

Annual
Report
of the **FEDERAL
TRADE
COMMISSION**

For the Fiscal Year Ended
June 30, 1958

Federal Trade Commission

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Letter of Transmittal

FEDERAL TRADE COMMISSION,
Washington, D. C.

To the Congress of the United States:

It is a pleasure to transmit herewith the Forty-fourth Annual Report of the Federal Trade Commission, covering its accomplishments during the fiscal year ended June 30, 1958.

By direction of the Commission.

JOHN W. GWYNNE,
Chairman.

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

CONTENTS

Chapter	Page
1. The Year's Highlight	1
2. Scope of Authority	8
3. Administration	16
4. Investigation	21
Merger Investigations	23
Scientific Opinions	25
Accounting	26
Wool, Fur, and Flammable Fabrics	27
5. Litigation	31
Case Work in 1958	31
Antimonopoly Cases	32
Antideceptive Practice Cases	40
6. Hearing Examiners	46
7. Office of the General Counsel	48
Division of Special Legal Assistants	50
Division of Appeals	50
Division of Compliance	56
Office of Export Trade	61
Legislation	63
8. Consultation	65
Office of the Director	65
Trade, Practice Conferences	66
Compliance Work	69
Stipulations	70
Small Business	74
9. Economics	75
Economic Evidence and Reports	75
Financial Statistics	77
10. Appropriations and Financial Obligations	79
11. Appendixes	80
FTC Commissioners (1915-58)	80
Types of Unfair Methods and Practices	81
Statutes Pertaining to the FTC	87
General Investigations by the Commission Since 1915	113

THE YEAR'S HIGHLIGHTS

This annual report by the Federal Trade Commission on its work during fiscal 1968 warrants two conclusions: first, that the Commission has enforced the laws entrusted to it more vigorously than in any year since World War II; and, second, that it has made an unprecedented effort to guide as well as police business practices to the end that unfair competition may be eliminated.

This increase in activity generated even more. As illegal business practices were spotlighted and attacked, more businessmen and consumers came to appreciate the Commission's purpose and to avail themselves of the protection it affords. Thus, the Commission was to find out that the more it accomplished, the more it was called upon to do.

Applications for complaints continued to rise reaching a postwar peak of 3,782. The response was a record volume of action. Formal complaints challenging monopolistic practices jumped from 55 in 1957 to 86 in 1958. Antitrust orders increased from 31 to 45. The same was true of actions to halt deceptive practices. Here the increase was from 187 complaints to 268, and from 148 cease and desist orders to a 1958 total of 228. Taken together, this represents about a 50-percent increase in volume of activity over the previous year and more than double that of as recent a year as 1956.

A significant development was the Commission's decision to give greater emphasis to encouraging voluntary compliance with the laws it administers. In essence, the new emphasis calls for conspicuously identifying a particular area of false and misleading advertising and then setting forth, for the guidance of all concerned, exactly what the law's requirements are. Such clarification, issued either as industry guides or as guides to the Commission's staff, has the double effect of warning sellers against the use of deception and of alerting buyers to what the deception is.

The decision to issue these guides did not derive from any rosy hope that all violators of the law err in ignorance or would respond to governmental finger-wagging. It was based instead on the relief that a clear, emphatic and specific warning on the law's requirements could not be lightly ignored by those reluctant to comply. Defiance

would show up under the spotlight of industry and public awareness of the problem, the better to be attached by the Commission's mandatory processes.

The guides augment the existing voluntary compliance program whereby trade practice rules reflecting the law's requirements are promulgated for a particular industry. The trade practice rules provide guidance for an industry at all points covered by the FTC's laws, whereas the guides are directed at particular sore spots.

One of these was automobile the advertising in which names and descriptions of different grades of tires deceive the public. 12-point guide was remarkably successful in inducing the manufacturers to correct their labeling and advertising, and has likewise influenced the pattern of retail tire advertising to a considerable degree.

At the fiscal year's end, the Commission was readying, an even more ambitious guide designed to halt fictitious pricing of all goods sold in interstate commerce. This guide also would support an organized effort by private groups devoted to honest advertising so that they might simultaneously attack the same evil at a local level where the FTC lacks jurisdiction.

A valid conclusion to be drawn from these efforts is that the Commission recognizes that its mandatory processes alone are hard put to halt unfair competition in an economy as vast as ours—whose advertising bill alone is about \$11 billion. For a staff of 738, the sheer volume of formal actions needed to stop all significant violations of the law poses an awesome task. However, the Commission by giving new emphasis the function to inform businessmen aggressively on the requirements of the law-plus a maximum effort to erect guideposts in the form of adversary proceedings against law violators -is achieving the purposes Congress intended for it.

Without effective action against violators of the law, efforts to obtain voluntary compliance with it would be fruitless. A businessman who is persuaded to forego illegal methods of competition will not long remain a convert if his uncooperative competitor is permitted to undercut him by illegal means. Therefore, the Commission's mandatory actions become all the more important, not only in combating the particular illegality at issue but in giving support to those willing to cooperate in keeping their own houses in order.

Both in numbers and significance, the Commission's casework has continued to mount. Formal complaints issued in fiscal 1968 increased 46 percent over those issued in fiscal 1957—from 242 to 354. In orders to cease and desist from illegal practices, the increase was 52 percent— from 179 to 273. These increases were achieved with fewer employees (738 compared to 714).

