,709
Equipment	22,091
Refunds, awards, and indemnities	147
Total	4,306,917

SETTLEMENTS MADE UNDER FEDERAL TORT CLAIMS ACT

In compliance with Section 404 of the Federal Tort Claims Act, the following report is made:

During the fiscal year 1952 the Commission paid to Mr. Bion Williams, Jr., the sum of $47.15, and to Howard Cabs, Inc., the sum of $100, the amounts claimed for damages to vehicles arising out of an accident which occurred on July 20, 1949, in which the passenger automobile of the Commission was involved.

APPROPRIATIONS AND OBLIGATIONS, 1915-52

Appropriations available to the Commission since its organization and obligations for the same period, together with the unobligated balances, are shown in the table below. The table also lists the number of employees as of June 30 of each year.

Year	Number of employees	Nature of appropriations	Appropriations	Obligations	Balance
1915	143	Lump Sum	$184,016.23	$90,442.05	$93,574.18
		Printing and binding	12,386.76	9,504.16	2,882.60
1916	224	Lump Sum	430,964.08	379,927.41	51,036.67
		Printing and binding	15,000.00	14,997.55	2.45
1917	193	Lump Sum	542,025.92	448,890.66	93,135.26
		Printing and binding	25,000.00	23,610.54	1,389.46
1918	689	Lump Sum	1,578,865.92	1,412,280.19	166,585.73
		Printing and binding	30,000.00	11,114.06	18,885.94
1919	367	Lump Sum	1,693,622.18	1,491,637.39	201,984.79
		Printing and binding	14,934.21	14,934.21	0
1920	418	Lump Sum	1,206,587.42	1,007,593.30	198,994.12
		Printing and binding	28,348.97	28,348.97	0
1921	315	Lump Sum	938,609.94	842,991.24	95,618.70
		Printing and binding	37,182.56	37,182.56	0
1922	318	Lump Sum	952,505.45	878,120.24	74,385.21
		Printing and binding	22,801.73	22,801.73	0
1923	308	Lump Sum	952,020.11	948,293.07	3,727.04
		Printing and binding	22,460.21	22,460.21	0
1924	314	Lump Sum	990,000.00	960,202.93	29,979.07
		Printing and binding	20,000.00	19,419.25	580.75
1925	314	Lump Sum	990,000.00	976,957.02	1,917.63
		Printing and binding	18,000.00	18,000	133.86
1926	317	Lump Sum	990,000.00	976.957.02	13,042.98
		Printing and binding	18,000.00	18,000.00	0
1927	293	Lump Sum	980,000.00	943,881.99	36,118.01
		Printing and binding	17,000.00	17,000.00	0
1928	349	Lump Sum	967,850.00	951,965.15	15,884.85
		Printing and binding	16,500.00	16,500.00	0
1929	380	Lump Sum	1,135,414.83	1,131,521.47	3,893,36
		Printing and binding	27,777.69	27,777.69	0
1930	450	Lump Sum	1,440,971.82	1,430,084.17	10,887.65
		Printing and binding	35,363.58	35,363.58	0
1931	546	Lump Sum	1,932,857.81	1,808,403.35	124,454.46
		Printing and binding	39,858.73	39,858.73	0
1932	511	Lump Sum	1,808,097.19	1,749,484.60	58,612.59
		Printing and binding	30,000.00	30,000.00	0

Year	Number of em-ployees	Nature of appropriations	Appropriations	Obligations	Balance
1933	404	Lump sum - - - - - - - - - - - - - - - -	$1,421,714.70	$1,378,973.14	$42,741.56
		Printing and Binding - - - - - - - - -	30,000.00	20,000.00	10,000.00
1934	584	Lump sum - - - - - - - - - - - - - - - -	1,273,763.49	1,273,606.38	157.11
		Printing and Binding - - - - - - - - -	40,250.00	40,250.00	0
1935	535	Lump sum - - - - - - - - - - - - - - - -	2,063,398.01	1,922,313.34	141,084.67
		Printing and binding - - - - - - - - -	34,000.00	34,000.00	0
1936	571	Lump sum - - - - - - - - - - - - - - - -	1,998,665.58	1,788,729.76	209,935.82
		Printing and binding - - - - - - - - -	36,800.00	32,996.05	3,803.95
1937	577	Lump sum - - - - - - - - - - - - - - - -	1,895,571.94	1,850,673.82	44,898.12
		Printing and binding - - - - - - - - -	43,353.95	43,353.95	0
1938	585	Lump sum - - - - - - - - - - - - - - - -	1,950,000.00	1,895,519.47	54,480.53
		Printing and binding - - - - - - - - -	46,000.00	46,000.00	0
1939	687	Lump sum - - - - - - - - - - - - - - - -	2,236,795.00	2,150,474.40	86,320.60
		Printing and binding - - - - - - - - -	46,700.00	46,700.00	0
1940	668	Lump sum - - - - - - - - - - - - - - - -	2,285,500.00	2,214,889.07	70,610.93
		Printing and binding - - - - - - - - -	60,000.00	60,000.00	0
1941	694	Lump sum - - - - - - - - - - - - - - - -	2,240,000.00	2,167,256.24	72,743.76
		Printing and binding - - - - - - - - -	60,000.00	59,000.00	1,000.00
1942	631	Lump sum - - - - - - - - - - - - - - - -	2,373,822	2,296,921.13	76,900.87
		Printing and binding - - - - - - - - -	60,000.00	42,000.00	18,000.00
1943	487	Lump sum - - - - - - - - - - - - - - - -	2,237,705.00	2,100,783.09	136,921.91
		Printing and binding - - - - - - - - -	50,250.00	32,210.75	18,039,25
1944	463	Lump sum - - - - - - - - - - - - - - - -	2,040,050.00	1,917,307.50	122,742.50
		Printing and binding - - - - - - - - -	43,000.00	39,848.45	3,151.55
1945	451	Lump sum - - - - - - - - - - - - - - - -	2,016,070.00	1,957,818.31	58,251.69
		Printing and binding - - - - - - - - -	43,000.00	39,728.72	3,271.28
1946	496	Lump sum - - - - - - - - - - - - - - - -	2,129,833.00	2,118,404.77	11,428.23
		Printing and binding - - - - - - - - -	44,000.00	33,044.88	10,955.12
1947	604	Lump sum - - - - - - - - - - - - - - - -	2,925,120.00	2,826,817.64	98,302.36
		Printing and binding - - - - - - - - -	50,00.00	33,902.35	16,097.65
1948	579	Lump sum - - - - - - - - - - - - - - - -	2,915,596.92	2,894,685.60	20,911.32
		Printing and binding - - - - - - - - -	55,000.00	53,815.34	1,184.66
1949	660	Lump sum - - - - - - - - - - - - - - - -	3,574,510.00	3,548,657.21	25,852.79
		Printing and binding - - - - - - - - -	46,525.00	33,310.54	13,214.46
1950	654	Lump sum (including printing and binding) - - - - - - - - - - - - - -	3,723,000.00	3,715,057.88	7,942.12
1951	684	Lump sum (including printing and binding) - - - - - - - - - - - - - -	3,891,695.00	3,767.482.95	124,212.05
1952	672	Lump sum (including printing and binding) - - - - - - - - - - - - - -	4,314,400.00	4,306,917,14	7,482.86

APPENDIXES

Federal Trade Commissioners—1915-52

Name	State from which appointed	Period of service
Joseph E. Davies	Wisconsin	Mar. 16, 1915-Mar. 18, 1918
Edward N. Hurley	Illinois	Mar. 16, 1915-Jan. 31, 1917
William J. Harris	Georgia	Mar. 16, 1915-May 31, 1918
Will H. Parry	Washington	Mar. 16, 1915-Apr. 21, 1917
George Rublee	New Hampshire	Mar. 16, 1915-May 14, 1916
William B. Colver	Minnesota	Mar. 16, 1917-Sept. 25, 1920
John Franklin Fort	New Jersey	Mar. 16, 1917-Nov. 30, 1919
Victor Murdock	Kansas	Sept. 4, 1917-Jan. 31, 1924
Huston Thompson	Colorado	Jan. 17, 1919-Sept. 25, 1926
Nelson B. Gaskill	New Jersey	Feb. 1, 1920-Feb 24, 1925
John Garland Pollard	Virginia	Mar. 6, 1920-Sept. 25, 1921.
John F. Nugent	Idaho	Jan 15, 1921-Sept. 25, 1927
Vernon W. Van Fleet	Indiana	June 26, 1922-July 31, 1926
Charles W. Hunt	Iowa	June 16, 1924-Sept. 25, 1932.
William E. Humphrey	Washington	Feb. 25, 1925-Oct. 7, 1933.
Abram F. Myers	Iowa	Aug 2, 1926-Jan. 15, 1929
Edgar A. McCulloch	Arkansas	Feb. 11, 1927-Jan. 23, 1933
Garland S. Ferguson	North Carolina	Nov. 14, 1927-Nov. 15, 1949
Charles H. March	Minnesota	Feb. 1, 1929-Aug. 28, 1945
Ewin L. Davis	Tennessee	May 26, 1933-Oct. 23, 1949.
Raymond B. Stevens	New Hampshire	June 26, 1933-Sept. 25, 1933.
James M. Landis	Massachusetts	Oct. 10, 1933-June 30, 1934.
George C. Mathews	Wisconsin	Oct. 27, 1933-June 30, 1934.
William A. Ayres	Kansas	Aug. 23, 1934-Feb. 17, 1952.
Robert E. Freer	Ohio	Aug. 27, 1935-Dec. 31, 1948.
Lowell B. Mason	Illinois	Oct. 15, 1945-.
John Carson	Michigan	Sept. 28, 1949-.
James M. Mead	New York	Nov. 16, 1949-.
Stephen J. Spingarn	New York	Oct. 25, 1950-.
Albert A. Carretta	Virginia	June 18, 1952-.

Statutes Pertaining to the Federal Trade Commission

The authority and powers of the Federal Trade Commission in the main are drawn from the following statutes:

1. Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717), and subsequently amended as indicated below.
2. Clayton Act, sections, 2, 3, 7, 8, and 11 approved October 15, 1914 (38 Stat. 730, 731, 732), amended as indicated below.
3. Webb-Pomerene Export Trade Act, approved April 10, 1918 (40 Stat. 516).
4. Wheeler-Lea Act, approved March 21, 1938 (52 Stat. 111), amending the federal Trade Commission Act.
5. Robinson-Patman Act, approved June 19, 1936, and amendment thereto approved May 26, 1938 (49 Stat. 1526; 52 Stat. 446), revising and extending section 2 of the Clayton Act.
6. Wool Products Labeling act of 1939, approved October 14, 1940 (54 Stat. 1128).
7. Public Law 15, 79th Congress, approved March 9, 1945, "An Act to express the intent of the Congress with reference to the regulation of the business of insurance" (59 Stat.33).
8. Lanham Trade Mark Act, approved July 5, 1946 (60 Stat. 427).
9. Oleomargarine Act, approved March 16, 1950, amending Section 5 of the Federal trade Commission Act respecting civil penalties, and section 15 respecting misleading advertisement of oleomargarine or margarine (64 Stat. 20).
10. Public Law 899, 81st Congress, approved December 29, 1950, the so-called antimerger legislation, amending and extending section 7 of the Clayton Act. (64 Stat. 1125).
11. Fur Products Labeling Act, approved August 8, 1951 (65 Stat. 175).

Federal Trade Commission Act

(15 U.S.C., Secs. 41-58)

AN ACT To create a federal Trade Commission, to define its powers and duties, and for other purposes

SEC. 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby created and established, to be known as the Federal Trade Commission (hereinafter referred to as the Commission), which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from the date of the taking effect of this Act, the term of each to be designated by the President.

but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed: Provided, however, That upon the expiration of his term of office a commissioner shall continue to serve until his successor shall have been appointed and shall have qualified. The Commission shall choose a chairman from its own membership.[1] No commissioner shall engage in any other business, vocation, or employment. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the Commission shall not impair the right of the remaining commissioners to exercise all the powers of the Commission.

The Commission shall have an official seal, which shall be judicially noticed.

SEC. 2. That each commissioner shall receive a salary of $10,000 a year,[2] payable in the same manner as the salaries of the judges of the courts of the United States. The Commission shall appoint a secretary who shall receive a salary of $5,000 a year,[3] payable in like manner, and it shall have authority to employ and fix the compensation of such attorneys, special experts, examiners, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may from time to time be appropriated for by Congress.

With the exception of the secretary, a clerk to each commissioner, the attorneys, and such special experts and examiners as the Commission may from time to time find necessary of the conduct of its work , all employees of the commission shall be a part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the Commission and by the Civil Service Commission.

All of the expenses of the Commission, including all necessary expenses for transportation incurred by the commissioners or by their employees under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission.

Until otherwise provided by law, the Commission may rent suitable offices for its use.

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the Commission.[4]

SEC. 3. That upon the organization of the Commission and election of its chairman, the Bureau of Corporations and the offices of Commissioner and Deputy Commissioner of Corporations shall cease to exist; and all pending investigations and proceedings of the Bureau of Corporations shall be continued by the Commission.

All clerks and employees of the said bureau shall be transferred to and become clerks and employees of the Commission at their present grades and salaries. All records, papers, and property of the said bureau shall become records, papers, and property of the Commission, and all unexpended funds and appropriations for

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[1] Under Reorganization Plan No. 8 of 1950, which became effective May 24, 1950, pursuant to the Reorganization Act of 1949, the power to appoint the chairman was transferred to the President. The plan also transferred to the chairman, subject to specified limitations, the executive and administrative functions formerly exercised by the Commission as a whole.

[2] The salaries of the commissioners were increased to $15,000 a year under the provisions of Public Law 359, 81st Cong., approved October 15, 1949.

[3] The salary of the secretary is controlled by the provisions of the Classification Act of 1923, approved March 4, 1923, 42 Stat. 1488.

[4] Auditing of accounts was made a duty of the General Accounting Office by the Act of June 10, 1921, 42 Stat. 24.

the use and maintenance of the said bureau, including any allotment already made to it by the Secretary of Commerce from the contingent appropriation for the Department of Commerce for the fiscal year nineteen hundred and fifteen, or from the departmental printing fund for the fiscal year nineteen hundred and fifteen, shall become funds and appropriations available to be expended by the Commission in the exercise of the powers, authority, and duties conferred on it by this Act.

The principal office of the Commission shall be in the city of Washington, but it may meet and exercise all its powers at any other place. The Commission may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

SEC. 4. The words defined in this section shall have the following meaning when found in this Act, to wit:

"Commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia or between any such Territory and another, or between any such Territory and any Stat or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

"Corporation" shall be deemed to include any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, which is organized to carry on business for its own profit or that of its members, and has shares of capital or capital stock or certificates of interest, and any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated without shares of capital or capital stock or certificates of interest, except partnerships which is organized to carry on business for its own profit or that of its members.

"Documentary evidence" includes all documents, papers, correspondence, books of accounts, and financial and corporate records.

"Acts to regulate commerce" means the Act entitled "An Act to regulate commerce," approved February 14, 1887, and all Acts amendatory thereof and supplementary thereto and the Communications Act of 1934 and all Acts amendatory thereof and supplementary thereto.

"Antitrust Acts" means the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890; also sections 73 to 77, inclusive of an Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1894; also the Act entitled "An Act to amend sections 73 and 76 of the Act of August 27, 1894, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,'" approved February 12, 1913; and also the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914.

SEC. 5. (a) Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are hereby declared unlawful.

The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers, subject to the acts to regulate commerce, air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938,[5] and persons, partnerships, or corporations subject to the Packers and stockyards Act, 1921, except as provided in section 406 (b)

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[5] By subsection (f), Section 1107 of the "Civil Aeronautics Act of 1938," approved June 23, 1938, Public No. 706, 75th Congress, Ch. 601, 3d Sess., S. 3845, 52 Stat. 1028, Section 5 (a) of the Federal Trade Commission Act was amended by inserting before the words "and persons" (and following the words "to regulate commerce"), the following: "air carriers and foreign air carriers subject tot he Civil Aeronautics Act of 1938."

of said Act, from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce.

(b) Whenever the Commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition or unfair or deceptive act or practice in commerce, and if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, partnership, or corporation may make application, and upon good cause shown may be allowed by the Commission to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission. If upon such hearing the Commission shall be of the opinion that the method of competition or the act or practice in question is prohibited by this Act, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition or such act or practice. Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the transcript of the record in the proceeding has been filed in a circuit court of appeals of the United States, as hereinafter provided, the Commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section. After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, the Commission may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by it under this section, whenever in the opinion of the Commission conditions of fact or of law have so changed as to require such action or if the public interest shall so require: Provided, however, That the said person, partnership, or corporation may, within sixty days after service upon him or it of said report or order entered after such a reopening, obtain a review thereof in the appropriate circuit court of appeals of the United States, in the manner provided in subsection (c) of this section.

(c) Any person, partnership, or Corporation required by an order of the Commission to cease and desist from using any method of competition or act or practice may obtain a review of such order in the circuit court of appeals of the United States, within any circuit where the method of competition or the act or practice in question as used or where such person, partnership, or corporation resides or carries on business, by filling in the court, within sixty days[6] from the date of the service of such order, a written petition praying that the order

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[6] Section 5 (a) of the amending Act of 1938 provides:

SEC. 5. (A) In case of an order by the Federal trade Commission to cease and desist served on or before the date of enactment of this Act, the sixty-day period referred to in section 5 (c) of the Federal Trade Commission Act, as amended by this Act, shall begin on the date of the enactment of this Act.

of the Commission be set aside. A copy of such petition shall be forthwith served upon the Commission, and thereupon the Commission forthwith shall certify and file in the court a transcript of the entire record in the proceeding, including all the evidence taken and the report and order of the Commission. Upon such filing of the petition and transcript the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, evidence, and proceedings set forth in such transcript a decree affirming, modifying or setting aside the order of the Commission, and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite. The findings of the Commission as to the facts, if supported by evidence, shall be conclusive. To the extent that the order of the Commission is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the Commission. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence to be taken before the Commission and to the adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code.

(d) The jurisdiction of the circuit court of appeals of the United States to affirm, enforce, modify, or set aside orders of the Commission shall be exclusive.

. (e) Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the Commission or judgment of court to enforce the same shall in anywise relieve or absolve any person, partnership, or corporation from any liability under the Antitrust Acts.

(f) Complaints, orders, and other processes of the Commission under this section may be served by anyone duly authorized by the Commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the residence or the principal office or place of business of such person, partnership, or corporation; or (c) by registering and mailing a copy thereof addressed to such person, partnership, or corporation at this or its residence or principal office or place of business. The verified return by the person so serving said complaint, order or other process setting forth the manner of said service shall be proof of the same, and the return post office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

(g) An order of the Commission to cease and desist shall become final—

(1) Upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; but the Commission may thereafter modify or set aside its order to the extent provided in the last sentence or subjection (b); or

(2) Upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed, or the petition for review dismissed by the circuit court of appeals, and no petition for certiorari has been duly filed; or

(3) Upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review dismissed by the circuit court of appeals; or

(4) Upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the order of the Commission be affirmed or the petition for review dismissed.

(h) If the supreme Court directs that the order of the Commission be modified or set aside, the order of the Commission rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of thirty days from the time it was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the Commission shall become final when so corrected.

(i) If the order of the Commission is modified or set aside by the circuit court of appeals, and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or (2) the petition for certiorari has been denied r (3) the decision of the court has been affirmed by the Supreme court, then the order of the Commission rendered in accordance with the mandate of the circuit court of appeals shall become final on the expiration of thirty days from the time such order of the Commission was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected so that it will accord with the mandate, in which event the order of the Commission shall become final when so corrected.

(j) If the Supreme court orders a rehearing; or if the case is remanded by the circuit court of appeals to the Commission for a rehearing, and if (1) the time allowed for filing a petition for certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered upon such rehearing shall become final in the same manner as though no prior order of the Commission has been rendered.

(k) As used in this section the term "mandate," in case a mandate has been recalled prior to the expiration of thirty days from the date of issuance thereof, means the final mandate.

(1) Any person, partnership, or corporation who violates an order to the Commission to cease and desist after it has been final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than $5,000 for each violation, which shall accrue to the united States and may be recovered in a civil action brought by the United States. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission each day of continuance of such failure or neglect shall be deemed a separate offense.[7]

SEC. 6. That the commission shall also have power—

(a) To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any corporation engaged in commerce, excepting banks and common carriers subject to the Act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships.

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[7] This sentence added by sec. 4 (c) of Public Law 459, 81st Cong., approved March 26, 1950, and effective July 1, 1950.

(b) To require, by general or special orders, corporations engaged in commerce, excepting banks, and common carriers subject to the Act to regulate commerce, or any class of them, or any of them respectively, to file with the commission in such form as the commission may prescribe annual or special, reports or answers in writing to specific questions, furnishing to the commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations filing such reports or answers in writing. Such reports and answers shall be made under oath, or otherwise, as the commission may prescribe, and shall be filed with the commission within such reasonable period as the commission may prescribe, unless additional time be granted in any case by the commission.

(c) Whenever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust Acts, to make investigation, upon its own initiative, of the manner in which the decree has been or is being carried out, and upon the application of the Attorney General it shall be its duty to make such investigation. It shall transmit to the Attorney general a report embodying its findings and recommendations as a result of any such investigation and the report shall be made public in the discretion of the commission.

(d) Upon the direction of the President or either[8] House of Congress to investigate and report the facts relating to any alleged violations of the antitrust Acts by any corporation.

(e) Upon the application of the Attorney general to investigate and make recommendations for the readjustment of the business of any corporation alleged to be violating the antitrust in order that the corporation may thereafter maintain its organization, management, and conduct of business in accordance with law.

(f) To make public from time to time such portions of the information obtained by it hereunder, except trade secrets and names of customers, as it shall deem expedient in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use.

(g) From time to time to classify corporations and to make rules and regulations for the purpose of carrying out the provisions of this Act.

(h) To investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the united States, and to report to Congress thereon, with such recommendations as it deems advisable.

SEC. 7. That in any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust Acts, the court may, upon the conclusion of the testimony therein, if it shall be then of the opinion that the complainant is entitled to relief, refer said suit to the commission, as a master in chancery, to ascertain and report an appropriate form of decree therein. The commission shall proceed upon such notice to the parties and under such rules

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[8] The Independent Offices Appropriation Act of 1934 provided that future investigations by the Commission for Congress must be authorized by concurrent resolution of the two Houses. Under the Appropriation Act of 1951, funds appropriated for the Commission are not to be spent upon any investigation thereafter called for by congressional concurrent resolution "until funds are appropriated subsequently to the enactment of such resolution to finance the cost of such investigation."

of procedure as the court may prescribe, and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto as upon the report of a master in other equity causes, but the court may adopt or reject such report, in whole or in part, and enter such decree as the nature of the case may in its judgment require.

SEC. 8. That the several departments and bureaus of the Government when directed by the President shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of this Act, and shall detail from time to time such officials and employees to the commission as he may direct.

SEC. 9. That for the purposes of this Act the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and, the right to copy any documentary evidence of any corporation being investigated or proceeded against; and the commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the commission may sign subpoenas, and members and examiners of the commission may administer oaths and affirmations, examine witnesses, and receive evidence.

Such attendance of witnesses, and the production o f such documentary evidence, may be required from any place in the united States, at any designated place of hearing. And in case of disobedience to a subpoena the commission may invoke the aid of any court of the united States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

Any of the district courts of the united States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Upon the application of the attorney General of the United states, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the commission made in pursuance thereof.

The commission may order testimony to be taken by deposition in any proceedings or investigation pending under this Act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken, and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject

him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or things concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpoena issued by it; provided, that no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 10. That any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine if not less than $1,000 nor mor than $5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make or cause to be made any false entry in any account, record, or memorandum kept by any corporation subject to this Act, or who shall wilfully neglect or fail to make, or cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the united States, or wilfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the united States of competent jurisdiction to a fine of not less than $1,000 nor more than $5000 or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

If any corporation required b this Act to file any annual or special report shall fail so to do within the time fixed by the Commission for filing the same, and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the united states and shall be recoverable in a civil suit in the name of the United states brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the attorney general of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the united States.

Any officer or employee of the commission who shall make public any information obtained by the commission without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

SEC. 11. Nothing contained in this Act shall be construed to prevent or interfere with the enforcement of the provisions of the antitrust Acts or the Acts to regulate commerce, nor shall anything contained in the act be construed to alter, modify, or repeal the said antitrust acts or the Acts to regulate commerce or any part or parts thereof.

SEC. 12. (a) It shall be unlawful for any person , partnership, or corporation to disseminate, or cause to be disseminated, any false advertisement—

(1) By United States mails, or in commerce by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics; or

(2) By any means, for the purpose of inducing, or which is likely to induce directly or indirectly, the purchase in commerce of food, drugs, devices, or cosmetics.

(b) The dissemination or the causing to be disseminated of any false advertisement within the provisions of subsection (a) of this section shall be an unfair or deceptive act or practice in commerce within the meaning of section 5.

SEC. 13. (a) Whenever the Commission has reason to believe—

(1) that any person, partnership, or corporation is engaged in, or is about to engage in, the dissemination or the causing of the dissemination of any advertisement in violation of section 12, and

(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or the order of the Commission to cease and desist made thereon has become final within the meaning of section 5, would be to the interest of the public,

the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States or in the United States court of any Territory, to enjoin the dissemination or the causing of the dissemination of such advertisement. Upon proper showing a temporary injunction or restraining order shall be granted without bond. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business.

(b) Whenever it appears to the satisfaction of the court in the case of a newspaper, magazine, periodical, or other publication, published at regular intervals—

(1) that restraining the dissemination of a false advertisement in any particular issue of such publication would delay the delivery of such issue after the regular time therefor, and

(2) that such delay would be due to the method by which the manufacture and distribution of such publication is customarily conducted by the publisher in accordance with sound business practice, and not to any method or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to such false advertisement or any other advertisement.

the court shall exclude such issue from the operation of the restraining order or injunction.

Sec. 14.[9] (a) Any person, partnership, or corporation who violates any provision of section 12 (a) shall, if the use of the commodity advertised may be injurious to health because of results from such use under the conditions prescribed in the advertisement thereof, or under such conditions as are customary or usual, or if such violation is with intent to defraud or mislead, be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than $5,000 or by imprisonment for not more than six months, or by both such fine and

[9] Section 5 (b) of the amending Act of 1938 provides:

SEC. 5. (b) Section 14 of the Federal Trade Commission Act, added to such Act by section 4 of this act, shall take effect on the expiration of sixty days after the date of the enactment of this Act.

imprisonment; except that if the conviction is for a violation committed after a first conviction of such person, partnership, or corporation, for any violation of such section, punishment shall be by a fine of not more than $10,000 or by imprisonment for not more than one year, or by both such fine and imprisonment: Provided, That for the purposes of this section meats and meat food products duly inspected, marked, and labeled in accordance with rules and regulations issued under the Meat Inspection act approved March 4, 1907, as amended, shall be conclusively presumed not injurious to health at the time the same leave official "establishments."

(b) No publisher, radio-broadcast licensee, or agency or medium for the dissemination of advertising, except the manufacturer, packer, distributor, or seller of the commodity to which the false advertisement relates, shall be liable under this section by reason of the dissemination by him of any false advertisement unless he has refused on the request of the Commission, to furnish the Commission the name and post-office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the United States, who caused him to disseminate such advertisement. No advertising agency shall be liable under this section by reason of the causing by it of the dissemination of any false advertisement, unless it has refused, on the request of the Commission, to furnish the Commission the name and post-office address of the manufacturer, packer, distributor, or seller, residing in the United States, who caused it to cause the dissemination of such advertisement.

SEC. 15. For the purpose of sections 12, 13, and 14—

(a) (1) The term "false advertisement" means an advertisement, other than labeling, which is misleading in a material respect; and in determining whether any advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the commodity to which the advertisement relates under the conditions prescribed in said advertisement or, under such conditions as are customary or usual. No advertisement of a drug shall be deemed to be false if it is disseminated only to members of the medical profession, contains no false representations of a material fact, and includes, or is accompanied in each instance by truthful disclosure of, the formula showing quantitatively each ingredient of such drug.

(2) [10]In the case of oleomargarine or margarine an advertisement shall be deemed misleading in a material respect if in such advertisement representations are made or suggested by statement, word, grade designation, design, device, symbol, sound, or any combination thereof, that such oleomargarine or margarine is a dairy product, except that nothing contained herein shall prevent a truthful, accurate, and full statements in any such advertisement of all the ingredients contained in such oleomargarine or margarine.

(b) The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.

(c) The term "drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and

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[10] This subsection added by sec. 4 (a) of Public Law 459, 81st Cong., approved March 26, 1950, and effective July 1, 1950.

(4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

(d) The term "device" (except when used in subsection (a) of this section) means instruments, apparatus, and contrivances, including their parts and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or in other animals; or (2) to affect the structure or any function of the body of man or other animals.

(e) The term "cosmetic" means (1) articles to be rubber, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof intended for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles; except that such term shall not include soap.

(f)[10] For the purposes of this section and section 407 of the federal Food, Drug and Cosmetic act, as amended, the term "oleomargarine" or "margarine" includes—

(1) all substances, mixtures, and compounds known as oleomargarine or margarine;

(2) all substances, mixtures, and compounds which have a consistence similar to that of butter and which contain any edible oils or fats other than milk fat if made in imitation or semblance of butter.

SEC. 16. Whenever the Federal Trade Commission has reason to believe that any person, partnership, or corporation is liable to a penalty under section 14 or under subsection (1) of section 5, it shall certify the facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of such section or subsection.

SEC. 17. If any provision of this Act, or the application thereof to any person, partnership, corporation, or circumstance, is held invalid, the remainder of the Act and the application of such provision to any other person, partnership, corporation, or circumstance shall not be affected thereby.

SEC. 18. This Act may be cited as the "Federal Trade Commission Act."

Original act approved September 26, 1914.

Amended act approved March 21, 1938.

Clayton Act[1]

(Approved in original form Oct. 14, 1914; 38 Stat. 730; 15 U.S.C. Sec. 12, et. seq.)
[PUBLIC—No. 212—63D CONGRESS, AS AMENDED BY PUBLIC—No. 692—74TH CONGRESS,[1] AND PUBLIC—NO. 899—81ST CONGRESS]

[H.R. 15657]

AN ACT to supplement existing laws against unlawful restraints and monopolies and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that "antitrust laws," as used herein, includes the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety;

[10] This subsection added by sec. 4 (a) of Public Law 459, 81st Cong., approved March 26, 1950 and effective July 1, 1950.

[1] The Robinson-Patman Act, approved June 19, 1936, 49 Stat. 1526; 15 U. S. C., Sec. 13 (see footnote 2). See also footnote 4 on page 106 and footnote 8 on page 111, with respect to the repeal of Section 9, Section 17 in part, Sections 18 and 19 and Sections 21-25, inclusive, by two acts of June 25, 1948, namely, C. 645 (62 stat. 683) and C. 646 (62 stat. 896); and footnotes on pages 105 and 107 concerning the amendment of Sections 7 and 11 by act of Dec. 29, 1950, C. 1184 (64 Stat. 1125).

sections seventy-three to seventy-seven, inclusive, of an Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," of August twenty-seventh, eighteen hundred and ninety-four; an Act entitled "An Act to amend sections seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes," approved February twelfth, nineteen hundred and thirteen; and also this Act.

"Commerce," as used herein, means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States: Provided, That nothing in this Act contained shall apply to the Philippine Islands.

The word "person" or "persons" wherever used in this Act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

SEC 2.[2] (a) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them. Provided, That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the different methods or quantities in which such commodities are to such purchasers sold or delivered: Provided, however, That the Federal Trade Commission may, after due investigation and hearing to all interested parties, fix and establish quantity limits, and revise the same as it finds necessary, as to particular commodities or classes of commodities, where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce; and the foregoing shall then not be construed to permit differentials based on differences in quantities greater than those so fixed and established: And provided further, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade: And provided further, That nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price of services or facilities furnished the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: Provided, however,

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[2] This section of the Clayton Act contains the provisions of the Robinson-Patman Anti-Discrimination Act, approved June 19, 1936, amending Section 2 of the original Clayton Act, approved Oct. 15, 1914.

Section 4 of the Robinson-Patman Act provides that nothing therein "shall prevent a cooperative association from returning to its members, producers, or consumers the whole, or any part of, the net earnings or surplus resulting from its trading operations, in proportion to their purchases or sales from, to, or through the association."

Public No. 550. 75th Congress approved May 26, 1938, to amend the said Robinson-Patman Act, further provides that nothing therein "shall apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit."

That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

(c) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(d) That it shall be unlawful for any person engaged in commerce to pay or contract for the payment of anything of value to or for the benefit of a customer of such person in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such person, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(e) That it shall be unlawful for any person to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all purchasers on proportionally equal terms.

(f) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by this section.

SEC. 3. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies or other commodities, whether patented or unpatented, for use, consumption or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of a competitor or competitors of the lessee or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

SEC. 4. That any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides, or is found, or has an agent, without respect to the among I controversy, and shall recover threefold the damages by hm sustained, and the cost of suit, including a reasonable attorney's fee.

SEC. 5. That a final judgement or decree hereafter rendered in any criminal prosecution or in any suit or proceeding in equity brought by or on behalf of the United states under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any suit or proceeding brought by any other party against such defendant under said laws as to all matters, respecting which said judgment or decree would be an estoppel as between the parties thereto: Provided, This section shall not apply to consent judgments or decrees entered before any testimony has been taken; Provided further, This section shall not apply to consent judgments or decrees rendered in criminal proceedings or suits in equity, now pending, in which the taking of testimony has been commenced but has not been concluded, provided such judgments or decrees are rendered before any further testimony is taken.

Whenever any suit or proceeding in equity or criminal prosecution is instituted by the united States to prevent, restrain, or punish violations of any of the antitrust laws, the running of the statute of limitations in respect of each and every private right of action arising under said laws and based in whole or

in part on any matter complained of in said suit or proceeding shall be suspended during the pendency thereof.

SEC. 6. That the labor of a human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

SEC. 7.[3] That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no corporation subject to the jurisdiction of the federal Trade Commission shall acquire the whole or any part of the assets of another corporation engaged also in commerce, where in any line of commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly.

No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no corporation subject to the jurisdiction of the Federal trade Commission shall acquire the whole or any part of the assets of one or more corporations engaged in commerce where in any line of commerce in any section of the country the effect of such acquisition, of such stocks or assets, or of the use of such stock by the voting of granting of proxies or otherwise, may be substantially to lessen competition, or to tend to create a monopoly.

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition.

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: Provided, That nothing in this section shall be held or construed to authorize or make lawful anything heretofore prohibited or made illegal by the antitrust laws, nor to exempt any person from the penal provisions thereof or the civil remedies therein provided.

Nothing contained in this section shall apply to transactions duly consummated pursuant to authority given by the Civil Aeronautics Board, Federal Communications Commission, Federal Power Commission, Interstate Commerce Commission, the Securities and exchange Commission in the exercise of its jurisdiction under section 10 of the Public Utility Holding Company Act of 1935, the United States Maritime Commission, or the Secretary of agriculture under any statutory provision vesting such power in such Commission, Secretary, or Board.

SEC. 8. No private banker or director, officer, or employee of any member bank of the Federal Reserve System or any branch thereof shall be at the same time a director, officer, or employee of any other bank, banking association, savings bank, or trust company organized under the National Bank Act or organized

[3]Section 7, and also section 11, of the Clayton Act appear here in the form into which they were amended by Act of Dec. 29, 1950 (P.L. 899; 64 Stat. 1125; 15 U. S. C. 18).

under the laws of any State or of the District of Columbia, or any branch thereof, except that the Board of Governors of the Federal Reserve System may by regulation permit such service as a director, officer, or employee of not more than one other such institution or branch thereof; but the foregoing prohibition shall not apply in the case of any one or more of the following or any branch thereof:

(1) A bank, banking association, savings bank, or trust company, more than 90 per centum of the stock of which is owned directly or indirectly by the United States or by any corporation of which the United States directly or indirectly owns more than 90 per centum of the stock.

(2) A bank, banking association, savings bank, or trust company which has been placed formally in liquidation or which is in the hands of a receiver, conservator, or other official exercising similar functions.

(3) A corporation, principally engaged in international or foreign banking or banking in a dependency or insular possession of the United States which has entered into an agreement with the Board of Governors of the Federal Reserve System pursuant to section 25 of the Federal Reserve Act.

(4) A bank, banking association, savings bank, or trust company, more than 50 per centum of the common stock of which is owned directly or indirectly by persons who own directly or indirectly more than 50 per centum of the common stock of such member bank.

(5) A bank, banking association, savings bank, or trust company not located and having no branch in the same city, town, or village as that in which such member bank or any branch thereof is located, or in any city, town, or village contiguous or adjacent thereto.

(6) A bank, banking association, savings bank, or trust company not engaged in a class or classes of business in which such member bank is engaged.

(7) A mutual savings bank having no capital stock.

Until February 1, 1939, nothing in this section shall prohibit any director, officer, or employee of any member bank of the Federal Reserve System, or any branch thereof, who is lawfully serving at the same time as a private banker or as a director, officer, or employee of any other bank, banking association, savings bank, or trust company, or any branch thereof, on the date of enactment of the Banking Act of 1935, from continuing such service.

The Board of Governors of the Federal Reserve System is authorized and directed to enforce compliance with this section, and to prescribe such rules and regulations as it deems necessary for that purpose.

That from and after two years from the date of the approval of this Act no person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than $1,000,000, engaged in whole or in part in commerce, other than banks, banking associations, trust companies, and common carriers subject to the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this Act it shall be lawful for him to continue as such for one year thereafter.

When any person elected or chosen as a director or officer or selected as an employee of any bank or other corporation subject to the provisions of this Act is eligible at the time of his election or selection to Act for such bank or other corporation in such capacity shall not be affected and he shall not become or be deemed amenable to any of the provisions hereof by reason of any change in the affairs of such bank or other corporation from whatsoever cause, whether specifically excepted by any of the provisions hereof or not, until the expiration of one year from the date of his election or employment.

SEC. 9.[4] Every president, director, officer or manager of any firm, association or corporation engaged in commerce as a common carrier, who embezzles, steals,

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[4] Repealed by Act of June 25, 1948, c. 645 (62 Stat. 683), which revised, codified, and enacted into "positive law" Title 18 of the Code (Crimes and Criminal Procedure). Said Act reenacted said mater as to substance, as 18 U. S. C., Sec. 660 (62 Stat. 730).

abstracts or willfully misapplies, or willfully permits to be misapplied, any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation, arising or accruing from, or used in, such commerce, in whole or in part, or willfully or knowingly converts the same to his own use or the use of another, shall be deemed guilty of a felony and upon conviction shall be fined not less than $500 or confined in the penitentiary not less than one year nor more than ten years, or both, in the discretion of the court.

Prosecutions hereunder may be in the district court of the United States for the district wherein the offense may have been committed.

That nothing in this section shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof; and a judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same Act or acts.