Fiscal 1958 showed increases of 56 percent in antimonopoly complaints and 45 percent in antimonopoly orders compared with the

previous year. The compelling factor in case selection was the public interest involved.

Evidence of this is the fact that during fiscal 1908 the Commission was prosecuting more alleged illegal mergers than ever before in its history. In enforcing; section 7 of the Clayton Act (the antimerger law), 7 new complaints were issued, 3 orders of divestiture obtained, and 12 other cases were in various stages of litigation. The respondents included the Nation's second largest producer of paper and paper products, Crown-Zellerbach Corp., which was ordered to divest itself of a major competitor it had acquired. Another order directed the Nation's No. 1 producer of coin-operated vending machines to give up exclusive patent and trade-mark rights it had obtained by acquiring a major competitor. Meanwhile complaints were issued challenging acquisitions by the country's second largest chemical company, the No. 2 sugar refiner, the Nation's leading producer of soap and detergent products, a major producer and manufacturer of aluminum products, and a multimillion dollar food processor and retailer.

The greatest number of antitrust cases brought during the year attacked illegal discrimination in prices and promotional allowances and services. Outlawed by the Robinson-Patman Amendment to the Clayton Act, these discriminations accounted for 61 complaints and 39 orders during fiscal 1968.

Among the corrective actions taken in this field, the Commission issued cease and desist orders prohibiting price discrimination by one of the Nation's leading breweries, by two members of the dairy industry, by a large sugar company, and by certain distributors of automotive parts, as well as bringing complaints against three others. In addition, complaints were leveled at three major producers of electric shavers charging that they had given better prices and disproportionate advertising allowances to certain favored customers. Another major case challenged favoritism toward large chain stores in the form of lower prices and higher allowances by the largest distributor of dairy products in the United States.

Similar discrimination in granting illegal discounts and allowances in lieu of brokerage was attacked in 18 complaints against various packers and brokers in the seafood industry. In the food products field, the Commission also attacked the practice whereby food brokers "split" their customary commissions with buyers or receive illegal brokerage fees on purchases made for their own accounts. A variation was a complaint issued against a wholesale grocers' cooperative and its 35 wholesaler members on grounds they had received unlawful brokerage payments on direct purchases of food and grocery products.

Illegal promotional allowances came under heavy fire, and the targets included 16 nationally known producers of food and grocery products who sought to favor large supermarket chains. The result

was that 13 were ordered to cease and desist; the other 3 still were in trial at the year's end. Meanwhile complaints alleging discriminatory promotional allowances were served on three major tobacco companies and a half dozen large concerns producing miscellaneous products such as brassieres, watches, and cameras.

Still another form of favoritism was attacked in a complaint against the world's largest manufacturer of shoes. The International Shoe Co. was ordered to stop giving financial benefits to shoe retailers who agreed not to handle competitors' products. Similar actions to protect retailers from having to deal exclusively in a manufacturer's or distributor's products were brought against one of the Nation's leading oil companies, a major supplier of vitamin and mineral supplements, and a New England distributor of liquefied petroleum gas.

Among other outstanding antimonopoly actions taken during the year was a successful crackdown on illegal price-fixing in the west coast tuna industry whereby six associations of tuna boat owners, three fishermen's and cannery workers' unions, and the California Fish Cannery Association and its members accepted orders to cease and desist from the pricing practices they had been using. In another order, the Asheville Tobacco Board of Trade was made to stop monopolizing the tobacco auction warehouse industry in, Asheville, N.C. The attack continued with complaints against price-fixing in the gummed paper, floor covering, diesel engine parts, gasoline, and jewelry industries. For example, a jewelers' trade association, with 4,000 members was charged with concertedly fixing uniform price markups on silverware as well as inducing increased discounts from silverware manufacturers.

A characteristic of antitrust actions is that more often than not they are too complex from a legal and financial standpoint to be understood readily by most laymen. Moreover, because such actions are concerned with business practices at least once removed from the final retail sale of products and services, the ordinary consumer takes little notice of them. His indifference becomes all the more understandable because only rarely does an individual action have an immediate and conspicuous effect on retail prices. However, the effect of the Commission's antitrust network is cumulative not only in correcting but in discouraging monopolistic practices. That this effect is accepted with little concern and less knowledge by most laymen does not detract from its importance, for it provides a vital defense for our system of free enterprise.

The Commission's actions against deceptive practices, on the other hand, are more readily understood, and the fiscal year saw an impressive variety of advertising claims attacked with complaints and orders.

Nearly a third of these involved fictitious pricing of merchandise. Here the evil is particularly dangerous by reason of its insidiousness.

At first glance it would seem that a merchant commits only trifling offense by advertising goods at a reduction from a former price that is fictitiously high. Yet, the effect of such advertised "bargain" prices is to force competitors to the same kind of trickery. A leak in the dike of advertising integrity thus gains in volume, with a potential of inundating public confidence in advertised claims. Should this occur in any important degree, the effect would be dire indeed, for advertising not only buttresses all but provides vital support for the development of new business products. In short, the Commission does not intend to permit the policing of fictitious pricing to become a "horseshoe nail for the want of which a kingdom is lost."

In numbers, of complaints and orders, the Commission's efforts to halt deception were greatest in the fields of wool and fur labeling. New actions to prevent mislabeling of furs rose more than 70 percent over those taken in fiscal 1957, while the 36 complaints aimed at improper labeling of wool represented a 38 percent, increase over the previous year. This step-up in activity resulted not only from a strengthening of the staff of fur investigators but as result of increasingly competitive conditions both in the wool and fur fields. In the manufacture of wool products, tighter price competition has tempted many makers to increase the percentages of substitute materials and fibers of lower quality and cost without endangering sales by noting these percentage changes on the labels . Also, the FTC's complaints have challenged an excess of optimism in the labeling of such costly specialty fibers of cashmere, vicuna, and alpaca. As for furs, the principal sinning has been a combination of fictitious markdowns in price plus advertising and labeling that misrepresents tip-dyed or foreign mink to be high-grade domestic quality.

A novel scene that prompted issuance of seven complaints is the so-called advance fee real estate racket. Here the owners of property— quite often elderly people who plan to retire—have advertised unsuccessfully their farms or businesses for sale. These advertisements are seen by promoters who thereupon telephone the would-be sellers and advise them that the promoters have clients willing to pay not only the asking price but more. After payment of a quick advance fee to clinch this "opportunity", the would-be sellers learn to their dismay that they have bought no more than ineffective advertising in a property - listing bulletin. The advance fee us not refunded.

As for the rest of the Commission's actions in the deceptive practice field, the variety was as wide as the ingenuity and conscience of the promoters. For example, complaints were issued challenging advertising that would lead the public to believe: that reprinted books under new titles were fresh from an author's pen; that hair growers could restore a luxurious growth in all cases; that watches with 1 or 2 jewels contained at least 17; that certain contact eyeglasses

offered day-long comfort, were unbreakable, and provided eyes with superior ventilation; and that a certain grass sold by mail order multiplied itself 50 times during a summer without weeds. In addition, the Commission moved against a score of old favorites such as the cures for arthritis and rheumatism, the collection agencies posing as dispensers of largesse, and the sellers of cookware who disparage competing products as poison pots, and vending machines whose amazing profits need but the gathering to assure comfort and security for the credulous.

To the formal cases aimed at halting deceptive practices can be added 146 informal stipulations—as compared to 105 in fiscal 1957—whereby individuals and firms agreed to stop practices which the FTC considered to violate the laws it administers. This procedure, which saves the time and expense of formal litigation, is employed when the Commission has reason to believe that no sterner measures are required to stop the objectionable acts. The principal target here is false advertising, and a close check is maintained on whether the stipulated agreements are kept.

In addition to litigation against individual respondents, the Commission continued its efforts to aid entire industries to abide by the laws it administers. This involves analyzing the particular industry's practices to determine which might be illegal and to identify and prohibit them by trade practice rules. Once issued, the rules are administered to assure compliance with them and are revised as necessary to keep them up to date. At the end of fiscal 1958, trade practice rules were in force for 159 industries.

In the field of economics, the Commission approved what was later to be printed as a 361-page report on the \$330 million a year antibiotics industry. This study, begun in early 1956, succeeded in presenting the first comprehensive picture of an industry whose formative years had necessarily been hidden by wartime secrecy and then, due to rapid new developments, had raced ahead of competent economic analysis. As the report neared completion, the Commission directed that a legal investigation be conducted simultaneously to determine whether patent licensing arrangements among manufacturers of the so-called "broad spectrum" antibiotics were illegally monopolistic, resulting in excessively high prices to the public. This investigation was to result in the issuance, a month after the fiscal year ended, of complaints against six corporations on charges of having obtained a vital patent through misrepresentation and thereafter having conspired to restrain trade and fix prices.

The Commission's vigorous law enforcement and the resultant increase in orders to cease and desist has required an ever greater effort to secure compliance with these orders and has caused the Commission to become engaged in a considerable amount of court litigation.

During fiscal 1958 the Compliance Division handled over 1,800 separate matters with respect to 680 cases., which included the institution of 162 compliance investigations and the review of 490 reports of compliance in its continuing survey of older outstanding orders. In addition, the Commission's Appellate Division completed 27 litigated cases, including before the Supreme Court in cooperation with the Solicitor General's office and others before 10 of the 11 United States courts of appeals and four district courts.

The year saw increased interest by the Congress in Commission activities, the laws that the Commission administers, and proposals to improve such laws and expanded Commission jurisdiction. Among the proposals that were later to be enacted were: (1) an amendment of the Packers and Stockyards and Federal Trade Commission Acts to re-vest in the Federal Trade Commission jurisdiction over practices, other than meat-packing, of packers" who were totally exempt from jurisdiction of the Commission, and (2) a bill requiring appropriate labeling and prohibiting false advertising of textile fiber products with enforcement authority vested in the Federal Trade Commission.¹

Among the legislative proposals strongly urged by the Commission, but which failed of enactment, were amendments of the Clayton Act (1) to require advance notice to the Commission of proposed mergers by businesses of significant size engaged in interstate commerce; (2) to authorize the Commission to seek preliminary injunctions in Federal district courts with respect to mergers which it has reason to believe are or would be in violation of the law; and (3) to provide that cease and desist orders issued by the Commission for violations of the Clayton Act be final in the same way as orders under the Federal Trade Commission Act.

These legislative proposals will continue to receive the Commission's support for the reason that each would make possible faster and more effective action to maintain fair business competition.

In summary, these are the highlights of the Commission's performance in fiscal 1958.

¹ Such legislation was enacted subsequent to the closing of the fiscal year as P. L. 85-909, Sept. 2, 1958, and P. L. 85-897, Sept. 2, 1958, respectively.