SEC. 10. That after two years from the approval of this Act no common carrier engaged in commerce shall have any dealings in securities, supplies, or other articles of commerce, or shall make or have any contracts for construction or maintenance of any kind, to the amount of more than $50,000, in the aggregate, in any one year, with another corporation, firm, partnership, or association when the said common carrier shall have upon its board f directors or as it president, manager, or as its purchasing or selling officer, or agent in the particular transaction, any person who is at the same time a director, manager, or purchasing or selling officer of, or who has any substantial interest in, such other corporation, firm, partnership, or association, unless and except such purchases shall be made from, or such dealings shall be with, the bidder whose bid is the most favorable to such common carrier, to be ascertained by competitive bidding under regulations to be prescribed by rule or otherwise by the Interstate Commerce Commission. No bid shall be received unless the name and address of the bidder or the names and addresses of the officers, directors, and general managers thereof, if the bidder be a corporation, or of the members, if it be a partnership or firm, be given with the bid.

Any person who shall, directly or indirectly, do or attempt to do anything to prevent anyone from bidding or shall do any Act to prevent free and fair competition among the bidders or those desiring to bid shall be punished as prescribed in this section in the case of an officer or director.

Every such common carrier having any such transactions or making any such purchases shall within thirty days after making the same file with the Interstate Commerce Commission a full and detailed statement of the transaction showing the manner of the competitive bidding , who were the bidders, and the names and addresses of the directors and officers of the corporations and the members of the firm or partnership bidding; and whenever the said commission shall, after investigation or hearing, have reason to believe that the law has been violated in and about the said purchases or transactions it shall transmit all papers and documents and its own views or findings regarding the transaction to the Attorney General.

If any common carrier shall violate this section it shall be fined not exceeding $25,000; and every such director, agent, manager or officer thereof who shall have knowingly voted for or directed the Act constituting such violation or who shall have aided or abetted in such violation shall be deemed guilty of a misdemeanor and shall be fined not exceeding $5,000 or confined in jail not exceeding one year, or both in the discretion of the court.

Sec. 11.[5] That authority to enforce compliance with sections 2, 3, 7, and 8 of this Act by the persons respectively subject thereto is hereby vested in the Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act as amended; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; in the Civil aeronautics Board where applicable to air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938; in the Federal Reserve Board where applicable to banks, banking associations, and trust companies; and in the federal trade Commissions where applicable to all other characters of commerce to be exercised as follows:

Whenever the Commission or Board vested with jurisdiction thereof shall have reason to believe tat any person is violating or has violated any of the provisions of sections 2, 3, 7, and 8 of this Act, it shall issue and serve upon such person and the Attorney General a complaint stating its charges in that respect,

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[5] Section 11, also section 7, of the Clayton Act appear here in the form into which they were amended by Act of Dec. 29, 1950 (P.L. 899; 64 Stat. 1125; 15 U. S. C. 21).

and containing a notice of hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission or Board requiring such person to cease and desist from the violation of the law so charged in said complaint. The Attorney General shall have the right to intervene and appear in said proceeding and any person may make application, and upon good cause shown may be allowed by the Commission or Board, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission or Board. If upon such hearing the Commission or Board, as the case may be, shall be of the opinion that any of the provisions of said selections have been or are being violated, it shall make a report in writing, in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock, or other share, capital, or assets, held or rid itself of the directors chosen contrary to the provisions of sections 7 and 8 of this Act, if any there be, in the manner and within the time fixed by said order. Until a transcript of the record in such hearing shall have been filed in a United States court of appeals, as hereinafter provided, the Commission or Board may at any time, upon such notice, and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

If such person fails or neglects to obey such order of the Commission or Board while the same is in effect, the Commission or Board may apply to the United States court of appeals, within any circuit where the violation complained of was or is being committed or where such person resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the Commission or Board. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the Commission or Board. The findings of the Commission or Board as to the facts, if supported by substantial evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission or Board, the court may order such additional evidence to be taken before the Commission or Board and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission or Board may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which if supported by substantial evidence, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgement and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 1254 of title 28, United States Code.

Any party required by such order of the Commission or Board to cease and desist from a violation charged may obtain a review of such order in said United States court of appeals by filing in the court a written petition praying that the order of the Commission or Board be set aside. A copy of such petition shall be forthwith served upon the Commission or Board, and thereupon the Commission or Board forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the Commission or Board as in the case of an application by the Commission or Board for the enforcement of its order, and the findings of the Commission or Board as to the facts, if supported by substantial evidence, shall in like manner be conclusive.

The jurisdiction of the United States court of appeals to enforce, set aside, or modify orders of the Commission or Board shall be exclusive.

Such proceedings in the United States court of appeals shall be given precedence over cases pending therein, and shall be in every way expedited. No order of the Commission or Board or the judgment of the court to enforce the same shall

in anywise relieve or absolve any person from any liability under the antitrust Acts.

Complaints, orders, and other processes of the Commission or Board under this section may be served by anyone duly authorized by the Commission or Board, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership, or to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the principal office or place of business of such person; or (c) by registering and mailing a copy thereof addressed to such person at his principal office or place of business. The verified return by the person so serving said compliant, order, or other process setting forth the manner of said service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

SEC. 12. That any suit, action, or proceeding under the antitrust laws against a corporation may be brought not only in the judicial district whereof it is an inhabitant, but also in any district wherein it may be found or transacts business; and all process in such cases may be served in the district of which it is an inhabitant, or whatever it may be found.

SEC. 13. That in any suit, action, or proceeding brought by or on behalf of the United States subpoenas for witnesses who are required to attend a court of the United States in any judicial district in any case, civil or criminal, arising under the antitrust laws may run into any other district: Provided, That in civil cases no writ of subpoena shall issue for witnesses living out of the district in which the court is held at a greater distance than one hundred miles from the place of holding the same without the permission of the trial court being first had upon proper application and cause shown.

SEC. 14. That whenever a corporation shall violate any of the penal provisions of the antitrust laws, such violation shall be deemed to be also that of the individual directors, officers, or agents of such corporation who shall have authorized, ordered, or done any of the acts constituting in whole or in part such violation, and such violation shall be deemed a misdemeanor, and upon conviction therefor of any such director, officer, or agent he shall be punished by a fine of not exceeding $5,000 or by imprisonment for not exceeding one year, or by both, in the discretion of the court.

SEC. 15. That the several district courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this Act, and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney general, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition, and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises. Whenever it shall appear to the court before which any such proceeding may be pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned whether they reside in the district in which the court is held or not, and subpoenas to that end may be served in any district by the marshal thereof.

SEC. 16. That any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties as against threatened loss or damage by a violation of the antitrust laws, including sections two, three, seven, and eight of this Act, when and under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity, under the rules governing such proceedings, and upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue: Provided, That nothing herein contained shall be construed to entitle any person, firm, corporation, or association, except the United States, to bring suit in equity for injunctive relief against any common carrier subject to the provisions of the Act to regulate commerce, approved February fourth. Eighteen hundred and eighty-seven, in respect of any matter subject to the regulation, supervision, or other jurisdiction of the Interstate Commerce Commission.

SEC. 17.[6] That no preliminary injunction shall be issued without notice to the opposite party.

No temporary restraining order shall be granted without notice to the opposite party unless it shall clearly appear from specific facts shown by affidavit or by the verified bill that immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and hearing had thereon. Every such temporary restraining order shall be endorsed with the date and hour of issuance, shall be forthwith filed in the clerk's office and entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry, not to exceed ten days, as the court of judge may fix, unless within the time so fixed the order is extended for a like period for good cause shown, and the reasons for such extensions shall be entered of record. In case a temporary restraining order shall be granted without notice in the contingency specified, the matter of the issuance of a preliminary injunction shall be set down for a hearing at the earliest possible time and shall take precedence of all matters except older matters of the same character; and when the same comes up for hearing the party obtaining the temporary restraining order shall proceed with the application for a preliminary injunction, and if he does not do so the court shall dissolve the temporary restraining order. Upon two days' notice to the party obtaining such temporary restraining order the opposite party may appear and move the dissolution or modification of the order, and in that event the court or judge shall proceed to hear and determine the motion as expeditiously as the ends of justice may require.

Section two hundred and sixty-three of an Act entitled "An Act to codify, revise and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven, is hereby repealed.

Nothing in this section contained shall be deemed to alter, repeal, or amend section two hundred and sixty–six of an Act entitled "An Act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven.

SEC. 18.[7] That, except as otherwise provided in section 16 of this Act, no restraining order or interlocutory order of injunction shall issue, except upon the giving of security by the applicant in such sum as the court of judge may deem proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby.

SEC. 19.[7] That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the Act or acts sought to be restrained, and shall be binding only upon the parties to the suit, their officers, agents, servants, employees and attorneys, or those in active concert or participating with them, and who shall, by personal service or otherwise, have received actual notice of the same.

SEC. 20. That no restraining order injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property ro property right must be described with particularity in the application which must be in writing and sworn to by the applicant or by his agent or attorney.

And no such restraining order or injunction shall prohibit any person or persons, whether singly or in concert, from terminating any relation of employment or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means to do; or from attending at any place where any such person or persons may lawfully be, for the purpose of peacefully obtaining or communicating information, or from peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful and lawful means so to do; or from paying or giving to, or withholding from, any persons engaged in such dispute, any strike

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[6] See second paragraph of footnote 8 on page 111.

[7] See second paragraph of footnote 8 on page 111.

benefits or other moneys or things of value; or from peaceably assembling in a lawful manner, and for lawful purposes; or from doing any Act or thing which might lawfully be done in the absence of such dispute by any party thereto; nor shall any of the acts specified in this paragraph be considered or held to be violations of any law of the United States.

SEC. 21.[7] That any person who shall willfully disobey any lawful writ, process, order, rule, decree or command of any district court of the United States or any court of the District of Columbia by doing any Act or thing therein, or thereby forbidden to be done by him, if the Act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United states, or under the laws of any State in which the Act was committed, shall be proceeded against for his said contempt hereinafter provided.

SEC. 22.[7] That whenever it shall be made to appear to any district court or judge thereof, or to any judge therein sitting, by the return of a proper officer or lawful process, or upon the affidavit or some credible person, or by information filed by any district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor, which rule, together with a copy of the affidavit or information, shall be served upon the person charged, with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court: Provided, however, That if the accused, being a natural person, fail or refuse to make return to the rule to show cause an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable bail for his attendance at the trial and his submission to the final judgment of the court. Where the accused is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

In all cases within the purview of this Act such trial may be by the court, or, upon demand of the accused, by a jury; in which latter event the court may impanel a jury from the jurors then in attendance, or the court or the judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon trial for misdemeanor; and such trial shall conform, as near as may be, to the practice in criminal cases prosecuted by indictment or upon information.

If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment, either by fine or imprisonment, or both, in the discretion of the court. Such fine shall be paid to the United States or to the complainant or other party injured by the Act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of six months: Provided, That in any case the court of a judge thereof may, for good cause shown, by affidavit or proof taken in open court or before such judge and filed with the papers in the case, dispense with the rule to show cause, and may issue an attachment for the arrest of the person charged with contempt in which event such person, when arrested, shall be brought before such court or a judge thereof without unnecessary delay and shall be admitted to bail in a reasonable penalty for his appearance to answer to the charge or for trial for the contempt; and thereafter the proceedings shall be the same as provide therein in case the rule had issued in the first instance.

SEC. 23.[8] That the evidence taken upon the trial of any persons so accused may be preserved by bill of exceptions, and any judgement of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as justice may require. Upon

[7] See footnote 8 on page 111.

[8] Sections 21 to 25 inclusive, were repealed by Act of June 25, 1948, c. 645 (62 Stat. 683), which revised, codified, and enacted into "positive law," Title 18 of the Code (Crimes and Criminal Procedure). Said Act reenacted said matter, excluding section 23, as to substance, as 189 U. S. C., Section 402 (as amended by Public Law 72, May 21, 1949, 81st

the granting of such writ of error, execution of judgment shall be stayed, and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court, or by any justice or any judge of any district court of the United States or any court of the District of Columbia.

SEC. 24.[8] That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of , or on behalf of, the United States, but the same, and all the other cases of contempt not specifically embraced within section twenty-one of this Act, may be punished in conformity to the usages at law and in equity now prevailing.

SEC. 25.[8] That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the Act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same Act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this Act.

SEC. 26. If any clause, sentence, paragraph, or part of this ACT shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Approved, October 15, 1914.

Congress), 18 U.S.C., Section 3285 and 18 U. S. C. Section 3691. Section 23 was omitted as no longer required in view of the civil and criminal rules promulgated by the Supreme Court.

The Act of June 25, 1948, c. 646 (62 Stat. 896), which revised, codified, and enacted into law Title 28 of the Code (Judicial Code and judiciary), repealed the first, second, and fourth paragraphs of Section 17, and repealed Sections 18 and 19, in view of Rule 65, Federal Rules of Civil Procedure, which covers the substance of the matter involved.

Types of Unfair Methods and Practices

The following list illustrates unfair methods of competition and unfair or deceptive acts and practices condemned by the commission from time to time in its orders to cease and desist. The list is not limited to orders issued during the fiscal year. Because of space limitation it does not include specific practices outlawed by the Clayton Act and committed to the Commission's jurisdiction, namely, various forms of price discrimination, exclusive-dealing and tying arrangements, competitive stock acquisition, and certain kinds of competitive interlocking directorates.

1. The use of false or misleading advertising concerning, and the misbranding of, commodities, respecting the materials or ingredients of which they are composed, their quality, purity, origin, source, attributes, or properties, or nature of manufacture, and selling them under such name and circumstances as to deceive the public. An important part of these include misrepresentation of the therapeutic and corrective properties of medicinal preparations and devices, and cosmetics, and the false representation, expressly or by failure to disclose their potential harmfulness, that such preparations may be safely used.

2. Describing various symptoms and falsely representing that they indicate the presence of diseases and abnormal conditions which the product advertised will cure or alleviate.

3. Representing products to have been made in the United States when the mechanism or movements, in whole or in important part, are of foreign origin.

4. Bribing buyers or other employees of customers and prospective customers, without employers' knowledge or consent, to obtain or hold patronage.

5. Procuring the business or trade secrets of competitors by espionage, or by bribing their employees, or by similar means.

6. Inducing employees of competitors to violate their contracts and enticing them away in such numbers or under such circumstances as to hamper or embarrass the competitors in the conduct of their business.

7. Make false and disparaging statements respecting competitors' products and business, in some cases under the guise of ostensibly disinterested and specially informed sources or through purported scientific, but in fact misleading, demonstrations or tests.

8. Widespread threats to the trade of suits for patent infringement arising from the sale by competitors of alleged infringing products, not in good faith, but for the purpose of intimidating the trade and hindering or stifling competition, and claiming, without justification, exclusive rights in public names of unpatented products.

9. Conspiring to maintain uniform selling prices, terms and conditions of sale through the use of a patent-licensing system.

10 Trade boycotts or combinations of traders to prevent certain classes of such dealers from procuring goods at the same terms accorded to the boycotters or conspirators, or through coercion to influence the trade policy of their competitors or of manufacturers from whom they buy.

11. Passing off goods for products of competitors through appropriation or simulation of such competitors' trade names, labels, dress of goods, or counter-display catalogs.

12. Selling rebuilt, second-hand, renovated, or old products, or articles made in whole or in apart from used or second-hand materials, as new, by so representing them or by failing to reveal that they are not new or that second-hand materials have been used.

13. Buying up supplies for the purpose of hampering competitors and stifling or eliminating competition.

14. Using concealed subsidiaries, ostensibly independent, to obtain competitive business otherwise unavailable, and making use of false and misleading representations, schemes, and practices to obtain representatives and make contracts, such as pretended puzzle-prize contests purportedly offering opportunities to win handsome prizes, but which are in fact mere "come-on" schemes and devices in which the seller's true identity and interest are initially concealed.

15. Selling or distributing punch boards and other lottery devices which are to be or may be used in the sale of merchandise by lot or chance; using merchandising schemes based on lot or chance, or on a pretended contest of skill.

16. Combinations or agreements of competitors to fix, enhance, or depress prices, maintain prices, bring about substantial uniformity in prices, or divide territory or business, to cut off or interfere with competitors' sources of supply, or to close market to competitors; or use by trade associations of so-called standard cost system, price lists, or guides, or exchange of trade information calculated to bring about these ends, or otherwise restrain or hinder free competition.

17. Intimidation or coercion of producer or distributor to cause him to organize, join, or contribute to, or to prevent him from organizing, joining, or contributing to, producers' cooperative association or other association.

18. Aiding, assisting, or abetting unfair practice, misrepresentation, and deception, and furnishing means of instrumentalities therefor; and combining and conspiring to offer or sell products by chance or by deceptive methods, through such practices as supplying dealers with lottery devices, or selling to dealers and assisting them in conducting contest schemes as a part of which pretended credit slips or certificates are issued to contestants, when in fact the price of the goods has been marked up to absorb the face value of the credit slip; and the supplying of emblems ro devices to conceal marks of country of origin of goods, or otherwise to misbrand goods as to country of origin.

19. Various methods to create the impression that the customers is being offered an opportunity to make purchases under unusually favorable conditions when such is not the case, such devices including—

(a) Sales plans in which the sellers's usual price is falsely represented as a special reduced price for a limited time or to a limited class, or false claim of special terms, equipment, or other privileges or advantages.

(b) Misuse of the word "Free" in advertising to refer to any article of merchandise which is not in fact a gift or it is not given without requiring the purchase of other merchandise or the performance of some service inuring, directly or indirectly, to the benefit of the advertiser.

(c) Use of misleading trade names calculated to create the impression that a dealer is a producer or importer selling directly to the consumer, with resultant savings.

(d) Offering of false "bargains" by pretending cutting of a fictitious "regular" price.

(e) Use of false representations that an article offered has been rejected as nonstandard and is offered at an exceptionally favorable price, or that the number thereof that may be purchased is limited.

(f) Falsely representing that goods are not being offered as sales in ordinary course, but are specially priced and offered as a part of a special advertising campaign to obtain customers, or for some purpose other than the customary profit.

(g) Misrepresenting, or causing dealers to misrepresent, the interest rate of carrying charge on deferred payments

20. Using containers ostensibly of the capacity customarily associated by the purchasing public with standard weights or quantities of the product therein contained, or using standard containers only partially filled to capacity, so as to make it appear to the purchaser that he is receiving the standard weight or quantity.

21. Misrepresenting in various ways the necessity or desirability or the advantages to the prospective customer of dealing with the seller, such as—

(a) Misrepresenting seller's alleged advantages of location or size, or the branches, domestic or foreign, or the dealer outlets he has.

(b) Making false claim of being the authorized distributor of some concern, or failing to disclose the termination of such relationship, in soliciting customers of such concern, or of being successor thereto or connected therewith, or of bing the purchaser of competitor's business, or falsely representing that competitor's business has been discontinued, or falsely claiming the right to prospective customer's special consideration through such false statements as the customer's friends or his employer have expressed a desire for, or special interest in, consummation of seller's transaction with the customer.

(c) Alleged connection of a concern, organization, association, or institute with, or endorsement of it or its product or service by, the Government or nationally known organization, or representation that the use of such product or services is required by the Government, or that failure to comply with such requirement is subject to penalty.

(d) False claim by a vendor of being an importer, or a technician, or a diagnostician, or a manufacturer, grower, or nurseryman, or a distiller, or of being a wholesaler, selling to the consumer at wholesale prices; or by a manufacturer of being also the manufacturer of the raw material entering into the product, or by an assembler of being a manufacturer.

(e) Falsely claiming to be a manufacturer's representative and outlet for surplus stock sold at a sacrifice.

(f) Falsely representing that the seller owns a laboratory in which the product offered is analyzed and tested.

(g) Representing that ordinary private commercial seller and business is an association, or national association, or connected therewith, or sponsored thereby, or is otherwise connected with noncommercial or professional organizations or associations, or constitutes an institute, or, in effect, that it is altruistic in purpose, giving work to the unemployed.

(h) Falsely claiming that business is bonded, or misrepresenting its age or history, or the demand established for its products, or the section afforded, or the quality or comparative value of its goods, or the personnel or staff or personages presently or theretofore associated with such business or the products thereof.