SCOPE OF AUTHORITY

Basic Functions of the FTC

The Federal Trade Commission is composed of five Commissioners appointed by the President and confirmed by the Senate, of whom no more than three may be of the same political party. The Commission is charged with the responsibility for administering and enforcing laws in the field of antitrust and trade regulation. They deal with prevention of monopoly, restraints of trade, and unfair trade practices. The Commission also has the duty of investigating and reporting economic problems and corporate activity, particularly in relation to the antitrust laws and in aid of legislation. A primary purpose of the laws which the Commission administers is to protect competition in our private enterprise economy. These statutes are briefly described below.

The Federal Trade Commission Act of 1914, including the Wheeler-Lea Act Amendments of 1938

This legislation confers upon the Commission two broad functions. Under the first, the Commission, subject to certain exceptions, is "empowered and directed to prevent persons, partnerships, or corporations,¹ * * * from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce," which are declared by the statute to be unlawful. The Commission is given power to investigate, to hear cases and to make determination of practices falling within this proscription.

Whenever deemed necessary in the public interest to resort to mandatory proceedings, the Commission is authorized to issue complaints against persons, partnerships, or corporations within its jurisdiction which it has reason to believe have been or are using any such unlawful methods, acts, or practices in commerce. If, upon due proceeding and

¹ Excepted from the Jurisdiction of the Commission under such section are "banks, common carriers subject to the acts to regulate commerce, air carriers and foreign air carriers subject to the Civil Aeronautics Administration Act of 1938, and persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in Section 406 (b) of said act. * * *" Specific exemption from such provision against unfair methods of competition and unfair or deceptive acts or practices in commerce is provided for resale price maintenance contracts or agreements coming within the Federal Fair Trade Act approved July 14, 1952 (15 U.S.C. 47), also known as the McGuire Act.

hearing, the, Commission finds that the practices in question violate the act, it is empowered to issue a cease and desist order against the offending party or parties. Such an order may be appealed from the Commission to a United States court of appeals, which is authorized to review the proceeding and to affirm, enforce, modify, or set aside the Commission's order. Thereafter, the case may be taken to the Supreme Court of the United States upon writ of certiorari.

Originally, the cease and desist orders issued under the Federal Trade Commission Act were enforceable only by the appellate court through contempt proceedings, after its action had transformed the order into a decree of the court. The 1938 Wheeler-Lea amendments provided for a civil penalty action in the United States district court for violation of such final cease--and-desist orders. Under this provision the orders become final either through affirmance by the Court of Appeals or at the end of 60 days in the event no appeal is taken. If the order is violated after becoming final, a civil penalty suit may be instituted by the United States. Such an action is brought by the Attorney General at the request of the Commission, and the district court is authorized to impose civil penalties up to \$5,000 for each offense. Under an amendment enacted in 1950, each day of a continuing violation may be treated as a separate offense.²

The Wheeler-Lea Act amendments also conferred special authority upon the Commission for the controlling of false advertising of foods, drugs, cosmetics and curative or corrective devices. For such purposes the term "false advertisement" is defined to mean "an advertisement, other than labeling, which is misleading in a material respect;³ * * *" The term also is employed in section 4 of the Oleomargarine Act to any representations or suggestions that oleomargarine is a dairy product. In cases of this type, jurisdiction of the Commission may be grounded in use of the United States mails as well as interstate commerce. When necessary for protection of the public interest, the Commission is authorized to obtain temporary injunctions against the false advertising of foods, drugs, cosmetics or curative devices, pending completion of the cease and desist order proceedings. Where the commodity advertised is injurious to health, or where the advertising is with intent to defraud or mislead, criminal prosecution may also be had with maximum penalties of a \$5,000 fine and 6 months' imprisonment, or double this line and imprisonment in case of second offenses. The Commission is authorized to certify the facts to the Attorney General for prosecution whenever it has reason to believe any person, partnership or corporation is liable under the criminal provision.

The second broad category of functions conferred upon the Commission under the Federal Trade Commission Act consists of the

² Amendment: contained in the Oleomargarine Act (64 Stat. 20).

³ Sec. 15, Federal Trade Commission Act.

powers conferred by section 6. This section empowers the Commission 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, except banks and common carriers subject to the Act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships." The Commission also is empowered to require such corporations to furnish information and to file annual and special reports. When directed by the President or Congress, the Commission is authorized to investigate and report facts relating to any alleged violations of the antitrust acts by corporation; to investigate for the Attorney General, or on the Commission's own initiative, the manner in which antitrust decrees against corporations are being carried out; and further, upon application of the Attorney General, to recommend readjustments of the business of corporations alleged to be in violation of the antitrust acts in order to bring the conduct of such business into accord with the requirements of law.

The Commission is further empowered 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 make reports thereon to Congress with recommendations. Under those section 6 powers of investigation and reporting, the Commission serves the executive and legislative branches of the Government, particularly in antitrust problems and in aid of legislation.

Section 7 confers authority upon the Commission to act as a master in chancery upon reference from the court to ascertain and report an appropriate form of antitrust decree in equity suits brought by or at the direction of the Attorney General.

The act confers visitorial powers upon the Commission, including specifically the right of access to documentary evidence of corporations, the right to issue subpoenas, examine witnesses, and require the production of testimony and documentary evidence, and the power to make rules and regulations to carry out provisions of the act.

The Clayton Act ⁴

This antitrust law was enacted in 1914. It designates the Federal Trade Commission as an enforcing agency for the provisions of sections 2, 3, 7, and 8. Procedures are prescribed in section 11 by which, upon complaint and due hearing, corrective action may be applied by the Commission in the form of a cease and desist order or, in merger cases, an order of divestiture.

⁴ Approved October 15, 1914 (38 Stat. 730).

Section 2 of the Clayton Act, amended by the Robinson-Patman Act—Discriminatory Pricing .⁵—Subject to specified justification and defenses, this section provides that it shall be illegal to discriminate in price between different purchasers of commodities of like grade and quality sold for use, consumption, or resale within the United States, where the effect of the 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 benefits of such discrimination, or with customers of either of them."

Exception is provided for differentials which make only due allowance for differences in cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which the commodities are sold or delivered. Selection of customers in bona fide transactions and not in restraint of trade are not prohibited. The section, as amended, also specifies exceptions respecting sales necessitated by market conditions, disposition on account of 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. A defense to a charge of discrimination is also specified in regard to sales "made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor."

Quantity-Limit Provision.—This is also contained in section 2 of the amended Clayton Act. It confers authority upon the Commission, after due investigation and hearing of all interested parties, to fix and establish quantity limits 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."

Brokerages, Commission Proportionally Unequal Terms or Facilities.—The Robinson-Patman Act also forbids the payment of certain brokerages and commissions except for services rendered to the party making the payment, as well as forbidding the payment by manufacturers or sellers for, or the furnishing of, services or facilities to dealers or resellers in connection with the processing, handling, sale, or offering for sale of the products or commodities sold, unless such payments or the services or facilities furnished are made available to all competing customers on proportionally equal terms.

Inducement of Discrimination.—Another provision of the Robinson-Patman Act makes it unlawful for any person in the course of commerce "knowingly to induce or receive" an illegally discriminatory price.

Tying or Exclusive Dealing Contracts.—Section 3 of the Clayton Act prohibits the lease or sale in the course of commerce of goods,

⁵ Approved June 19, 1936 (49 Stat. 1526).

wares, merchandise, machinery, supplies or other commodities, for use, consumption or resale within the jurisdiction of the United States on the condition, agreement or understanding that the lessee or purchaser shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of competitors of the lessor or seller, where the effect thereof "may be to substantially lessen competition or tend to create a monopoly in any line of commerce."

Anti-Merger law.—This statute, approved December 29, 1950 is in the form of a revision and restatement of section 7 of the original Clayton Act. It is specific legislation on the subject of suppression of competition through the merger or consolidation of corporations. Such conduct is prohibited, whether brought about by the direct or indirect acquisition of either stock or assets of the acquired corporation, where the effect of the acquisition or merger may be substantially to lessen competition or tend to create a monopoly in any line of commerce in any section of the country. Certain exceptions are provided, including cases in which the stock is purchased solely for investment and not used for voting or otherwise to bring about or attempt to bring about the substantial lessening of competition. The Commission is designated, as having enforcement responsibility applicable to commercial enterprises generally but not including specific businesses which are under the regulatory authority of other agencies, such as banks and common carriers.

Interlocking of Corporate Directorates. - -Section 8 of the Clayton Act prohibits a person from serving at the same time as a director of two or more corporations, any one of which has capital, surplus, or undivided profits aggregating more than \$1,000,000, when such corporations are or have; been competitors under the conditions prescribed, so that the elimination of competition would constitute a violation of any provisions of the antitrust laws.

Specifically excluded from the jurisdiction of the Federal Trade Commission under this as well as other sections of the Clayton Act are certain types of commercial enterprises subject to other regulatory authority, such as common carriers, air carriers, banks, banking associations and trust companies.

The Webb-Pomerene Export Trade Act of 1918⁷

This law authorizes limited cooperative activity among American exporters for the purpose of promoting export trade. Associations engaged solely in export trade are afforded exemption from the Sherman Act within certain strict boundaries set out in the act. To qualify for such exemption, an association must file with the Commission copies of its association papers or articles of incorporation and a

⁶ 64 Stat. 1125.

⁷ 40 Stat. 516.

complete description of its organizational structure, and bring this information up to date yearly. The Commission may require submission of additional information relating to the association's business activities at any time. A continuing surveillance of association activities is maintained by the Commission's Division of Export Trade.

Whenever the Commission concludes that an association is not operating within the limits of the antitrust exemption provided by the act, it may make recommendations to the association for readjustment of its practices. Upon failure of an association to comply with such recommendations, the Commission will refer the matter to the Attorney General for appropriate action.

The act also extends the prohibitions of the Federal Trade Commission Act to unfair methods of competition used in export trade against export competitors even though the acts are done outside the territorial jurisdiction of the United States.

Wool Products Labeling Act and Fur Products Labeling Act ⁸

These laws constitute specific labeling legislation for maintaining the integrity of competition and protection of the buying public against confusion and deception.

Violations are classed as unfair methods of competition and unfair or deceptive acts or practices, within the Federal Trade Commission Act. Informative labeling of wool products and fur products is required. Labels on wool products are required to reveal the respective percentages of "wool," "reprocessed wool," "reused wool" and other constituents of wearing apparel and other articles containing or purporting to contain woolen fiber in whole or in part. Labels on fur products, as well as the advertising and invoicing, are required to disclose to purchasers the true name of the animal from which the fur came. For this purpose, an official Fur Products Name Guide has been prepared by the Commission. Other significant information also is required to be disclosed in the label informing the purchaser whether the fur article is dyed, bleached, damaged, secondhand, or pieced. The country of origin of foreign furs must likewise be disclosed.