(i) Claiming falsely or misleading patent, trade-mark, or other special and exclusive rights.

(j) Granting seals of approval by a magazine to products advertised therein and misrepresenting thereby that such products have been adequately tested, and misrepresenting by other means the quality, performance, and characteristics of such products.

22. Obtaining business through undertakings not carried out and not intended to be carried out, and through deceptive, dishonest, and oppressive devices calculated to entrap and coerce the customer or prospective customer, such practices including—

(a) Misrepresenting that seller fills orders promptly, ships kind of merchandise described, and assigns exclusive territorial rights with definite trade areas to purchasers or prospective purchasers.

(b) Obtaining orders on the basis of samples displayed for customer's selection and failing or refusing to respect such selection thereafter in filling of orders, or promising results impossible of fulfillment, or falsely making promises or holding out guaranties, or the right of return, or results, or refunds, replacements, or reimbursements or special or additional advantages to the prospective purchasers such as extra credit; or furnishing of supplies or advisory assistance; or falsely assuring the purchaser or prospective purchaser that certain special or exclusively personal favors or advantages are being granted him.

(c) Concealing from prospective purchaser unusual features involved in purchaser's commitment, the result of which will be to require of purchaser further expenditure in order to obtain benefit of commitment and expenditure already made such as failure to reveal peculiar or nonstandard shape of portrait or photographic enlargement, so as to make securing of frame therefor from sources other than seller difficult and impracticable, if not impossible.

(d) Obtaining by deceit prospective customer's signature to a contract and promissory note represented as simply an order on approval.

(e) Making use of improper and coercive practices as means of exacting additional commitments from purchasers, through such practices as unlawfully withholding from purchaser property of latter lent to seller incident to carrying out of original commitment, such as practice of declining to return original photograph from which enlargement has been made until purchaser has also entered into commitment for frame therefor.

(f) Falsely representing earnings or profits of agents, dealers, or purchasers, or the terms or conditions involved, such as false statement that participation by merchant in seller's sales promotion scheme is without cost to merchant, and that territory assigned an agent, representative, or distributor new or exclusive.

(g) Obtaining agents or representatives to distribute the seller's products through falsely promising to refund the money paid by them should the product prove unsatisfactory, or promising that the agent would be granted right to exclusive or new territory would be given assistance by seller or would be given special credit or furnished supplies, or overstating the amount of his earnings or the opportunities which the employment offers.

(h) Advertising a price for a product as illustrated or described and not including in such price all charges for equipment or accessories illustrated or described or necessary for use of the product or customarily included as standard equipment, and failing to include all charges not specified as extra.

23. Giving products misleading names so as to give them a value to the purchasing public which they would not otherwise possess, such as names implying falsely that—

(a) The products were made for the Government or in accordance with its specifications and of corresponding quality, or that the advertiser is connected with the Government or in accordance with its specifications and of corresponding quality, or that the advertiser is connected with the Government in some way, or in some way the products have been passed upon, inspected, underwritten, or endorsed by it; or

(b) They are composed in whole or in part of ingredients or materials which in fact are present only to a negligible extent or not at all, or that they have qualities or properties which they do not have; or

(c) They were made in or came from some locality famous for the quality of such products, or are of national reputation; or

(d) They were made by some well and favorably known process; or or

(e) They have been inspected, passed, or approved after meeting the tests of some official organization charged with the duty of making such tests expertly and disinterestedly, or giving such approval; or

(f) They were made under conditions or circumstances considered of importance by a substantial part of the general purchasing public; or

(g) They were made in a country, or city, or locality considered of importance in connection with the public taste, preference, or prejudice; or

(h) They have the usual characteristics of value of a product properly so designated, as through use of a common, generic name, such as "paint," to designate a product lacking the necessary ingredients of paint; or

(i) They are of greater value, durability, and desirability than is the fact, as labeling rabbit fur as "Beaver"; or

(j) They are designed, sponsored, produced, or approved by the medical profession, health and welfare associations, hospitals, celebrities, educational institutions and authorities, such as the use of letters "M.D." and the words "Red Cross" and its insignia and words "Boy Scout."

24. Selling below cost or giving products without charge, with intent and effect of hindering or suppressing competition.

25. Dealing unfairly and dishonestly with foreign purchasers and thereby discrediting American exporters generally.

26. Coercing and forcing uneconomic and monopolistic reciprocal dealing.

27. Entering into contracts in restraint of trade whereby foreign corporations agree not to export certain products to the united States in consideration of a domestic company's agreement not to export the same commodity, nor to sell to anyone other than those who agree not to so export the same.

28. Employing various false and misleading representations and practices attributing to products a standing, merit and value to the purchasing public, or a part thereof, which they do not possess, such practices including—

(a) Misrepresenting, through salesmen or otherwise, products' composition, nature, qualities, results accomplished, safety, value, and earnings or profits to be had therefrom.

(b) Falsely claiming unique status or advantages, or special merit therefor, on the basis of misleading and ill-founded demonstrations or scientific tests, or pretended widespread tests, or of pretended widespread and critical professional acceptance and use.

(c) Misrepresenting the history or circumstances involved in the making and offer of the products or the source or origin thereof (foreign or domestic), or of the ingredients entering therein, or parts thereof, or the opportunities brought to the buyer through purchase of the offering, or otherwise

misrepresenting scientific or other facts bearing on the value thereof to the purchaser.

(d) Falsely representing products as legitimate, or prepared in accordance with Government or official standards or specifications.

(e) Falsely claiming Government or official or other acceptance, use, and endorsement of product, and misrepresenting success and standing thereof through use of false and misleading endorsements or false and misleading claims with respect thereto, or otherwise.

(f) Making use of a misleading trade name and representing by other means that the nature of a business is different than is the fact, such as a collection agency engaged in tracing alleged delinquent debtors representing itself to be a delivery system, an organization in search of missing heirs, or one connected with a Government agency.

(g) Misrepresenting fabrics or garments as to fiber content; and, in the case of wool products, failing to attach tags thereto indicating the wool, reused wool, reprocessed wool or other fibers contained therein, and the identity of the manufacturer or qualified reseller, as required by the Wool Products Labeling Act, or removing or mutilating tags required to be affixed to the products when they are offered for sale to the public.

29. Failing and refusing to deal justly and fairly with customers in consummating transactions undertaken through such practices as refusing to correct mistakes in filling orders or to make promised adjustments or refunds, and retaining, without refund, goods returned for exchange or adjustment, and enforcing, notwithstanding agents' alterations, printed terms of purchase contracts, and exacting payments in excess of customers' commitments.

30. Shipping products at market prices to customers or prospective customers or to the customers or prospective customers of competitors without an order and then inducing or attempting by various means to induce the consignees to accept and purchase such consignments.

31. Inducing the shipment and sale of commodities through buyer's issuance of fictitious price lists and other printed matter falsely representing rising market conditions and demand, and leading seller to ship under the belief that he would receive prices higher than the buyer intended to or did pay.`

Description of Procedure

Cases before the Commission may originate in one of several ways: Through complaint by a consumer or a competitor; from other governmental agencies, Federal, State, or municipal; or upon observation by the Commission. The Commission itself may initiate all investigation to determine whether the laws administered by it are being violated. No formality is required in making application for complaint. A letter setting forth the facts in detail is sufficient, but it should be accompanied by all evidence in possession of the complaining party in support of the charges made. It is the policy of the Commission not to disclose the identity of the complainant.

Upon receipt of an application for complaint, the Commission through its Bureau of Antimonopoly or its Bureau of Antideceptive Practices, considers the essential jurisdictional elements before deciding whether it shall be docketed for investigation. If it is a case involving restraint of trade or alleged violation of the Clayton Antitrust Act, it is assigned to the Chief, Division of Investigation and Litigation, Bureau of Antimonopoly. Other types of cases, including those involving deceptive practices, are referred in the Bureau of Antideceptive Practices to the Chief, Division of Investigation.

In either Bureau, after preliminary processing, cases are then assigned to attorney-examiners for the purpose of developing all the essential facts. In matters requiring field investigation, the general procedure is to interview the party complained against, advise him of the charges, and request such information as he may care to furnish in defense or in justification. Where necessary, competitors of the respondent are interviewed to determine the effect of the practice from a competitive standpoint. It is often desirable also to interview consumers and members of the general public to obtain their assistance in determining whether the practice in question constitutes an unfair method of competition or an unfair or deceptive practice, as well as to establish the existence of the requisite public interest.

After developing all the facts, the examining attorney files a report summarizing the evidence, reviewing the applicable law, and recommending the action he believes the Commission should take. The record is then reviewed by his division chief, who submits the file to the Commission through the Bureau Director, accompanied by a statement setting forth the facts as well as his conclusions and recommendations.

Recommendations thus made to the Commission may be for (1) issuance of a formal complaint.; (2) negotiation of a stipulation-agreement in which the respondent agrees to cease and desist from the practices challenged as unlawful; or (3) closing of the case. When issuance of a complaint is recommended, a draft of the complaint—prepared by the Division of Litigation in either the Bureau of Antimonopoly or the Bureau of Antideceptive Practices—accompanies the file.

lf the Commission decides that a formal complaint should issue, the case is referred to the appropriate Division of Litigation for trial of the case. Should

the Commission permit disposition by stipulation, the case is referred to the Division of Stipulations in the Bureau of Industry Cooperation.

All proceedings prior to issuance of a formal complaint or acceptance of a stipulation are confidential.

The consent settlement rule became effective on August 4, 1951, 30 days after publication in the Federal Register. It provides that at any time after the issuance of complaint and prior to the commencement of the taking of evidence, all respondents in any case may jointly move the hearing examiner to suspend proceedings before him for a reasonable time to permit negotiations by counsel upon a consent settlement dispositive of the proceeding. Such suspension, and the time thereof, is in the discretion of the hearing examiner, after considering representations of counsel for both sides and the reasonable probability of an agreement being reached that would result in a substantial saving in time and expense.

This rule is not invoked after the Commission has begun to present the evidence necessary to prove its case.

A motion to suspend the proceedings for the purpose of negotiating a consent settlement must be made to the hearing examiner and whether or not the motion is granted is in his discretion. The time allowed for such negotiations is also controlled by the hearing examiner. Unless the hearing examiner believes that the reasonable probability of an agreement being reached that would result in a substantial saving of time and expense exists, the motion is not granted. Negotiations under the rule are handled by the Commission's trial attorney, but responsibility for seeing that the case is not unduly delayed remains with the hearing examiner.

The rule further provides that in the event a consent settlement is agreed upon by counsel, it shall be submitted to the Commission through the hearing examiner who transmits with such proposal any comment thereon he deems appropriate and the record in the proceeding in which the settlement is tendered. This avoids the entry of an initial decision by the hearing examiner and he neither accepts nor rejects the proposal. It assures that each proposal will go direct to the Commission informally and off the record, and gives the Commission free access to all available information in the investigation files and elsewhere in considering the adequacy of the proposal.

In the event the proposal is rejected by the Commission, the case is returned to the hearing examiner to proceed in regular course and the proposal does not become a part of the record. In the event a consent settlement is accepted, the case is concluded by the entry therein by the Commission of an order and other matters included in such settlement in accordance with its terms which constitute final disposition of the proceeding.

In another of a series of moves designed to expedite the disposition of cases, the Commission amended its Rules of Practice to provide for the entry of "default orders" in uncontested cases. The revised default order procedure became effective in the Commission on August 4, 1951, 30 days after publication in the Federal Register.

Under the former rule, the Commission's practice was to hold hearings for the reception of evidence supporting the allegations of the complaint even though the respondent failed to answer and to appear for hearing. Under the revised rule, no hearings will be necessary in such uncontested cases.

Formal complaints are issued by the Commission only after careful consideration of the facts developed by the investigation. The complaint and the answer of the respondent, together with subsequent proceedings, are matters of public record. Formal complaints are issued in the name of the Commission

acting in the public interest. They name the respondents, allege a violation of law, and contain a statement of the charges. The party complaining to the Commission is not a party to the formal complaint, and the proceeding does not seek to adjust matters between parties. On the contrary, the purpose of n Commission proceeding is to prevent, for the protection of the public, those unfair methods of competition and unfair or deceptive practices forbidden by the Federal Trade Commission Act and those practices within the Commission's jurisdiction which are prohibited by the Clayton Antitrust Act, as amended by the Robinson-Patman Act; the Export Trade Act and the Wool and Fur Labeling Acts.

Statement, consent settlement and default orders

The Commission's rules of practice provide that a respondent desiring to contest the proceeding shall file answer admitting, denying, or explaining each allegation within 20 days from service of the complaint. In addition, any respondent is afforded an opportunity to submit offers of settlement where time, the nature of the proceeding, and the public interest permit.

Where evidence is to be taken in a contested case, the matter is set down for hearing before a hearing examiner. Such hearings, with due regard to the convenience and necessity of all parties, may be held anywhere in the United States. The Commission's complaint is supported by one or more of its hearing attorneys, and the respondent has the privilege of appearing in his own behalf or by attorney.

In these hearings, respondents have the right to present evidence and to cross-examine witnesses, as well as other rights fundamental to judicial proceedings. Counsel supporting the compliant has the general burden of proof.

After the submission of evidence in support of the complaint and in behalf of the respondent, and after the parties have otherwise been duly heard and their contentions considered, the hearing examiner, within 30 days after closing the record, prepares and files an initial decision. This decision becomes a Commission decision 30 days after service unless the parties appeal to the Commission or unless the Commission, on its own initiative, dockets the case for review.

Filing of initial decisions by hearing examiners is a procedure authorized by the Commission, pursuant tot he Administrative Procedure Act. Formerly, hearing examiners made recommended decisions, with the initial decision being made by the commission.

Initial decisions include a statement of findings and conclusions, with the reasons or bases therefor, upon all the materials issues of fact, law or discretion presented on the record, and an appropriate order. All findings, conclusions, and orders made and issued by the hearing examiner must be based upon the whole record and supported by reliable probative, and substantial evidence.

In the event a respondent or counsel supporting the complaint desires to appeal, a notice of intention to appeal must be filed within 10 days after service of the initial decision. An appeal brief must be filed within 30 days after service of the initial decision, with the brief of the party opposing appeal due within 20 days after service of the appeal brief. Oral argument may be heard by the Commission on request of either party.

On appeal or review, the Commission may exercise all the powers it would have exercised had it made the initial decision.

Under the Commission's rules, hearing examiners are charged with the duty of conducting a fair and impartial hearing and may perform no duties inconsistent with their duties and responsibilities as such. The rules specifically provide that they shall not be responsible to, or subject to the supervision or

direction of, any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for the Commission.

If the allegations of the complaint are sustained by the evidence, the hearing examiner (or the Commission on appeal or review) makes findings as to the facts and conclusions of law, and an order is then issued requiring the respondent to cease and desist from the practice found to be violative of law. If the complaint is dismissed or the case closed, an appropriate order is 1ikewise entered.

Up to and including the issuance of an order to cease and desist there is no difference in procedure, whether the case is under the Federal Trade Commission Act, the Clayton Act, or the Wool and Fur Products Labeling Acts, but the Clayton Act provides a procedure for enforcement of cease-and-desist orders different from that specified by the other two acts.

Under the Federal Trade Commission Act and the Wool and Fur Products Labeling Acts, an order to cease and desist becomes final 60 days after date of service upon the respondent, unless within that period the respondent petitions and appropriate United States court of appeals to review the order. In case of review, the order of the Commission becomes final after affirmance by the court of appeals or by the Supreme Court of the United States, if taken to that court on certiorari. Violation of an order to cease and desist after it becomes final subjects the offender to suit by the Government in a United states district court for recovery of a civil penalty of not more than $5,000 for each violation.

Under the Clayton Act, an order to cease and desist does not become final by lapse of time. The order must be affirmed by a United States court of appeals on application for review by the respondent or upon petition of the Commission for enforcement. Where affirmance is accompanied by a decree of enforcement, appropriate contempt proceedings may thereafter be brought in the particular court of appeals for violation of the order.

Under all four acts, the respondent may apply to a court of appeals for review of an order and the court has power to affirm, or affirm after modification or to set aside the order. Upon such application by the respondent and cross application by the Commission, or upon application by the Commission for enforcement of an order under the Clayton Act, the court has power to enforce the order to the extent it is affirmed. In any event, either party may apply to the Supreme Court for review, by certiorari, of the action of the court of appeals.

In addition to the regular proceeding by way of complaint and order to cease and desist, the Commission may, in a proper case, bring suit in a United States district court to enjoin the dissemination of advertisements of food, drugs, cosmetics, and devices intended for use in the diagnosis, prevention, or treatment of disease, whenever it has reason to believe that such a proceeding would be to the interest of the public. These temporary injunctions remain in effect until an order to cease and desist has been issued and has become final, or until the Commission's complaint is dismissed by the Commission or set aside by the court on review.

Further, the dissemination of a false advertisement of a food, drug, device or cosmetic, where the use of the commodity advertised may be injurious to health or where the Act of disseminating is with intent to defraud or mislead, constitutes a misdemeanor; and conviction subjects the offender to a fine of not more than $5,000, or imprisonment of not more than 6 months, or both. Succeeding convictions may result in a fine of not more than $10,000, or imprisonment of not more than 1 year, or both. The statute provides that the Commission shall certify this type of case to the Attorney General for institution of appropriate court proceedings.

Investigations by the Commission, since 1915

Since its establishment in 1915, the Federal Trade Commission has conducted numerous general inquiries which are alphabetically listed and briefly described in the following pages.[1] They were made at the request of the President, the Congress, the Attorney General, Government agencies, or on motion of the Commission pursuant to the Federal Trade Commission Act.

Reports on these inquiries in many instances have been published as Senate or House documents or as Commission publications. Printed documents, unless indicated as being out of print,[2] may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. Processed publications are available without charge from the Federal Trade Commission while the supply lasts.

Agencies initiating or requesting investigations are indicated in parentheses in the headings. Investigations, the results of which have been published, are listed below. Following this listing are unpublished investigations conducted by the Commission.

Accounting Systems (F.T.C.).—Pointing the way to a general improvement in accounting practices, the Commission published Fundamentals of a Cost System for Manufacturers (H. Doc. 1356, 64th, 31 p., o.p., 7/1/16) and A Systems of Accounts for Retail Merchants (19p., o.p., 7/15/16).

Accounting Systems.—See Distribution Cost Accounting.

Advertising as a Factor in Distribution.—See Distribution Methods and Costs.

Agricultural Implements.—See Farm Implements and distribution Methods and Costs.

Agricultural Implements and Machinery (Congress).[3]—Prices of farm products reached record lows in 1932 but prices of many farm implements, machines, and repair parts maintained high levels resulting in widespread complaints in the next few years.. The Commission investigated the situation (Public Res. 130, 74th, 6/24/36) and, following submission of its report, Agricultural Implement and machinery Industry (H. Doc. 702, 75th, 1, 176 p., 6/6/38), the industry made substantial price reductions. The report criticized certain competitive practices on the part of the dominant companies which the companies later promised to remedy. It showed, among other things, that a few major companies had maintained a concentration of control which resulted in large part from their acquisition of the capital stock or assets of competitors prior to enactment of the Clayton Antitrust Act in 1914 and thereafter from their purchase of assets of competitors rather than capital stock.[4] (See also under Farm Implements and Independent Harvester Co.)

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[1] The wartime cost-finding inquiries, 1917-19 (p. 162), include approximately 370 separate investigations.

[2] Documents out of print (designated "o.p." are available in depository libraries.

[3] Inquiries desired by either house of Congress are now undertaken by the Commission as a result of concurrent resolutions of both Houses. For further explanation, see footnote 8, p. 97.