The Commission is specifically authorized to inspect and make tests of the merchandise covered, and to issue rules and regulations which have the force and effect of law. When necessary in the public interest, the Commission may resort to court proceedings for condemnation of goods seized as violative, and may apply for temporary injunctions pending completion of cease-and-desist order proceedings against alleged offenders. Suits to collect civil penalties for violation of the Commission's final orders are also available in cases under these acts. For willful violations, misdemeanor prosecutions

⁹ Approved, respectively, October 14, 1940, 54 stat. 1128, and Aug 8, 1951, 65 Stat. 176.

may be brought by the United States, and fines of up to \$5,000 or 1 year's imprisonment, or both, imposed by the court. Manufacturers and distributors may issue guaranties of having properly labeled their merchandise. Members of the trade may use such guaranties as a defense to charges of misbranding where the particular guaranty in question was relied upon in good faith. Forms of guaranties are prescribed by the Commission.

Flammable Fabrics Act, approved June 30, 1953, effective July 1, 1954

The purpose of this statute is to afford the public protection from wearing apparel made of fabrics which are so highly flammable as to be dangerous. In the past, such fabrics have brought death or severe injury to many people.

A flammability test method is prescribed and apparel or fabrics which fail the tests are considered dangerously inflammable. It is forbidden by statute to introduce or place such merchandise on the market. In its administration of this act, the Federal Trade Commission is authorized to issue rules and regulations, to conduct tests, and to make investigations and inspections. The Commission is authorized to use its power under the Federal Trade Commission Act, including the cease-and-desist order process, in carrying out its responsibilities for enforcing the act. Offending goods found in the market may be seized and condemned through district court action brought by the Commission. Pending completion of proceedings for issuance of a cease-and-desist order against an alleged violator, the Commission may apply to the court for temporary injunction. Suits for violation of a final cease-and-desist order may be brought to recover civil penalties up to \$5,000 for each offense.

Manufacturers and distributors may guarantee their merchandise as having passed reasonable and representative tests for flammability. Members of the trade who rely in good faith upon these guaranties are afforded certain protection against prosecution. Willful violations of the act, whether in placing prohibited products on the market or in issuing a false guaranty, may be prosecuted by the Government as misdemeanors. Upon conviction, fines up to \$5,000 or 1 year's imprisonment, or both, may be imposed by this court.

Regulation of Insurance Public Law 15, 79th Congress ¹⁰

This act was passed by Congress after the Supreme Court had ruled that the insurance business is subject to Federal jurisdiction under the commerce clause of the Constitution.¹¹

⁹ 67 Stat. 111.

¹⁰ Approved March 9, 1946, 69 Stat. 83. Effective June 30, 1948, see amendment approved July 25, 1947, 61 Stat. 448.

¹¹ United States v. Southeastern Underwriters Association, 832 U. S. 683, June 5, 1944.

Under this statute, the Federal Trade Commission and the Clayton Acts apply to the business of insurance to the extent that it is not regulated by State law.

Lanham Trade Mark Act, approved July 5, 1946¹²

This authorizes the Commission to proceed before the Patent Office for cancellation of certain trade-marks improperly registered or improperly used in competition, as provided in section 14 of this act.

Defense Production Act of 1950¹³ and Small Business Act of 1953¹⁴

The former statute authorizes the Commission to make surveys at the request of the Attorney General to determine any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of administration for the Defense Production Act; of 1950. The Chairman of the Commission, as provided in section 708, also is consulted regarding voluntary industry agreements and programs which the President is authorized to utilize to further the objectives of the act. Similar consultative responsibilities rest upon the Chairman of the Commission under section 217 of the Small Business Act. After agreements and programs have been subjected to this consultative review and have received official sanction, those participating are afforded immunity from the antitrust laws and the Federal Trade Commission Act.

¹² 60 Stat. 427.

¹³ 64 Stat. 798.

¹⁴ 67 Stat. 232.

ADMINISTRATION

The five Federal Trade Commissioners determine the agency's broad policies and make its final judgments on casework, voluntary law enforcement efforts, and economic studies. There must, however, be a great amount of work done to assemble the facts on which these judgements are based. This basic work, including the prosecution of cases, is accomplished by the Commission's staff.

The staff, about half of whom are attorneys, is under general supervision of the Chairman of the Commission. He was given this authority in 1950 as a result of Reorganization Plan No. 8. This plan transferred from the five Commissioners to the Chairman the control of and responsibility for internal administrative functioning of the agency but left to the full Commission other substantive responsibilities.

The administrative function of the Chairman carries authority to: (1) appoint and supervise staff members, (2) distribute the staff's workload among them, and (3) determine how funds should be spent, subject, of course, to legal requirements. His appointment of Bureau heads and other key officials requires approval of the full Commission.

The Executive Director is the chief administrative officer of the agency. As such, he directs the work of most of the staff and coordinates its functioning.

The Commission's Bureaus of Investigation, Litigation, Consultation, and Economics are under the operational supervision of the Executive Director, who also has direct supervision of the Commission's Divisions of Personnel, Budget and Finance, Management and Organization, and General Services. The Office of the General Counsel and the Office of the Secretary report directly to the Chairman and the Commission.

DIVISION OF PERSONNEL

The Division of Personnel initiates, develops, and administers personnel policies and programs in the spheres of recruitment, appointment and placement, training, examining, position classification,

efficiency ratings, employee relations, incentive awards, and welfare and health.

During the past fiscal year this office revised its system for selection and appointment of attorneys to insure that the best qualified applicants are employed. The revised system encompasses the examination, rating, and appointment of applicants and includes new supplementary application forms, qualification rating forms, and interview rating-forms.

DIVISION OF BUDGET AND FINANCE

The Division of Budget and Finance is responsible for the preparation and administration of the Commission's budget and maintains the fiscal records of the Commission. This office maintains salary, savings bonds, tax, social security, retirement, and annual and sick leave records for all employees of the Commission, including the field offices, and performs the audit, prior to payment, of all vouchers covering payment for travel expense, communications, and supplies and equipment. The Fiscal Section maintains the various ledgers and records necessary to reflect the financial position of the Commission at all times and prepares the various financial statements and reports required by the Commission, the Bureau of the Budget, the Treasury Department, the General Accounting Office, and the Congress.

DIVISION OF MANAGEMENT AND ORGANIZATION

The Division of Management and Organization conducts management surveys, and recommends and installs organizational changes, makes management reports, and establishes staffing patterns. The Division also is responsible for the analysis of operations and the preparation of periodic reports on them.

DIVISION OF GENERAL SERVICES

The Division of General Services is a central administrative unit established for the purpose of publishing the material made public under Section (f) of the Federal Trade Commission Act, for the procurement of supplies and equipment, and for supplying other services essential to the functioning of the Federal Trade Commission. The Commission's Library is also located in this Division.

Publication Branch

The Publication Branch of the Division of General Services is a service established by the Commission to clear for format, economy of reproduction, and distribution all material printed or duplicated by the Federal Trade Commission within the limitations of the laws and regulations as applicable thereto. This Branch also operates a Class A Printing Plant established under the provisions of the regu-

rations by the Joint Committee on Printing of the United States Congress, and provides photographic, photostat, and drafting services. These services are performed by the following sections:

The Stenographic and Composition Section edits, for format and typography, material to be printed at the Government Printing Office or printed or duplicated in the Federal Trade Commission Printing Plant and provides stenographic services when bureau pools are overburdened. During fiscal year 1958 over 4,500 pages of copy were produced by this activity for lithographic reproduction in the printing plant.

The Photographic Section provides the Commission with photographic and photostat services for use in connection with the Commission's legal proceedings and economic reports. Production reports for this section shows that over 202,000 photographic and photostat prints were produced during fiscal year 1958.

Functions of the Printing Plant are the printing of the Commission's orders, press releases, legal and economic reports, speeches, trade practice rules, pamphlets, forms, letters, etc. Production during fiscal year 1958 Noms more than 9,100,000 lithographed impressions.

Library

The Library consists of a specialized collection of more than 100,000 bound volumes and extensive vertical files containing 30,000 to 35,000 legislative documents and statistical publications organized for easy accessibility. In addition, there are several thousand current issues of legal, economic, and technical periodicals which collect annually from tile inflow of more than 200 titles on a daily, weekly, monthly, or other frequency basis. Loose issues of most pertinent titles are collected and bound at the end of each year. The demand for reference and research increased substantially during fiscal 1958, and this resulted in increased circulation of books and materials. This is reflected in the number of reference questions, which was approximately 55,000 this year. The book circulation topped 60,000 items.

Procurement and Services Branch

The Procurement and Services Branch of the Division of General Services is responsible for providing services and controls in the necessary housekeeping functions as follows: procurement and maintenance of supplies, equipment, furniture, etc.; space control and building maintenance; and communications including mail, telephone and telegraph, and messenger.

OFFICE OF THE SECRETARY

The Secretary and his immediate office receive and handle mail on all phases of the Commission's work. He signs all orders and certain

other official papers. He also is responsible for liaison with the Congress and Government agencies and for decisions on informal cases not submitted to the Commission.

The Assistant Secretary for Minutes attends, takes minutes of, and records the executive meetings of the Commission, prepares directives for the signature of the Secretary, and keeps the calendar of pending matters.

Office of Information

This office issued a total of 1,238 press releases during the fiscal year, compared with 946 and 873 in fiscal 1957 and 1956, respectively. They covered news of Commission complaints, answers by respondents, initial decisions by hearing examiners, orders, compliance actions, and newsworthy interlocutory rulings by the Commission. In addition, many oral and written inquiries from the press and public were answered each day. The office also arranges interviews between members of the press and Commission officials.

Legal and Public Records

This office has responsibility for the legal records of the Commission. This includes receiving, serving, docketing, indexing, and filing legal papers in connection with proceedings before the Commission as well as Commission actions in the Federal Courts.

The office is has responsibility for the publication of the volumes of the "Federal Trade Commission Decisions" and its "Statutes and Decisions," the latter including court decisions in Commission cases; for the codification and editorial preparation of Commission material published in the Federal Register; and for the collection and dissemination of relevant court decisions.

Information and assistance are furnished to the public and to the staff of the Commission in relation to the public, legal, and court proceedings. Commission publications, forms, and other material are distributed by this office to the staff and the public.