[4] Conditions With Respect to the Sale and Distribution of Milk and Dairy Products (H. Doc. 94, 75th, 1/4/37), p. 38; Report of the F.T.C. on Agricultural Income Inquiry, Part I (3/2/37), p. 26; Agricultural Implement and Machinery Indusgtry (H. Doc. 702, 75th, 6/6/39), p. 1038; The Present Trend of Corporate Mergers and Acquisitions 3/7/47); The Merger Movement: A Summary Report (1948); and F.T.C. Annual Reports: 1938, pp. 19 and 29: 1939, p. 14; 1940, p. 12; 1941, p. 19; 1942, p. 9; 1943, p. 9; 1944 p. 7; 1945, p. 8; 1946, p. 12; 1947, p. 12; and 1948, p. 11

Agricultural Income (Congress).—Investigating a decline in agricultural income and increases or decreases in the income of corporations manufacturing and distributing wheat, cotton, tobacco, livestock, milk, and potato products (Public Res. 61, 74th, 8/27/35), and table and juice grapes, fresh fruits and vegetables (Public Res. 112, 74th, 6/20/36), the Commission made recommendations concerning, among other things, the marketing of commodities covered by the inquiry; corporate consolidations and mergers[5] unbalanced agricultural-industrial relations; cooperative associations; production financing; transportation; and terminal markets. Its recommendations for improvement of the Perishable Agricultural Commodities Act were adopted by Congress in amending that Act (Public, 328, 75th) in 1937. [Report of the F.T.C. on Agricultural Income Inquiry, Part I, Principal Farm Products, 1,134 p., 3/2/37 (summary, conclusions, and recommendations, S. Doc. 54, 75th, 40 p.); Part II, Fruits, Vegetables, and Grapes, 906 p. 6/10/37; Part III, Supplementary Report, 154 p., 11/8/37; and interim reports of 12/26/35 (H. Doc. 380, 74th, 6 p.), and 2/1/37 (S. Doc. 17, 75th, 16p.)]

Agricultural Prices.—See Price Deflation.

Automobiles.—See Distribution Methods and Costs, and Motor Vehicles.

Bakeries and Bread.—See under Food

Beet Sugar.—See under Food—Sugar

Building Materials.—See Distribution Methods and Costs.

Calcium Arsenate (Senate).—High prices of calcium arsenate, a poison used to destroy the cotton boll weevil (S. Res. 417, 67th, 1/23/23), appeared to be due to sudden increased demand rather than trade restraints (Calcium Arsenate Industry, S. Doc. 345, 67th, 21 p., op 3/3/23).

Cartels.—See paragraphs headed Copper Industry, International Phosphate Cartels, Sulphur Industry, International Electrical Equipment Cartel, International Steel Cartels, Fertilizer (E. T. C.), International Petroleum Cartels, and International Alkali Cartels.

Cement (Senate).—Inquiry into the cement industry's competitive conditions and distribution processes (S. Res. 448, 71st, 2/16/31) showed that rigid application of the multiple basing-point price system[6] tended to lessen price competition and destroy the value of sealed bids; concerted activities of manufacturers and dealers strengthened the system's price effectiveness; and dealer associations' practices were designed to restrict sales to recognized "legitimate" dealers (Cement Industry, S. Doc. 71, 73d, 160 p., o.p., 6/9/33).

Chain Stores (Senate).—Practically every phase of chain-store operation was covered (S. Res. 224, 70th, 5/12/28), including cooperative chains, chain store manufacturing and wholesale business, leaders and loss leaders, private brands, short weighing and overweighing and sales, costs, profits, wages, special discounts and allowances, and prices and margins of chain and independent grocery and drug distributors in selected cities. (For subtitles of 33 reports published under the general title, Chain Stores, 1931-33, see F. T. C. Annual Report, 1941, p. 201).

In the Final Report on the Chain-Store Investigation (S. Doc. 4, 74th, 110 p., o. P., 12/14/34), legal remedies available to combat monopolistic tendencies in chain-store development were discussed.[7] The Commission's recommenda-

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[5] See footnote 4, p. 123

[6] Basing-point systems are also discussed in the published reports listed herein under "Price Bases," "Steel Code," and "Steel Sheet Piling."

[7] See footnote 4, p. 123.

tions pointed the way to subsequent enactment of the Robinson-Patman Act (1936) prohibiting price and other discriminations, and the Wheeler-Lea Act (1938) which amended the Federal Trade Commission Act so as to broaden the prohibition of unfair methods of competition in section 5 to include unfair or deceptive acts or practices in interstate commerce.

Cigarette Shortage (F. T. C. and Senate Interstate Commerce Committee Chairman), Wartime, 1944-45.—In response to complaints from the public and a request from the Chairman of the Senate Interstate Commerce Committee (letter dated 12/1/44), the Commission investigated the cigarette shortage and reported, among other things that the scarcity was directly traceable to the large volume of cigarettes moving to the armed forces and the Allies; that it was not attributable to violations of laws administered by the Commission; but that certain undesirable practices such as hoarding and tie-in sales had developed. (Report of the F. T. C. On the Cigarette Shortage, 33 pages, processed, 2/13/45.)

Coal (Congress and F. T. C.), Wartime, 1917-18, Etc.—From 1916 through the first world War period and afterward, the Commission at different times investigated anthracite and bituminous coal prices and coal industry's financial condition. Resulting cost and price reports are believed to have substantially benefited the consumer. Among the published reports were: Anthracite Coal Prices, preliminary (S. Doc. 19, 65th, 4 p., o. p., 5/4/17); Preliminary Report by the F. T. C. on the Production and Distribution of Bituminous Coal (H. Doc. 152, 65th, 8 p., o. p., 5/19/17) Anthracite and Bituminous Coal Situation, summary (H. Doc. 193, 65th, 29 p., o. p., 6/19/17); and Anthracite and Bituminous Coal (S. Doc. 50, 65th, 420 p., o. P., 6/19/17)—pursuant to S. Res. 217, 64th 2/22/16; H. Res. 352, 64th, 8/18/16, and S. Res. 51, 65th, 5/1/17; Washington, D. C., Retail Coal Situation (5 p., release, processed, o. p., 8/11/17)—pursuant to F. T. C. motion; Investment and Profit in Soft-Coal Mining (two parts, 5/31/22 and 7/6/22, 218 p., o. p., S. Doc. 207, 65th)—pursuant to F. T. C. motion; and Report of the F.T.C. on Premium Prices of Anthracite (97 p., o.p., 7/6/25)—pursuant to F. T. C. motion.

Coal, Cost of Production (F. T. C.), Wartime, 1917-18.—President Wilson fixed coal prices by Executive order under the Lever Act (1917) on the basis of information furnished by the Commission. For use of the U. S. Fuel Administration in continuing price control, the Commission compiled monthly cost production reports, collecting cost record for 1917-18 for about 99 percent of the anthracite and 95 percent of the bituminous coal production (Cost Reports of the F. T. C.— Coal, 6/30/19, summarized for principal coal-producing States or regions: (1) Pennsylvania, bituminous, 103 p., o. p.; (2) Pennsylvania, anthracite, 145 p., (3) Illinois, bituminous, 127 p., o. p.; (4) Alabama, Tennessee, and Kentucky, bituminous, 210 p., o. p.; (5) Ohio, Indiana, and Michigan, bituminous 288 p., o p.; (G) Maryland, West Virginia, and Virginia, bituminous, 286 p., o. p.; and (7) trans-Mississippi States, bituminous, 459 p., o. p.).

Coal, Current Monthly Reports (F. T. C.).—The Commission (December 1919) initiated a system of current monthly returns from the soft coal industry similar to those compiled during the World War, 1917-18 (Coal—Monthly Reports on Cost of Production, 4/20/20 to 10/30/20, Nos. 1 to 6, and two quarterly reports with revised costs, 8/25/20 and 12/6/20, processed, o.p.). An injunction to prevent the calling for the monthly reports (denied about 7 years later) led to their abandonment.

Combed Cotton Yarns.—See Textiles.

Commercial Bribery (F.T.C.).—Investigating the prevalence of bribery of customers' employees as a means of obtaining trade, the Commission published A Special report on Commercial Bribery (H. Doc. 1107, 65th, 3 p., o. P., 5/15/18),

recommending legislation striking at this practice; Commercial Bribery (S. Doc. unnumbered, 65th, 36 p., o. p., 8/22/18); and Commercial Bribery (S. Doc. 258, 66th, 7 p., o.p., 3/18/20).

Concentration of Productive Facilities (F. T. C.).—In a study of the extent of concentration of economic power, the Commission reported that 46 percent of the total net capital assets of all manufacturing corporations in the United States in 1947 was concentrated in the 113 largest manufacturers. The report is entitled The Concentration of Productive Facilities, 1947—Total Manufacturing and 26 Selected Industries (96 p.). See also Divergence between Plant and Company Concentration.

Control of Iron Ore (F. T. C.).—A study of the concentration of iron ore supplies covers the sources and consumption of iron ore in 1948, an estimate of reserves available to major companies and an analysis of effect of possible shortage on big and small companies. The Control of Iron Ore (1952).

Cooperation in American Export Trade.—See Foreign Trade.

Cooperation in Foreign Countries (F. T. C.).—Inquiries made by the Commission regarding the cooperative movement in 15 European countries resulted in a report, Cooperation tn Foreign Countries (S. Doe. 171, 68th, 202 p., o. p., 11/29/24), recommending further development of cooperation in the United States.

Cooperative Marketing (Senate).—This inquiry (S. Res. 34, 69th, 3/17/25) covered the development of the cooperative movement in the U. S. and illegal interferences with the formation and operation of cooperatives; and a comparative study of costs, prices, and marketing methods (Cooperative Marketing, S. Doc. 95, 70th, 721 p.,o.p.,4/30/28).

Copper.—See Wartime Cost Finding, 1917-18.

Copper Industry (F. T. C.).—The Commission's report on The Copper Industry, transmitted to Congress (3/11/47), was in two parts: Part I—The Copper Industry of the United States and International Copper Cartels, and Part II—Concentration and Control by the Three Dominant Companies. The Commission reported that "The copper situation is particularly serious, not only because of the concentration of control of the ore reserves and of the productive capacity, but also because the domestic supply is inadequate to meet the demands of high level national production and employment. Furthermore, the production of foreign copper, on which the United States will become increasingly dependent, is likewise dominated by a few corporate groups which in the past have operated co-operatively in cartels to regulate production and prices."

Corporation Reports.—See Quarterly Financial Reports.

Corporate Mergers and Acquisitions (F. T. C.).—To determine the impact on the Nation's economy of corporate mergers and acquisitions, the Commission made a study of the merger movement for the years 1940—46, inclusive. The results of the study were transmitted to Congress in a report entitled The Present Trend of Corporate Mergers and Acquisitions (23 p., o. p., 3/7/47), which showed, among other things, that during the period covered, more than 1,800 formerly independent competitive firms in manufacturing and mining industries alone had disappeared as a result of mergers or acquisitions, and that more than one-third of the total number of acquisitions occurred in only three industries, food, nonelectrical machinery, and textiles and apparel—all predominantly "small business" fields. (See also Mergers.)

Cost Accounting.—See Accounting Systems.

Cost of Living (President), Wartime, 1917-18.—Delegates from the various States met in Washington, April 30 and May 1, 1917, at the request of the Federal Trade Commission, and considered the rapid rise of wartime prices and the plans then being made for the Commission's general investigation of foodstuffs. [See

Foods (President), Wartime, 1917-18, herein.] Proceedings of the conference were published (High Cost of Living, 119 p., o.p.).

Cotton Industry.—See Textiles.

Cottonseed Industry (House).—Investigating alleged price fixing (H. Res. 439, 69th, 3/2/27),)the Commission reported evidence of cooperation among State associations but no inclination that cottonseed crushers or refineries had fixed prices in violation of the antitrust laws (Cottonseed Industry, H. Doc. 193, 70th, 37p., 3/5/28).

Cottonseed Industry (Senate).—Two resolutions (S. Res. 136, 10/21/29, and S. Res. 147, 11/2/29—71st) directed the Commission to determine whether alleged unlawful combinations of cottonseed oil mill corporations sought to lower and fix prices of cottonseed and to sell cottonseed meal at a fixed price under boycott threat; and whether such corporations acquired control of cotton gins to destroy competitive markets and depress or control prices paid to seed producers (Investigation of the Cottonseed Industry, preliminary report, S. Doc. 91, 71st.. 4lst, 4 p., o. p., 2/28/30, and final report, 207 p., o.p., with 11 vols. testimony, S Doc. 209, 71st, 5/19/33).

Distribution Cost Accounting (F. T. C.).—To provide a guide for current legislation and determine ways for improving accounting methods, the Commission studied distribution cost accounting in connection with selling, warehousing, handling, delivery, credit and collection (Case Studies in Distribution Cost Accounting for Manufacturing and Wholesaling, H. Doc. 287, 77th, 215 p., o. p., 6/23/41).

Distribution.—See Millinery Distribution..

Distribution of Steel Consumption.— A study to determine the distribution of steel in a time of shortage, when control over distribution rests with the producers. (1049— 1950) The results of the study were transmitted to the Subcommittee on Monopoly of the Senate Select Committee on Small Business and published as a committee print. (20p) 3/31/52.

Distribution Methods and Costs (F. T. C.).—This inquiry into methods and costs of distributing important consumer commodities (F. T. C. Res., 6/27/40) was undertaken by the Commission pursuant to authority conferred upon it by section (3 of the F. T. C. Act. Eight parts of the F. T. C. Report on Distribution methods and Costs were transmitted to Congress and published under the sub-titles: Part I, important Food Products (11/11/43, 223 p., o. p.); Parts III, Building Materials—Lumber, Paints and Varnishes, and Portland Cement (2/19/44, 50 p., o.p.); Part IV, Petroleum Products, Automobiles, Rubber Tires and tubes, Electrical Household Appliances, and Agricultural Implements (3/2/44, 189 p., o. p); Part V, Advertising as a Factor n Distribution (10/30/44, 50 p.); Part VI, Milk Distribution, Prices, Spreads and Profits (6/18/45, 58 p.); Part VII, Cost of Production and Distribution of Fish in the Great Lakes area (6/30/45, 59p.); Part VIII, Cost of Production and Distribution of Fish in New England (6/30/45, 118 p.); and Part IX, Cost of Production and Distribution of Fish on the Pacific Coast (7/25/46, 82p.). The inquiries relating to fish were conducted in cooperation with the Coordinator of fisheries, Interior Department. During World War II special reports on the distribution of some 20 commodity groups were made for confidential use of the Office of Price Administration and other war agencies.

Divergence Between Plant and Company Concentration (F. T. C.).—In this 1950 report, the Commission measured the divergence between plant and company concentration for each of 340 manufacturing industries. The Divergence between Plant and Company Concentration, 1947 (162p). See also Concentration of Productive Facilities.

Du Pont Investments (F. T. C.).—The Report of the F. T. C. On DuPont Investments (F. T. C. Motion 7/29/27; report, 46 p., o. p. processed, 2/1/29) discussed reported acquisition by E. I. du Pont de Nemours & Co. of U. S. Steel Corp. stock, together with previously reported holdings in General Motors Corp.

Electric and Gas Utilities, and Electric Power.—See Power. together with previously reported holdings in General Motors Corp.

Farm Implements (Senate), Wartime, 1917-18.—The Report of the F. T. C. on the Causes of High Prices of Farm Implements (inquiry under S. Res. 223, 65th, 5/13/18; report, 713 p., o. p., 5/4/20) disclosed numerous trade combinations for advancing prices and declared the consent decree for dissolution of International Harvester Co. to be inadequate. The Commission recommended revision of the decree and the Department of Justice proceeded to that end.

Farm Implements (F. T. C.).—A 1948 report on the Manufacture and Distribution of Farm Implements (160 p., also 8 p. processed summary) concerns the production and distribution policies of large manufacturers of farm machinery. The report includes information respecting important developments and trends in the industry.

Feeds, Commercial (Senate).—Seeking to determine whether purported combinations in restraint of trade existed (S. Res. 140, 66th, 7/31/19), the Commission found that although some association activities were in restraint of trade, there were no substantial antitrust violations (Report of the F. T. C. on Commercial Feeds, 206 p., o. p., 3/20/21.

Fertilizer (Senate).—Begun by the Commissioner of Corporations[8] (S. Res. 487, 62d, 3/l/13), this inquiry disclosed extensive use of bogus independent fertilizer companies for competitive purposes (Fertilizer Industry, S. Doc. 551, 64th, 269 p., o. p., 8/19/16). Agreements for abolition of such unfair competition were reached.

Fertilizer (Senate).— A second fertilizer inquiry (S. Res. 307, 67th, 6/17/22) developed that active competition generally prevailed in that industry in the U. S., although in some foreign countries combinations controlled certain important raw materials. The Commission recommended improved agricultural credits and more extended cooperation by farmers in buying fertilizer (Fertilizer Industry, S. Doc. 347, 67th, 87 p., o. p., 3/3/23).

Fertilizer (F. T. C.).—The Commission's 1949 report on The Fertilizer Industry (100 p.) is concerned primarily with restrictions and wastes which interfere with the supply of plant food materials in the quantities needed and at prices low enough to facilitate maintenance of soil fertility. The Nation's resources of nitrogen, phosphate, and potash are discussed, and the inter-relationships of producers and mixers are reviewed. The report also summarizes available information concerning cartel control of nitrogen, phosphates, and potash.

Fish.—See Distribution Methods and Costs.

Flags (Senate), Wartime, 1917-18.—Unprecedented increases in the prices of U. S. Flags in 1917, due to wartime demand, were investigated (S. Res. 35, 65th, 4/16/17). The inquiry was reported in Prices of American Flags (S. Doc. 82, 65th, 6 p., o. p., 7/26/17).

Flour Milling.—See Food, below.

Food (President), Wartime, 1917-18.—President Wilson, as a wartime emergency measure (2/7/17), directed the Commission "to investigate and report the facts relating to the production, ownership, manufacture, storage, and dis-

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[8] The Commission was created September 26, 1914, upon passage of the Federal Trade Commission Act, sec. 3 of which provided that "all pending investigations and proceedings of the Bureau of Corporations (of the Department of commerce) shall be continued by the Commission."

tribution of foodstuffs" and "to ascertain the facts bearing on alleged violations of the antitrust acts." Two major series of reports related to meat packing and the grain trade with separate inquiries into flour milling, canned Vegetables and fruits, canned salmon, and related matters, as listed below.

Food (President) Continued—Meat Packing.—Food Investigation—Report of the f. T. C. On the Meat-Packing Industry was published in six parts: I. Extent and Growth of Power of the Five Packers in Meat and Other Industries (6/24/19, 574 p., o. p.) II. Evidence of Combination Among Packers (11/25/18, 294 p., o. p.); III. Methods of the Five Packers in Controlling the Meat-Packing Industry (6/28/19, 325 p., o. p.); IV. The Five Large Packers in Produce and Grocery Foods (6/30/19,390 p., o. p.); V. Profits of the Packers (6728/19,110 p.,o. p.); VI. Cost of Growing Beef Animals, Cost of Fattening cattle, and Cost of Marketing Livestock (6/30/19, 183 p., o. p.); and summary (H. Doc. 1297, 65th, 51 p., o. p., 7/3/18).

The reports first led to antitrust proceedings against the Big Five Packers, resulting in a consent decree (Supreme Court of the D. C., 2/27/20),[9] which had substantially the effect of Federal legislation in restricting their future operations to certain lines of activity. As a further result of the investigation, Congress enacted the Packers and Stockyards Act (1921), adopting the Commission's recommendation that the packers be divorced from control of the stockyards. (The meat-packing industry is further referred to under Meat Packing Profit Limitation, p. 150.)

Food (President) Continued—Grain Trade.—Covering the industry from country elevator to central market, the Report of the F. T. C. on the Grain Trade was published in seven parts: I. Country Grain Marketing (9/15/20, 350 p., o. p.); II. Terminal Grain Markets and Exchanges (9/15/20, 333 p., o. p.); III. Terminal Grain Marketing (12/21/21, 332 p., o. p.); IV. Middlemen's Profits and Margins (9/26/23, 215 p., o. p.); V. Future Trading Operations in Grain (9/15/20 347 p., o. p.); VI. Prices of Grain and Grain Futures (9/10/24, 374 p., o. p.); and VII. Effects of Future Trading (6/25/26, 419 p., o. p.). The investigation as reported in vol. V, and testimony by members of the Commission's staff (U. S. Congress House Committee on Agriculture, Future Trading, hearings, 67th, April 25-May 2, 1921) was an important factor in enactment of the Grain Futures Act (1921). (Further reference to the grain trade is made under Grain Elevators, Grain Exporters, and Grain Wheat Prices, p. 149.)

Food (President) Continued—Bakeries and Flour Milling.—One F. T. C. report was published by the Food Administration (U. S. Food Administration, Report of the F. T. C. On Bakery Business in United States, pp. 5-13, o. p., 1133/17). Other reports were: Food Investigation, Report of the F. T. C. On Flour Milling and Jobbing (4/4/18, 27 p., o. p.) And Commercial Wheat Flour Milling (9/15/20, 118 p. o. p.).

Food (President) Continued—Canned Foods, [10] Private Car Lines, Wholesale Food Marketing.—Under the general title Food Investigation were published Report of the F. T. C. On Canned Foods—General Report and Canned Vegetables and Fruits (5/18/18, 83 p., o. p.); Report of the F. T. C. On Canned Foods—Canned Salmon (12/27/18, 83 p., o. p); Report of the F. T. C. On Private Car Lines, regarding transportation of meats, fruits, and Vegetables (6/27/19, 271 p.,

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[9] The legal history of the consent decree and a summary of divergent economic interests involved in the question of packers participation in unrelated lines of food products were set forth by the Commission in Packer Consent Decree (S. Doc. 219, 68th, 44 p.o.p., 2/20/25), prepared pursuant to S. Res. 278, 68th, 12/8/24.

[10] In connection with its wartime cost finding inquiries, 1917-18, p. 162 herein, the Commission published report of the F. T. C. On Canned Foods 1918—Corn, Peas, String Beans, Tomatoes, and Salmon (86 p., 11/21/21).

o. p.); and Report of the F. T. C. On Wholesale Marketing of Food (6/30/19), 268 p., o. p), which recommended that a wholesale dealer in perishable food products should be required to procure a Federal license and that Federal inspection and standards should be provided. Provisions in accordance with these recommendations were incorporated in the Perishable Agricultural Commodities Act (1930).

Food—Bread and Flour (Senate).—Reports on this inquiry (S. Res. 163, 68th, 2/26/24) were Competitive Conditions in Flour Milling (S. Doc. 97, 70th, 140 p., o. p, 5/3/26); Bakery Combines and Profits (S. Doc. 212, 69th, 95 p., 2/11/27); Competition and Profits in Bread and Flour (S. Doc. 98, 70th, 509 p., o. p; 1/11/28); and Conditions in the Flour Milling Business, supplementary (S. Doc. 96, 72d, 26 p., o. p., 5/28/32).

Food—Wholesale Baking Industry (F. T. C.).—This inquiry (F. T. C. Res., 8/31/45) resulted in two Reports to Congress: Wholesale baking Industry, Part I—Waste in the Distribution of Bread (4/22/46, processed, 29 p.) And Wholesale Baking Industry, Part II—Costs, Prices and Profits (8/7//46, 137 p.). Part I developed facts concerning wasteful and uneconomic practices in the distribution of bread, including consignment selling which involves the taking back of unsold bread; furnishing, by gift or loan, bread racks, stands, fixtures, etc., to induce distributors to handle a given company's products. It was found that, although War Food Order No. 1 which prohibited these practices was only partially observed, in 1945 as compared with 1942, the quantity of bread saved was sufficient to supply the population of England, Scotland, and wales with a daily ration of one-third of a loaf for 30 days, the population of France for 36 days or the population of Finland for nearly 1 year. The Commission suggested that "a careful examination of present laws be made by the legislative and executive branches of the Government to determine what legislation, if a any, is needed to permanently eliminate wasteful trade practices and predatory competition which threaten the existence of many small bakers, foredoom new ventures to failure and promote regional monopolistic control of the wholesale bread-baking industry."

Part II presents information concerning prices and pricing practices in the industry, profits earned, and unit costs of production and distribution. It compares the details of production and distribution costs for bread and rolls, other bakery products, and for all bakery products for two operating periods in 1945, March and September. Comparisons of costs are also made for these two periods for plants arranged by geographical areas. Comparisons of the costs of production and distribution are made by size groups of wholesale bakeries.

Food—Fish.—See Distribution Methods and Costs.

Food—Flour Milling (Senate)—The study of costs, profits, and other factors (S. Res. 212, 67th, 1/18/22) was reported in Wheat Flour Milling Industry (S. Doc. 130, 68th, 130 p., o. p., 5/16/24).

Food—Flour Milling Industry, growth and Concentration in (F. T. C.).—The Commission's study showed that there has been a progressive increase in the size of flour-mill operations and a progressive decrease in the number of flour-milling establishments. Nevertheless, the Commission reported, there is a lesser degree of concentration in the flour-milling industry than in many other important industries. The results of the study were presented to congress in a report on the Growth and Concentration in the Flour-Milling Industry (6/2/47).

Food—Grain Elevators (F. T. C.), Wartime, 1917-18.—In view of certain bills pending before Congress with reference to regulation of the grain trade, the Commission, in a preliminary report, Profits of country and Terminal grain

Elevators (S. Doc. 40, 67th, 12 p., o. p., 6/13/21) presented certain data collected during its inquiry into the grain trade ordered by the President.

Food—Grain Exporters (Senate).—The low prices of export wheat in 1921 gave rise to this inquiry (S. Res. 133, 67th, 12/22/21 concerning harmful speculative price manipulations on the grain exchanges and alleged conspiracies among country grain buyers to agree on maximum purchasing prices. The Commission recommended stricter supervision of exchanges and additional storage facilities for grain not controlled by grain dealers (Report of the F. T. C. On Methods and Operations of Grain Exporters, 2 vols., 387 p., o. p., 5/16/22 and 6/18/23).

Food—Grain, Wheat Prices (President).—An extraordinary decline of wheat prices was investigated (President Wilson's directive 10/12/20) and found to be due chiefly to abnormal market conditions (Report of the F. T. C. On Wheat Prices for the 1920 Crop, 91 p., o. p.,, 12/13/20).

Food—Important Food Products.—See Distribution Methods and Costs.

Food—Meat Packing Profit Limitation (Senate), Wartime, 1917-18.—Following an inquiry (S. Res. 177, 66th, 9/3/19) involving wartime control of this business as established by the U. S. Food Administration in 1917-18, the Commission recommended greater control and lower maximum profits (Maximum Profit Limitation on Meat Packing Industry, S. Doc. 110, 66th, 179 p., o. p. 9/25/19).

Food—Milk.—See Distribution Methods and Costs.

Food—Milk and Milk Products (Senate), Wartime, 1917-18.—Covering an inquiry (S. Res. 431, 65th, 3/3/19) into fairness of milk prices to producers and of canned-milk prices to consumers, the Report of the F. T. C. On Milk and Milk products 1914-18 (6/6/21, 234 p., o. p.) showed a marked concentration of control and questionable practices many of which later were recognized by the industry as being unfair.

Food—Milk and Dairy Products (House).—Competitive conditions in different milk-producing areas were investigated (H. Con. Res. 32, 73d, 6/15/34). Results of the inquiry were published in seven volumes: REPORT of the F. T. C. On the Sale and Distribution of Milk Products, Connecticut and Philadelphia Milksheds (H. Doc. 152, 74th, 901 p., o. p., 4/5/35); Report of the F. T. C. On the Sale and Distribution of Milk and Milk Products (Connecticut and Philadelphia milksheds, interim report, H. Doc. 387, 74th, 125 p., o. P., 12/31/35); Chicago Sales Area (H. Doc. 451, 74th, 103 p., o. p., 4/15/36); Boston, Baltimore, Cincinnati, St. Louis, (H. Doc. 501, 74th, 243 p., o. p., 6/4/36); Twin City Sales Area (H. Doc. 506, 74th, 71 p., o. p., 6/13/36); and New York Milk Sales Area (H. Doc 95, 75th 138 p.,o. p., 9/30/36). The Commission reported that many of the industry's problems could be dealt with only by the States and recommended certain legislation and procedure, both State and Federal (Summary Report on Conditions with Respect to the Sale and Distribution of Milk and Dairy Products, H. Doc. 94, 75th, 39 p., o. p., 1/4/37). Legislation has been enacted in a number of States carrying into effect all or a portion of the Commission's recommendations.

Food—Peanut Prices (Senate).—An alleged price-fixing combination of peanut crushers and mills was investigated (S. Res. 139, 71st, 10/22/29). The Commission found that an industry-wide decline in prices of farmers' stock peanuts during the business depression was not due to such a combination, although pricing practices of certain mills tended to impede advancing and to accelerate declining prices (Prices and Competition Among Peanut Mills, S. Doc. 132, 72d, 78 p., o. p., 6/30/32).

Food—Raisin Combination (Attorney General).—Investigating allegations of a combination among California raisin growers (referred to F. T. C. 9/30/19), the Commission found the enterprise not only organized in restraint of trade but conducted in a manner threatening financial disaster to the growers.

Commission recommended changes which the growers adopted (California Associated Raisin Co., 26 p., processed, o. p., 6/8/20).

Food—Southern Livestock Prices (Senate).—Although the low prices of southern livestock in 1919 gave rise to a belief that discrimination was being practiced, a Commission investigation (S. Res. 133, 66th, 7/20/19) revealed the alleged discrimination did not appear to exist (Southern Livestock Prices, S. Doc. 209, 66th, 11 p., o. p., 2/2/20).

Food—Sugar (House).—An extraordinary advance in the price of sugar in 1919 (H. Res. 150, 66th, 10/1/19) was found to be due chiefly to speculation and hoarding. The Commission made recommendations for correcting these abuses (Report of the F. T. C. on Sugar Supply and Prices, 205 p.,o.p., ll/15/20).

Food—Sugar, Beet (F. T. C.).—Initiated by the Commissioner of Corporations,[11] but completed by the F. T. C., this inquiry dealt with the cost of growing beets and the cost of beet-sugar manufacture (Report on the Beet Sugar Industry in the U. S. , H. Doc. 158, 65th, 164 p., o. p., 5/24/17).

Foreign Trade—Antidumping Legislation (F. T. C.).—To develop information for use of Congress in its consideration of amendments to the antidumping laws, the Commission studied recognized types of dumping and provisions for preventing the dumping of goods from foreign countries (Antidumping Legislation an Other Import Regulations in the United States and Foreign Countries, S. Doc. 112, 73d, 100 p., o. p., 1/11/34; supplemental report, 111 p., o. p., processed, 6/27/38).

Foreign Trade—Cooperation in American Export Trade (F. T. C.).—This inquiry related to competitive conditions affecting Americans in international trade. The Export Trade Act, also known as the Webb-Pomerene law, authorizing the association of U. S. manufacturers for export trade, was enacted as a result of Commission recommendations (Cooperation in American Export Trade, 2 vols., 984 p., o. p., 6/30/16; also summary, S. Doc. 426, 64th, 7 p., o. p., 5/2/16; and conclusions 19143. 14 p., o. p.).

Foreign Trade—Cotton Growing Corporation (Senate).—The report of an inquiry (S. Res. 317, 68th, 1/27/25) concerning the development of this British company, Empire Cotton Growing Corporation (S. Doc. 226, 68th, 30 p., o. p., 2/28/25), showed there was then little danger of serious competition with the American grower or of a possibility that the United States would lose its position as the largest producer of raw cotton.

Gasoline.—See Petroleum.

Grain.—See Food.

Grain Exchange Actions (F. T. C. and Chairman of Senate Committee on Agriculture and Forestry).—The Commission's report on Economic Effects of Grain Exchange Actions Affecting Futures Trading During the First Six Months of 1946 (85 p., 2/4/47) presents results of a special study made at the request of the then Chairman of the Senate Committee on Agriculture and Forestry. The report reviews the factors which made it impossible, during the first half of 1946, for futures trading to be conducted in the usual manner on the Chicago, Kansas City and Minneapolis grain exchanges under existing conditions of Government price control and severe restrictions on the movement of short supplies of free grain in the cash market. The report also discusses the economic effects of emergency actions taken by the exchanges on the interests trading in futures, and suggests, among other things, that both the Commodity Exchange Act; and the U. S. Warehouse Act "should be so amplified and coordinated, or even combined, as to make effective the type and scope of regulation over futures trading contemplated by the Congress in enacting the Commodity Exchange Act."

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[11] See Footnote 8, p. 128.

Guarantee Against Price Decline (F. T. C.).—Answers to a circular letter (12/26/19) calling for information and opinions on this subject were published in Digest of Replies in Response to an Inquiry of the F. T. C. Relative to the Practice of Giving Guarantee Against Price Decline (68 p., o. p 5/27/20).

House furnishings (Senate).—This inquiry (S. Res. 127, 67th, 1/4/22) resulted in three volumes showing concerted efforts to effect uniformity of prices in some lines (Report of the F. T. C. On House furnishing Industries, 1018 p., o. p., 1/17/23, 10/1/23, and 10//24).

Independent Harvester Co. (Senate), Wartime, 1917-18.—After investigation (S. Res. 212, 65th, 3/11/18) of the organization and methods of operation of the company which had been formed several years before to compete with the "harvester trust," but which had passed into receivership, the F. T. C. Report to the Senate on the Independent Harvester Co. (5 p., release, processed, o. p., 5/15/18) showed the company's failure was due to mismanagement and insufficient capital.

Interlocking Directorates (F. T. C.).—This 1950 report on Interlocking Directorates summarizes the interlocking relationships among directors of the 1,000 largest manufacturing corporations. It also covers the interlocking directorates between these corporations and a selected list of banks, investment trusts, insurance companies, railroads, public utilities, and distributive enterprises.

International Alkali Cartels (F. T. C.).—In a report (1950) on International Cartels in the Alkali Industry, the Commission discussed the nature, extent, and effect of international agreements concerning baking soda, soda ash, and caustic soda to which organized groups of American and European alkali producers were parties from 1924 until 1946.

International Electrical Equipment Cartel (F. T. C.).—In its 1948 report on this subject (107 p., also 10 p. Processed summary) the Commission points out the high degree of economic concentration in the electrical equipment industry which exists in each of the important industrial nations.

International Petroleum Cartel.— a staff study of the activities of the seven major oil companies in relation to control over the international oil industry. Staff Report to the Federal Trade Commission submitted to the Subcommittee on Monopoly of the Select Committee on Small Business, U. S. Senate Committee print No. 6, 82d Cong.—2d sess. 378 p., 1952.

International Phosphate Cartels (F. T. C.).—The F. T. C. Res. 9/19/44) developed facts with respect to the practices, arrangements and agreements between domestic phosphate companies and foreign competitors through international cartels, through which minimum export prices were fixed. These prices varied from market to market, depending upon competition, ocean freight rates, and other factors. The agreements established fixed quotas in each grade, and sales were allocated among members of the Phosphate Export Association according to their quotas and the grade involved. The report (processed, 60 p.) Was transmitted to Congress 5/1/46.

International Steel Cartels (F. T. C.).—A report to Congress concerning numerous cartel agreements relating to steel which were adopted between World War I and World War II. Certain American companies participated in these agreements, which were both national and international in scope. The international agreements allotted quotas to the different national groups, fixed prices in the export trade, and established reserved and unreserved areas. (International Steel Cartels (1948), 115 p., also 12 p. Processed summary.)

Iron Ore.—See Control of Iron Ore.

Large Manufacturing Companies (F. T. C.).—This 1951 report, entitled A List of 1,000 Large Manufacturing Companies, Their Subsidiaries and Affiliates, 1948, shows for each of the 1,000 largest manufacturing corporations which publish financial statements the percentage of stock interest held by the corporation in each of its subsidiaries and affiliates. The parent corporations are grouped in 21 major industries and ranked as to size on the basis of their total assets in 1948, 223 p., 6/1/51.

Leather and Shoes (F. T. C. and House), Wartime, 1917-18.—General complaint regarding high prices of shoes led to this inquiry, which is reported in Hide and Leather Situation, preliminary report (H. Doc. 857, 65th, 5 p., o. p., 1/23/18), and Report on Leather and Shoe industries (180 p., o. p., 8/21/19). A further study (H. Res. 217, 66th, 8/19/19) resulted in the Report of a F. T. C.. On Shoe and Leather Costs and Prices (212 p., o. p., 6/10/21)

Lumber—Costs.—See Wartime Cost Finding, 1917-18.

Lumber Trade Associations (Attorney General).—The Commission's extensive survey of lumber manufacturers' associations (referred to F. T. C., 9/4/19) resulted in Department of Justice proceedings against certain associations for alleged antitrust law violations. Documents published were: Report of the F. T. C. On Lumber Manufacturers' Trade Associations, incorporating regional Reports of 1/10/21, 2/18/21, 6/9/21, and 2/15/22 (150 p., o. p); Report of the F. T. C. On Western Red Cedar Association, Lifetime Post Association, and Western Red Cedarmen's Information Bureau (22 p., o. p., 1/24/23), also known as Activities of Trade Associations and Manufacturers of Posts and Poles in the Rocky Mountain and Mississippi Valley Territory (S. Doc. 293, 67th, o. p); and Report of the F. T. C. On Northern Hemlock and Hardwood Manufacturers Association (52 p., o. p., 5/7/23).

Lumber Trade Associations (F. T. C.).—Activities of five large associations were investigated in connection with the Open-Price Associations inquiry to bring down to date the 1919 lumber association inquiry (Chap. VIII of Open-Price Trade Associations, S. Doc. 226, 70th, 516 p., o. p., 2/13/29).

Meat-Packing Profit Limitations—See Food.

Mergers (F. T. C.).—In its 1948 report entitled The Merger Movement: A summary Report (134 p., o. p., also 7p. processed summary) the legal history of the antimerger provisions of the Clayton Act is reviewed. The report called attention to the loophole in the Clayton Act which permitted corporations to purchase the assets rather than (or in addition to) the stock of competing firms, thereby evading the original intent of Congress "to arrest the creation of . . . monopolies in their incipiency." (See also Corporate Mergers.)

Milk.—See Food.

Millinery Distribution (President). This inquiry, requested by President Roosevelt, embraced growth and development of syndicates operating units for retail millinery distribution, the units consisting of leased departments in department or specialty stores (Report to the President of the United States on Distribution Methods in the Millinery Industry, 65 p., processed, 11/21/39.

Monopolistic Practices and Small Business.—A study by the staff of the Commission on the effect of certain monopolistic practices on small business, requested by the Subcommittee on Monopoly of the Senate Select Committee on Small Business. The results were transmitted to the Subcommittee and published as a committee print by Select Committee on Small Business, U. S. Senate, 82d Cong. (88p. 3/31/52).

Motor Vehicles (Congress).—Investigating (Public Res. 87, 75th, 4/13/38) distribution and retail sales policies of motor vehicle manufacturers and dealers, the Commission found, among other things, a high degree of concentration and

strong competition; that many local dealers' associations fixed prices and operated used-car valuation or appraisal bureaus essentially as combinations to restrict competition; that inequities existed in dealer agreements and in certain manufacturers' treatment of some dealers; and that some companies' car finance plans developed serious abuses (Motor Vehicle Industry, H. Doc. 468, 76th, 1077 p., o. p., (6/5/39). The leading companies voluntarily adopted a number of the Commission's recommendations as company policies.

National Wealth and Income (Senate).—In 1922 the national wealth was estimated (inquiry pursuant to S. Res. 451, 67th, 2/28/23) at $353,000,000,000 and the national income in 1923 at $70,000,000,000 [National Wealth and Income (S. Doc.126, 69th, 381 p., o. p., 5/25/26) and Taxation and Tax-Exempt Income (S. Doc. 148, 68th, 144 p., o. p., 6/6/24)].

Open-Price Associations (Senate).—An investigation (S. Res. 28, 69th, 3/17/25) to ascertain the number and names of so-called open-price associations, their importance in industry and the extent to which members maintained uniform prices, was reported in Open-Price Trade associations (S. Doc. 226, 70th, 516 p., o. p., 2/13/29).

Packer Consent Decree.—See Food (President) Continued—Meat Packing.

Paper—Book (Senate), Wartime, 1917-18.—This inquiry (S. Res. 269, 64th, 9/7/16) resulted in proceedings by the Commission against certain manufacturers to prevent price enhancement and the Commission recommended legislation to repress trade restraints [Book Paper Industry—A Preliminary Report (S. Doc. 45, 65th, 11 p., o. p., 6/13/17), and Book Paper Industry—Final REPORT (S. Doc. 79, 65th, 125 p., o. p., 8/21/17)].

Paper—Newsprint (Senate), Wartime, 1917-18.—High prices of newsprint (S. Res. 177, 64th, 4/24/10) were shown to have been partly a result of certain news-print association activities in restraint of trade Department of Justice proceedings resulted in abolishment of the association and indictment of certain manufacturers. The Commission for several years conducted monthly reporting of production and sales statistics, and helped provide some substantial relief for smaller publishers in various parts of the country. [Newsprint Paper Industry, preliminary (S. Doc. 3, 65th, 12 p., o. p., 3/3/17; Report of the F. T. C. On the Newsprint Paper Industry (S. Doc. 49, 65th) 162 p., o. p., 6/13/17); and Newsprint Paper Investigation (in Response to S. Res. 95, 65th, 6/27/17; S. Doc. 61, 65th, 8 p., o. p., 7/10/17)].

Paper—Newsprint (Senate).—The question investigated (S. Res. 337, 70th, 2/27/29) was whether a monopoly existed among newsprint manufacturers and distributors in supplying paper to publishers of small dailies and weeklies (News-print Paper Industry, S. Doc. 214, 71st, 116 p., o. p., 6/30/30).

Petroleum.—See International Petroleum Cartel.

Petroleum Products.—See Distribution Methods and Costs.

Petroleum and Petroleum Products, Prices (President and Congress).—At different times the Commission has studied prices of petroleum and petroleum products and issued Reports thereon as follows: Investigation of the Price of Gasoline, preliminary (S. Doc. 403, 64th, 15 p., o. p., 4/10/16) and Report on the Price of Gasoline in 1915 (H. Doc. 74, 65th, 224 p., o. p., 4/11/17—both pursuant to S. Res. 109, 63d, 6/18/13[12] and S. Res. 457, 63d, 9/28/14, which Reports discussed high prices and the Standard Oil Companies' division of marketing territory among themselves, the Commission suggesting several plans for restoring effective competition; Advance in the Prices of Petroleum Products (H. Doc. 801, 66th, 57, p., o. p., 6/1/20—pursuant to H. Res. 501, 66th, 4/5/20, in

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[12] See footnote 8, p. 128.

which report the Commission made constructive proposals to conserve the oil supply; Letter of Submittal and Summary of Report on Gasoline Prices in 1924 (24 p. Processed, 6/4/24, and Cong. Rec., 2/28/25, p. 5158)—pursuant to request of President Coolidge, 2/7/24; Petroleum Industry—Prices, Profits and Competitions (S. Doc. 61, 70th, 360 p., o. p., 12/12/27)—pursuant to S. Res. 31, 69th, 6/3/36; Importation of Foreign Gasoline at Detroit, Mich., (S. Doc. 206, 72d, 3 p., o. p., 2/27/33)—pursuant to S. Res. 274, 72d, 7/16/32; and Gasoline Prices (S. Doc. 178, 73d, 22p., o. p., 5/10/34—pursuant to S. Res. 166, 73d, 2/2/34.

Petroleum—Foreign Ownership (Senate).—Inquiry was made (S. Res. 311, 67th, 6/29/22) into acquisition of extensive oil interests in the U. S. By the Dutch-Shell organization, and into discrimination allegedly practiced in foreign countries against American interests (Report of the F. T. C. On Foreign Ownership in the Petroleum Industry, 152 p., o. p., 2/12/23.

Petroleum Pipe Lines (Senate).—Begun by the Bureau of Corporations,[13] this inquiry (S. Res. 109, 63d, 6/18/13) showed the dominating importance of the pipe lines of the great midcontinent oil fields and reported practices of the pipeline companies which were unfair to small producers (Report on Pipe-Line Transportation of Petroleum, 467 p., o. p., 2/28/16), some of which practices were later remedied by the Interstate Commerce Commission.

Petroleum—Regional Studies (Senate and F. T. C.).—Reports published were: Pacific Coast Petroleum Industry (two parts 4/7/21, and 11/28/21, 538 p., o. p.)—pursuant to S. Res. 138, 66th, 7/31/19; Reports of the F. T. C. On the Petroleum industry of Wyoming (54 p., o. p., 1/3/21)—pursuant to F. T. C. Motion; Petroleum Trade in Wyoming and Montana (S. Doc 233, 67th, 4 p., o. p., 7/13/22)— pursuant to F. T. C. Motion, in which report legislation to remedy existing conditions was recommended; and Report of the F. T. C. On Panhandle Crude Petroleum (Texas) 19, p., o. p., 2/3/28)—pursuant to F. T. C. Motion, 10/6/26 (in Response to requests of producers of crude petroleum).

Potomac Electric Power Co. (Procurement Director, United States Treasury).—A study (2/29/44) of the financial history and operations of this corporation for the years 1896-1943 was made at the request of the Director of Procurement, United States Treasury, and the report thereon was introduced into the record in the corporation's electric rate case before the District of Columbia Public Utilities Commission.

Power—Electric (Senate).—This inquiry (S. Res. 329, 68th, 2/9/25) resulted in tow Reports, the first of which, Electric Power Industry—Control of Power Companies (S. Doc. 213, 69th, 272 p., o. p., 2/21/27) dealt with the organization, control, and ownership of commercial electric-power companies. It called attention to the dangerous degree to which pyramiding had been practiced in super-imposing a series of holding companies over the underlying operating companies, and was influential in bringing about the more comprehensive inquiry described under Power—Utility Corps., below. Supply of Electrical Equipment and competitive Conditions (S. Doc. 46, 70th, 282 p., o. p., 1/1/2/28) showed, among other things, the dominating position of General Electric Co. in the equipment field.

Power—Interstate Transmission (Senate).—Investigation (S. Res. 151, 71st, 11/8/29) was made of the quantity of electric energy transmitted across State lines and used for development of power or light, or both (Interstate Movement of Electric Energy, S. Doc. 238 71st, 134 p., o. p., 12/20/30).

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[13] See footnote 8, p. 128. Conditions in one of the midcontinent fields were discussed by the Bureau of Corporations in Conditions in the Healdton Oil Field (Oklahoma) (116 p., 3/15/15).

Power—Utility Corporations (Electric and Gas Utilities) (Senate).—This extensive inquiry (S. Res. 83, 70th, 2/15/28; Public Res. 46, 73d, 6/1/34; and F. T. C. Act, Sec. 6) embraced the financial set-up of electric and gas utility companies operating in interstate commerce and of their holding companies and other companies controlled by the holding companies. The inquiry also dealt with the utilities' efforts to influence public opinion with respect to municipal ownership of electric utilities. The Commission's Reports and recommendations, focusing congressional attention upon certain unfair financial practices in connection with the organization of holding companies and the sale of securities, were among the influences which brought about enactment of such remedial legislation as the Securities Act (1933), the Public Utility Holding Company Act (1935), the Federal Power Act (1935), and the Natural Gas Act (1938).

Public hearings were held on all phases of the inquiry and monthly interim Reports presented hundreds of detailed studies by the Commission's economists, attorneys, accountants, and other experts, based on examination of 29 holding companies having $6,108,128,713 total assets; 70 subholding companies with $5,685,463,201 total assets; and 278 operating companies with $7,245,106,464 total assets. The testimony, exhibits, and final Reports (Utility Corporations, S. Doc. 92, 70th) comprised 95 volumes.[14]

Price Bases (F. T. C.).—More than 3,500 manufacturers representing practically every industrial segment furnished data for this study (F. T. C. motion, 7/27/27) of methods used for computing delivered prices on industrial products and of the actual and potential influence of such methods on competitive markets and price levels. In the cement industry the basing-point method[15] was found to have a tendency to establish unhealthy uniformity of delivered prices and cross-hauling or cross-freighting to be an economic evil (Report of the F. T. C. On Price Bases Inquiry, Basing-Point Formula, and Cement Prices, 218 p., o. p., 3/26/32). Illustrating the use in a heavy commodity industry of both a modified zone-price system and a uniform delivered-price system, the Commission examined price schedules of the more important manufacturers of range boilers, 1932-36, disclosing that the industry operated under a zone-price formula, both before and after adoption of its N. R. A. code (Study of Zone-Price Formula in Range Boiler Industry, 5 p., processed, 3/30/36, a summary based on the complete report which was submitted to Congress but not printed).

Price Deflation (President).—To an inquiry (3/21/21) of President Harding, the Commission made prompt reply (undated) presenting its views of the causes of a disproportional decline of agricultural prices compared with consumers' prices (Letter of the F. T. C. To the President of the U. S., 8 p., o. p.).

Profiteering (Senate), Wartime, 1917-18.—Current conditions of profiteering (S. Res. 255, 65th, 6/10/18) as disclosed by various Commission investigations were reported in Profiteering (S. Doc. 248, 65th, 20 p., o. p., 6/29/18).

Quarterly Financial Reports United States Manufacturing Corporations (F. T. C. and S. E. C.).—This (1947-52) series of Reports is intended to meet the general needs of the Government and the public for current reliable corporation financial data. The Reports show the aggregate estimates for American manufacturing corporations as derived from Reports collected by the Federal Trade Commission and the Securities and Exchange Commission. This work is based upon resumption by F. T. C. of its prewar financial reporting function and con-

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[14] Final Reports were published in 1935; a general index in 1937. Some of the volumes are out of print. For report titles, see F. T. C. Annual Report, 1941, p. 221; and for lists of companies investigated, see F. T. C. Annual Reports, 1935, p. 21 and 1936, p. 36

[15] Basing-point systems are also discussed in the published Reports listed under "Cement," "Steel Code," and "Steel sheet Piling" herein.

tinuation by S. E. C. of its current responsibilities for collection of financial information from corporations with securities registered on a national exchange. F. T. C. obtains comparable information from a carefully selected sample of small, medium size and large nonregistered corporations. The sample has been designed so that the two sets of data can be combined to provide estimates for 21 major industry groups (increased to 23 major groups in 1951) as well as the aggregate for all manufacturing corporations. The Quarterly Financial Reports formerly were known as Industrial Corporation Reports.

Quarterly Financial Report, United States Retail and Wholesale Corporation.—

This presents estimates of the income statements and balance sheets for the total operations of United States wholesale trade corporations (merchant wholesalers only) and retail trade corporations, for various industrial segments of retailing and merchant wholesaling, and for different sizes of business in retailing and merchant wholesaling. These estimates are for the year 1950 and each of the four quarters of 1951. There were compiled from financial statements received from individual corporations.

Quarterly Financial Report, Five Manufacturing Industries, 1947-51.—This presents averages of the quarterly income statements and balance sheets for the total operations of representative samples of manufacturing corporations (with average annual sales within a specified range) in specific industries and in a specific geographical region.

Radio (House).— comprehensive investigation of the radio industry (H. Res. 548, 67th, 3/4/23); Report of the F. T. C. on the Radio Industry, 347 p., o. p., 12/1/23) contributed materially to enactment of the Radio Act of 1927 and the succeeding Federal Communications Act of 1934. The investigation was followed by Commission and Department of Justice proceedings on monopoly charges which culminated in a consent decree (11/2/32; amended, 11/2/35).

Rags, Woolen.—See Textiles.

Raisin Combination.—See Food.

Range Boilers.—See Price Bases.

Rates of Return in Selected Industries (F. T. C.).—A comparison of the prewar (World War II) and postwar rates of return on stockholders' investments after taxes for more than 500 identical manufacturing corporations. The present report, published annually, covers the years 1940 and 1947-51, includes 25 selected manufacturing industries.

Resale Price Maintenance (F. T. C.).—The question whether a manufacturer of standard articles, identified by trade-mark or trade practice, should be permitted to fix by contract the price at which purchasers should resell them, led to the first inquiry, resulting in a report, Resale Price Maintenance (H. Doc. 1480, 65th, 3 p., o. p., 12/2/18). Other Reports were: Report on Resale Price Maintenance (H. Doc. 145, 66th, 3 p.,o.p., 6/30/19) and Resale Price Maintenance (F. T. C motion, 7/25/27; Reports, Part I, H. Doc. 546, 70th, 141 p., o. p., 1/30/29, and Part II, 215 p., o. p., 6/22/31). The Report of the F . T. C. on Resale Price Maintenance, o. p., (F. T. C. Res., 4/25/39) was submitted to Congress 12/13/45. The inquiry developed facts concerning the programs of trade organizations interested in the extension and enforcement of minimum resale price maintenance contracts, and the effects of the operation of such contracts upon consumer prices and upon sales volumes of commodities in both the price-maintained and non-price-maintained categories.

Rubber Tires and Tubes.—See Distribution Methods and Costs.

Salaries (Senate).—The Commission investigated (S. Res. 75, 73d, 5/29/33) salaries of executives and directors of corporations (other than public utilities) engaged in interstate commerce, such corporations having more than $1,000,000

capital and assets and having their securities listed on the New York stock or curb exchanges. The Report of the F. T. C. on Compensation of Officers and Directors of Certain Corporations (15 p., processed, 2/26/34) explained the results of the inquiry.[16] The facts developed focused the attention of Congress on the necessity of requiring listed corporations to report their salaries.

Southern Livestock Prices.—See Food.

Steel Code and Steel Code as Amended (Senate and President).—The Commission investigated (S. Res. 166 73d, 2/2/34) price fixing, price increases, and other matters (Practices of the Steel Industry Under the Code, S. Doc. 159, 73d, 79 p., o. p., 3/19/34) and the Commission and N. R. A. studied the effect of the multiple basing-point system under the amended code (Report of the F. T. C. to the President in Response to Executive Order of May 30, 1934, With Respect to the Basing-point System in the Steel Industry, 125 p., o p., 11/30/34).[17] The Commission recommended important code revisions.

Steel Companies, Proposed Merger (Senate).—An inquiry (S. Res. 286, 67th 5/12/22) into a proposed merger of Bethlehem Steel Corp. and Lackawanna Steel Co., and of Midvale Steel & Ordnance Co., Republic Iron & Steel Co., and Inland Steel Co., resulted in a two-volume report. Merger of Steel and Iron Companies (S. Doc. 208, 67th, 11 p., o. p., (6/5/22 and 9/7/22).

Steel Costs and Profits.—See Wartime Cost Findings, 1917-18.

Steel Sheet Piling—Collusive Bidding (President).—Steel sheet piling prices on certain Government contracts in New York, North Carolina, and Florida were investigated (inquiry referred t.o F. T. C. 11/20/35). The F. T. C. Report to the President on Steel Sheet Piling (42 p., processed, 6/10/36 o. p.) demonstrated the existence of collusive bidding because of a continued adherence to the basing-point system[18] and provisions of the steel industry's code.

Stock Dividends (Senate).—The Senate requested (S. Res. 304, 69th, 12/22/26) the names and capitalizations of corporations which had issued stock dividends, and the amounts thereof, since the Supreme Court decision (3/8/20) holding that; such dividends were not taxable. The same information for an equal period prior to the decision was also requested. The Commission submitted a list of 10,245 corporations, pointing out that declaration of stock dividends at the rate prevailing did not appear to be a result of controlling necessity and seemed questionable as a business policy (Stock Dividends, S. Doc. 26, 70th, 273 p., o. p., 12/5/27).

Sugar.—See Food.

Sulphur Industry (F. T. C.).—In its report to Congress on The Sulphur Industry and International Cartels (6/16/47), the Commission stated that the operations of all four producers constituting the American sulphur industry generally have been highly profitable, and that the indications are that foreign cartel agreements entered into by Sulphur Export Corp., an export association organized under the Webb-Pomerene Law, have added to the profitability of the U. S. industry. On 2/7/47, after hearings, the Commission recommended that Sulphur Export Corp. readjust its business to conform to law.

Taxation and Tax-Exempt Income.—See National Wealth and Income.

Temporary National Economic Committee, Studies of the F. T. C.—See F. T. C. Annual Report, 1941, p.218, for titles.

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[16] The salary lists do not appear in the report but are available for inspection.

[17] As of the same date, the N. R. A. Published its Report of the National Recovery Administration on the Operation of the Basing-Point System in the Iron and Steel Industry (175 p., processed). The basing-point system is also discussed in published reports listed under "Cement" and "Price Bases" herein.

[18] See footnote 15, p. 137.

Textiles (President).—President Roosevelt (Executive Order of 9/26/34) directed an inquiry into the textile industry's labor costs, profits, and investment structure to determine whether increased wages and reduced working hours could be sustained under prevailing economic conditions. Reports covering the cotton, woolen and worsted, silk and rayon, and thread, cordage and twine industries were: Report of the F. T. C. on Textile Industries, Parts I to VI, 12/31/34 to 6/20/35, 174 p., o. p. (Part VI financial tabulations processed 42 p., o. p.); Report of the F. T. C. on the Textile Industries in 1933 and 1934), Parts I to IV, 8/1/35 to 12/5/35, 129 p., o. p.; Parts II and III, o. p. (Part IV, processed, 21 p., o. p.; accompanying tables, processed, 72 p., o. p.); Cotton Spinning Companies Grouped by Types of Yarn Manufactured During 1933 and 1934, 1/31/36, 20 p., processed, o. Cotton Weaving Companies Grouped by Types of Woven Goods Manufactured During 1933 and 1934, 3/24/36, 48 p., processed, o. p; Textile Industries in the First Half of 1935, Parts I to III, 5/22/36 to 8/22/36, 119 p., processed, o. p.; Textile Industries in the Last Half of 1935, Parts I to III, 11/20/36 to 1/6/37, 155 p., processed, o. p.; and Textile Industries in the First Half of 1936, Parts I to III, 1/21/37 to 2/11/37, 163 p., processed, o.p.

Textiles—Combed Cotton Yarns.—High prices of combed cotton yarns led to this inquiry (H. Res. 451, 66th, 4/5/20) which disclosed that while for several years profits and prices had advanced, they declined sharply late in 1920 (Report of the F. T. C. on Combed Yarns, 94 p., o. p., 4/14/21).

Textiles—Cotton Growing Corporation.—See Foreign Trade.

Textiles—Cotton Merchandising (Senate).—Investigating abuses in handling consigned cotton (S. Res. 252, 68th, 6/7/24), the Commission made recommendations designed to correct or alleviate existing conditions (Cotton Merchandising Practices, S. Doc. 194, 68th, 38 p., o. p., 1/20/25).

Textiles—Cotton Trade (Senate).—Investigation (S. Res. 262, 67th, 3/29/22) involved a decline in cotton prices, 1920-22, as reported in Preliminary Report of the F. T. C. on the Cotton Trade (S. Doc. 311, 67th, 28 p., o. p., 2/26/23). After a second inquiry (S. Res. 429, 67th, 1/31/23), the Commission recommended certain reforms in trading practices and particularly in permitting Southern delivery of cotton on New York futures contracts (The Cotton Trade, incl. testimony, S. Doc. 100, 68th, 2 vols., 510 p., o. p., 4/28/24). A subsequent Senate bill (S. 4411, 70th, 5/18/28) provided for Southern warehouse delivery, but, before any law was enacted, the New York Cotton Exchange adopted Southern delivery on New York futures contracts (11/16/28 and 2/26/30) in accordance with the Commission's recommendations.

Textiles—Woolen Rag Trade (F. T. C.), Wartime, 1917-18.—The Report or the Woolen Rag Trade (90 p., o. p., 6/30/19) contains information gathered during the World War, 1917-18, at the request of the War Industries Board, for its use in regulating the prices of woolen rags employed in the manufacture of clothing.

Tobacco (Senate).—Inquiry (S. Res. 329, 2/9/25) into activities of two well-known companies disclosed that alleged illegal agreements or conspiracies did not appear to exist. (The American Tobacco Co. and the Imperial Tobacco Co., S. Doc.34, 69th, 129 p., o. p., 12/25/25).

Tobacco Marketing—Leaf (F. T. C.).—Although representative tobacco farmers in 1929 alleged existence of territorial and price agreements among larger manufacturers to control cured leaf tobacco prices, the Commission found no evidence of price agreements and recommended production curtailment and improvement of marketing processes and cooperative relations (Report on Marketing of Leaf Tobacco in the Flue-Cured Districts of the States of North Carolina and Georgia, 54 p., o. p., processed, 5/23/31).

Tobacco Prices (Congress).—Inquiries with respect to a decline of loose-leaf tobacco prices following the 1919 harvest (H. Res. 533, 66th, 6/3/20) and low

tobacco prices as compared with high prices of manufactured tobacco products (S. Res. 129, 67th, 8/9/21) resulted in the Commission recommending modification of the l911 decree (dissolving the old tobacco trust) to prohibit permanently the use of common purchasing agencies by certain companies and to bar their purchasing tobacco under any but their own names (Report of the F. T. C. On the Tobacco Industry, 162 p., o. p., 12/11/20, and Prices of Tobacco Products, S. Doc. 121, 67th, 109 p., o. p., 1/17/22).

Trade and Tariffs in South America (President).—Growing out of the First Pan-American Financial Conference held in Washington, May 24-29, 1915, this inquiry (referred to F. T. C. 7/22/15) was for the purpose of furnishing necessary information to the American branch of the International High Commission appointed as a result of the conference. Customs administration and tariff policy were among subjects discussed in the Report on Trade and Tariff policy were among subjects discussed in the Report on Trade and Tariffs in Brazil, Uruguay, Argentina, China, Bolivia, and Peru (246 p., o. p., 6/30/16).

Twine.—See Sisal Hemp and Textiles.

Utilities.—See Power.

Wartime Cost Finding (President), 1917-18.—President Wilson directed the Commission (7/25/17) to find the costs of production of numerous raw materials and manufactured products. The inquiry resulted in approximately 370 wartime cost investigations. At later dates Reports on a few of them were published,[19] including: Cost Reports of the F. T. C.—Copper (26p., p., o. p., 6/30/19) ; Report of the F. T. C. on Wartime Costs and Profits of Southern Pine Lumber Companies (94 p., o. p., 5/1/22); and Report of the F. T. C. On Wartime Profits and Costs of the steel Industry (138 p.,o.p., 2/18/25). The unpublished reports[20] cover a wide variety of subjects. On the basis of the costs as found, prices were fixed, or controlled in various degrees, by Government agencies such as the War and Navy Departments, War Industries Board, Price Fixing Committee, Fuel Administration, Food Administration, and Department of Agriculture. The Commission also conducted cost inquiries for the interior Department, Tariff Commission, Post Office Department, Railroad Administration, and other Government departments or agencies. It is estimated that the inquiries helped to save the country many billions of dollars by checking unjustifiable price advances.

Wartime Costs and Profits (F. T. C.).—Cost and profit information for 4,107 identical companies for the period 1941-45 is contained in a Commission report on Wartime Costs and Profits for Manufacturing Corporations, 1941 to 1945 (30 p., processed, with 10 p. appendix.). Compilation of the information contained in the report was begun by the Office of Price Administration prior to the transfer of the financial reporting function of that agency to the Federal Trade Commission in December 1946.

Wartime Inquiries, 1917-18, Continued.—Further wartime inquiries of this period are described herein under the headings: Coal, Coal Reports—Cost of Production, Cost of Living, Flags, Food, Farm Implements, Independent Harvester Co., Leather and Shoes, Paper—Book, Paper—Newsprint, Profiteering, and Textiles—Woolen Rag Trade.

The following are unpublished investigations by the Commission for the use of other government agencies:

Aluminum Foundries (W. P. B.), Wartime, 1942-43.—Details were obtained for the War Production Board, at its request, from aluminum foundries throughout

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[19] See footnote 10, p. 129

[20] Approximately 260 of the wartime cost inquiries are listed in the F. T. C. Annual Reports, 1918, pp. 29-30, and 1919, pp. 38-42, and in World War Activities of the F. T. C., 1917-18 (69 p., processed, 7/15/40).

the U. S. covering their operations for May 1942 and their compliance with W. P. B. Supplementary Orders m-1-d, M-1-c, and M-1-f.

Antifreeze Solutions, Manufacturers of (W. P. B.), Wartime, 1943-44.—War Production Board Order 258 of 1/20/43 prohibited production of salt and petroleum-base antifreeze solutions. While production of these products had ceased, great quantities were reported to be still in the hands of producers and distributors. To enable W. P. B. to determine what further action should be taken to protect essential automotive equipment from these solutions, it requested the Commission to locate producers' inventories as of 1/20/43, and to identify all deliveries made from such inventories to distributors subsequent to that date.

Capital Equipment (W. P. B.), Wartime, 19443.—For the War Production Board, a survey was made in connection with Priorities Regulation No. 12, as amended 10/3/42, of concerns named by it to determine whether orders had been improperly related to secure capital equipment or whether orders that had been rerated had been extended for the purpose of obtaining capital equipment in violation of priorities regulations.

Chromium Processors (W. P. B.), Wartime, 1942-43—For the War Production Board, the Commission investigated the transactions of the major chromium processors to determine the extent to which they were complying with Amendment No. 2 to W. P. B. General Preference Order No. m–18a, issued 2/4/42. The investigation was conducted concurrently with a survey of nickel processors.

Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of (W. P. B.), Wartime, 1942-43.—The Commission conducted an investigation for the War Production Board to determine whether manufacturers of commercial cooking and plate warming equipment were complying with W. P. B. Limitation Orders L–182 and L–182 as amended 3/2/43; Conservation Orders M-126 and M-9 c, as amended; and Priorities Regulation No. 1.

Contractors, Prime, Forward Buying Practices of (W. P. B.), Wartime, 1942–43.—The matter of procurement, use, and inventory of stocks of critical materials involved in the operation of major plants devoting their efforts to war production was inquired into for the information of the War Production Board. Items such as accounting, inventory, control, purchase, practices, etc., formed a part of the inquiry.

Copper Base Alloy Ingot Makers (W. P. B.), Wartime, 1942-43.—This investigation was designed to ascertain the operations, shipments, and inventories of copper, copper alloys, copper scrap, and copper base alloy ingot makers and was conducted for the purpose of determining the extent to which they were complying with governing W. P. B. Preference and Conservation Orders M-9-a and b, and M-9–c.

Copper, Primary Fabricators of (W. P. B.), Wartime, 1941-42.—A survey and inspection of a specified list of companies which used a large percentage of all refinery copper allocated, and at the same time represented a fair cross-section of the industry, were made to ascertain the degree of compliance accorded to preference, supplementary, and conservation orders and regulations of the Director of Priorities, Office of Production Management (later the War Production Board).

Cost of Living (President).—President Roosevelt, in a published letter (11/16/37), requested the Commission to investigate living costs. The Commission (11/20/37) adopted a resolution undertaking the inquiry and a few months thereafter submitted a report to the President.

Costume Jewelry, Manufacturers of (W. P. B.), Wartime, 1943–44.—Because it appeared that vast quantities of critical metals were being diverted illegally

from war use to the manufacture of costume jewelry and similar items, the War Production Board requested the Commission to investigate 45 manufacturers to ascertain the facts concerning their compliance with W. P. B. Orders M–9–a, M–9–b, M–9–c–2, M–43, M –38, M–11, M–11-b, M–126, L–81, L–131, and L–131–a, all as amended.

Electric Lamp Manufacturers (W. P. B.), Wartime, 1942–43.—At the direction of the War Production Board, an investigation was made of the activities of manufacturers of portable electric lamps whose operations were subject to the restrictions imposed by W. P. B. Limitation and Conservation Orders L–33 and m–9– c.

Fertilizer and Related Products (O. P. A.), Wartime, 1942–43.—At the request of O. P. A. (June 1942), the Commission investigated costs, prices, and profits in the fertilizer and related products industries. The inquiry developed information with reference to the operations of 12 phosphate rock mines of 11 companies, and 40 plants of 24 companies producing sulphuric acid, superphosphate, and mixed fertilizer. One of the principal requirements of the inquiry was to obtain information concerning costs, prices, and profits for 103 separate formulas of popular-selling fertilizers during 1941 and 1942.

Food—Biscuits and Crackers (O. P. A.), Wartime, 1942–43.—As requested by the Office of Price Administration, the Commission investigated costs and profits in the biscuit and cracker manufacturing industry and submitted its report to that agency 3/25/43. The survey of 43 plants operated by 25 companies showed, among other things, that costs were lower and profits higher for the larger companies than for the smaller ones.

Food—Bread Baking (O. E. S.), Wartime, 1942–43.—This investigation was requested (10/23/42) by the Director of the Office of Economic Stabilization and was conducted to determine what economies could be made in the bread-baking industry so as to remove the need for a subsidy for wheat, to prevent an increase in bread prices, or to lower the price of bread to consumers. Essential information on more than 600 representative bakeries' practices, costs, prices, and profits was developed and reported to O. E. S. (12/29/42). The report also was furnished to the Secretary of Agriculture and special data gathered in the inquiry were tabulated for O. P. A.

Food—Bread Baking (O. P. A.), Wartime, 1941-42.—In the interest of the low income consumer, for whom it was deemed necessary the price of bread should be held at a minimum, the Commission investigated costs, prices, and profits of 60 representative bread-baking companies, conveying its findings to O. P. A. (Jan. 1942) in an unpublished report.

Food—Flour Milling (O. E. S.), Wartime, 1942–43.—Requested by the Director of the Office of Economic Stabilization, this inquiry covered practices, costs, prices, and profits in the wheat flour-milling industry, its purpose being to provide the Director with facts to determine what economies could be effected in the industry so as to eliminate the need for a wheat subsidy, without reducing farmers' returns, or to reduce bread prices. The report was made to O. E. S. and a more detailed report was prepared for O. P. A.

Fruit Growers and Shippers (W. P. B.), Wartime, 1943-44.—This investigation was requested by the War Production Board to determine whether 7 grape growers and 12 grape shippers, all located in California, were in violation of W. P. B. Order L–232 with respect to quotas affecting the use of lugs (wooden shipping containers).

Furnaces, Hot Air, Household (W. P. B.), Wartime, 1943-44.—The Commission made a Nation-wide survey for the War Production Board of the operations of one of the largest manufacturers in the United States of household hot air

furnaces, to determine whether its practices in selling and servicing domestic heating plants were in violation of Orders L–79 and P–84, and other applicable regulations and orders of W. P. B.

Fuse Manufacturers (W. P. B.), Wartime, 1942– 43.—For the War Production Board the Commission investigated and reported on the activities of representative fuse manufacturers whose operations were subject to W. P. B. Limitation Orders L–158 and L–161, as amended.

Glycerin, Users of (W. P. B.), Wartime, 1942-43.—At the request of the War Production Board, paint and resin manufacturers, tobacco companies, and other large users of glycerin were investigated to determine whether they had improperly extended preference ratings to obtain formaldehyde, paraformaldehyde, or hexamethylenetetramine, to which they were not otherwise entitled.

Household Furniture (O. P. A.), Wartime, 1941-42.—Costs, prices, and profits of 67 representative furniture companies were studied to determine whether, and to what extent, price increases were justified. A study was also made to determine whether price-fixing agreements existed and whether wholesale price increases resulted from understandings in restraint of trade. Confidential Reports were transmitted to O. P. A, in Sept. 1941.

Insignia Manufacturers (W. P. B.), Wartime, 1944–45.—Preliminary studies made by the War Production Board disclosed the probability that certain insignia manufacturers had acquired larger quantities of foreign silver than necessary to fill legitimate orders and diverted the balance to unauthorized uses. In Response to W. P. B.'s request the Commission surveyed the acquisition and use of foreign silver by such manufacturers to determine the degree of their compliance with Order M-199 and checked the receipt and use of both domestic and treasury silver, as well as the manufacture of insignia, as controlled by Orders L–131 and M–9–c.

Jewel Bearings, Consumers of (W.P. B.), Wartime, 1942–43.—For the War Production Board, users of jewel bearings were investigated to determine the extent to which they were complying with W. P. B. Conservation Order M-50, which had been issued to conserve the supply and direct the distribution of jewel bearings and jewel-bearing material.

Metal-Working Machines, Invoicing and Distribution of (W. P. B.), Wartime, 1942–43.—For the War Production Board an inquiry was made to obtain complete data from the builders of metal-working machines (including those manufactured by their subcontractors) such as all nonportable power-driven machines that shape metal by progressively removing chips or by grinding, boning, or lopping; all non–portable power-driven shears, presses, hammers, bending machines, and other machines for cutting, trimming, bending, forging, pressing, and forming metal; and all power-driven measuring and testing machines. Each type and kind of machine was reported on separately.

Nickel Processors (W. P. B.), Wartime, 1942–43.—The Commission was designated by the War Production Board to investigate the transactions of some 600 nickel processors for the purpose of determining the extent to which they were complying with W. P. B. Preference Order No. M–6–a, issued 9/30/41, and Conservation Order M–6–b, issued 1/20/42. The investigation was conducted concurrently with a survey of chromium processors.

Paint, Varnish, and Lacquer Manufacturers (W. P. B.), Wartime, 1943–44.—The purpose of this survey was to determine whether the manufacturers covered were in violation of War Production Board Orders M–139, M–150, M–159, M–246, and M–327 in their acquisition and use of certain chemicals, all subject to W. P. B. allocations, used in the manufacture of paint, varnish, and lacquer. Sales of such products to determine their end uses also were investigated.

Paperboard (O. P. A.), Wartime, 1941–42.—Costs, profits, and other financial data regarding operations of 68 paperboard mills (O. P. A. request, 11/12/41) for use in connection with price stabilization work, were transmitted to O. P. A. in a confidential report (May 1942).

Paper—Newsprint (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 1/24/38) the manner in which certain newsprint manufacturers complied with a consent decree entered against them (11/26/17) by the U. S. District Court, Southern District of New York.

Petroleum Decree (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 4/16/36) the manner in which a consent decree entered (9/15/30) against Standard Oil Co. of California, Inc., and others, restraining them from monopolistic practices, was being observed, and reported (4/2/37) ; to the Attorney General.

Priorities (W. P. B.), Wartime, 1941–45—Pursuant to Executive orders (January 1942), W. P. B. designated the Federal Trade Commission as an agency to conduct investigations of basic industries to determine the extent and degree to which they were complying with W. P. B. orders relative to the allocation of supply and priority of delivery of war materials. F. T. C. priorities investigations are listed herein under the headings: Aluminum, Foundries Using; Antifreeze Solutions, Manufacturers of; Capital Equipment, Chromium, Processors of; Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of; Contractors, Prime, Forward Buying Practices of; Copper Base Alloy Ingot Makers; Copper, Primary Fabricators of; Costume Jewelry, Manufactures of; Electric Lamps, Manufacturers of; Fruit Growers and Shippers; Furnaces, Hot Air, Household; Fuse Manufacturers; Glycerin, Users of; Insignia Manufacturers; Jewel Bearings, Consumers of; Metal-working Machines, Invoicing and Distribution of; Nickel, Processors of; Paint, Varnish, and Lacquer, Manufacturers of; Quinine, Manufacturers and Wholesalers of; Silverware, Manufacturers of; Silverware Manufacturers and Silver Suppliers; Steel Industry; Textile Mills, Cotton; and Tin, Consumers of. The report on each of these investigations was made directly to W. P. B.

Quinine, Manufacturers and Wholesalers of (W. P. B.), Wartime, 1942– 43.—At the instance of the War Production Board, investigation was made to determine whether requirements of its Conservation Order No. M–131–a, relating to quinine and other drugs extracted from cinchona bark, were being complied with.

Silverware Manufacturers (W. P. B.), Wartime, 1942–43.—Silverware manufacturers were investigated at the request of the War Production Board to determine the extent to which they had complied with the copper orders, that is, W. P. B. General Preference Order No. M–9–a, Supplemental Order No. M–9–a, and Conservation Order M–9–c, as amended.

Silverware Manufacturers and Silver Suppliers (W. P. B.), Wartime, 1942–43.—The activities of silverware manufacturers and silver suppliers under W. P. B. Conservation and Limitation Orders m–9–a, b, and c, m–100 and L–140 were investigated and reported on at the request of the War Production Board.

Sisal Hemp (Senate).—The Commission assisted the Senate Committee on Agriculture and Forestry in an inquiry (S. Res. 170, 64th, 4/17/16) and advised flow certain quantities of hemp promised by the Mexican sisal trust, might be fairly distributed among American distributors of binder twine (Mexican Sisal Hemp, S. Doc. 440, 64th, p., o. p., 5/9/16). The Commission's distribution plan was adopted.

Steel Costs and Profits (O. P. A.), Wartime, 1942–43.—A report on the Commission's survey of costs, prices and profits in the steel industry, begun in April 1942

at the request of O. P. A., was made to that agency. The inquiry covered 29 important steel-producing companies.

Steel Industry (O. P. M.), Wartime, 1941–42.—This investigation covered practically every steel mill in the country and was conducted for the purpose of determining the manner in which the priorities and orders promulgated by the Office of Production Management were being observed. I e., the technique used in the steel industry in meeting the requirements of O. P. M. (later the War Production Board) orders and forms controlling the distribution of pig iron, iron and steel, iron and steel alloys, and iron and steel scrap.

Textile Mills, Cotton (W. P. B.), Wartime, 1943–44.—For the War Production Board the Commission conducted compliance investigation of manufacturers of cotton yarns, cordage, and twine to ascertain whether they were in violation of Priorities Regulation 1, as amended, by their failure to fill higher rated orders at the time they filled lower rated orders.

Tin Consumers (W. P. B.), Wartime, 1942–3.—The principal consumers of tin were investigated at the instance of the War Production Board to determine the degree of their compliance with Conservation Order m–3–, as amended, and other orders and regulations issued by the Director of the Division of Industry Operation, controlling the inventories, distribution, and use of the tin supply in the U. S.

War Materials Contracts (House), Wartime, 1941–42.—At the request of the House Committee on Naval Affairs, the Commission assigned economic and legal examiners to assist in the Committee's inquiry into progress of the national defense program (H. Res. 162, 77th, 4/2/41). The Commission's examiners were active in field investigations covering aircraft manufacturers' cost records and operation, naval air station construction, materials purchased for use on Government contracts, and industry expansion financing programs.

Wartime Inquiries, 1941–45.—To aid in the 1941–45 war program, F. T. C. was called upon by other Government departments, particularly the war agencies, to use its investigative, legal, accounting, statistical and other services in conducting investigations. It made cost, price, and profit studies; compiled industrial corporation financial data; investigated compliance by basic industries with W. P. B. priority orders; and studied methods and costs of distributing important commodities. The 1941–45 wartime investigations are herein listed under the headings: Advertising as a Factor in Distribution; Cigarette Shortage; Distribution Methods and Costs; Fertilizer and Related Products; Food—Biscuits and Crackers; Food—Bread Baking; Food—Fish; Food—Flour Milling; Household Furniture; Industrial Financial Reports; Metal-Working Machines; Paperboard; Priorities; steel Costs and Profits; and War Material Contracts.

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