FEDERAL TRADE COMMISSION
ORGANIZATION OF STAFF FUNCTIONS

ORGANIZATIONAL CHART - SEE IMAGE

INVESTIGATION

The gathering and analysis of facts and evidence are basis to the work of the Commission. This task is performed by the Bureau of Investigation under the supervision of the Bureau Director and the guidance of the Chief Project Attorney, his staff of Project Attorneys, and the Managers of the Commission's nine branch offices. Specialized investigative or supervisory functions are performed by the Division of Wool, Fur and Flammable Fabrics, the Division of Accounting, the Division of Scientific Opinions, and the Legal Adviser in charge of investigating mergers and acquisitions. The work of these groups will be discussed separately.

The letter, of complaint which give rise to legal investigations are received, principally from members of the public who feel that they have been victimized by deceptive advertising or sharp business practices, and from businessmen complaining of the practices of their competitors or suppliers. Additional complaints are received from Members of Congress, Congressional Committees, trade associations and from other agencies of government, both State and Federal. The Commission also initiates a substantial number of investigations on its own motion, particularly in the field of mergers and acquisitions.

It can well be appreciated that the Commission receives many more complaints than it can investigate. Careful evaluation is therefore necessary in order to concentrate on those which appear to possess merit and to eliminate those of a trivial or borderline nature. Other factors which influence the selection of cases to be entered for investigation include the amount of public interest involved, the question of jurisdiction, the time and expense required for investigation, whether the matter involves a purely private controversy, and the extent to which effective corrective action may reasonably be expected.

In all restraint of trade matters, close liaison is maintained with the Antitrust Division of the Department of Justice in order to eliminate conflict or duplication of effort on those matters over which the two agencies may possess concurrent jurisdiction.

In some cases, particularly those involving deceptive practice charges, the necessary facts are obtained through correspondence at a considerable saving in public funds. Usually, however, the facts can

only be obtained through field investigation involving interviews with the complaining party, the proposed respondent, competitors, suppliers, customers and other informants. Such matters are referred to one or more of the Commission's nine branch offices and are assigned to attorneys who conduct the actual field investigation. Upon completion, the examining attorney prepares a summary report and recommends appropriate disposition of the case. After review by the branch manager, the case is forwarded to headquarters for consideration by the project attorney in charge of the case. It may then be referred to the trial staff with a recommendation for issuance of a complaint, to the Bureau of Consultation for negotiation of a stipulation, or to the Secretary or the Commission with a recommendation for closing.

During the fiscal year, 3,782 applications for complaint were received, of which 814 related to restraint of trade matters and 2,968 to deceptive practice matters.

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. Investigations under section 5 related to such practices as price fixing agreements, collusive bidding, conspiracies to control production and to allocate territories, boycotts, and sales below cost with the purpose and effect of eliminating competition.

Numerous important investigations were also conducted on charges of violation of section 2 of the Clayton Act which prohibits price discrimination, illegal brokerage payments, discriminations in the payment for or furnishing of services and facilities' and the knowing inducement or receipt of illegal price discriminations. Investigations were made also of exclusive dealing and tying arrangements under section 3 of the Clayton Act.

Of the 806 deceptive practice investigations completed during the year, 190 relating to wool and fur products are discussed separately elsewhere. Four hundred and seventy-eight of the investigations were made under section 5 of the FTC Act, the Commission's general authority to prevent unfair methods of competition and unfair or deceptive acts or practices. These section 5 investigations covered a wide variety of commodities and different forms of misrepresentation. Complaints were issued charging violation of section 5 in 135 cases during the year, and 70 stipulations were accepted in this area.

A total of 138 investigations were completed under section 12 of the Federal Trade Commission Act, respecting false advertisements of food, drugs, medical devices, and cosmetics. Complaints issued charged 23 violations of this section; and 25 matters were settled by stipulation.

Also, 118 of these investigations under sections 5 and 12 were closed upon acceptance of assurance that questioned practices had been dis-

continued, when it appeared that this treatment served the public interest.

In addition to investigating new matters, the Bureau spent substantial time conducting investigations to determine whether persons, partnerships, and corporations were complying with the provisions of previously issued cease and desist orders. Such investigations require special care and attention since evidence of violation must be obtained and assembled in order to support civil penalty and contempt proceedings.

A substantial amount of work also was performed on investigations to obtain information to assist in the trial of cases in which complaints have been issued. Defenses asserted by respondents in pending cases frequently raise new issues necessitating further investigation.

MERGER INVESTIGATIONS

One of the statutes enforced by the Commission is section 7 of the Clayton Act, as amended. This statute prohibits any corporation subject to FTC jurisdiction from acquiring all or any part of the stock or assets of another corporation engaged in commerce 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. The general purpose of this section is to halt monopolistic combinations in their incipiency and before they have attained the proportions required to justify a Sherman Act proceeding.

Congress indicated its concern over the trend toward concentration in industry as a result of corporate mergers and acquisitions by appropriating for fiscal 1957 an additional \$901,000 for merger work. The Commission's intensified efforts to halt illegal mergers and acquisitions were continued in fiscal 1958. substantial portion of the funds available for merger work was used by the Bureau of Investigation in carrying out its function of examining all reported corporate mergers and acquisitions, identifying those which appeared to be significant from the standpoint of a possible violation of the act, and conducting investigations to determine the probable competitive effects of significant mergers and acquisitions.

Under the Commission's premerger clearance procedure, interested parties may request advice of the Commission concerning a proposed merger or acquisition. Facts relating to the proposed transaction may be submitted in writing or in conference. On the basis of these facts, as well as other information available to the Commission, the parties are informed whether or not consummation of the merger would likely result in further action by the Commission. Numerous conferences between members of the Bureau's staff and parties contemplating a merger were held during the year.

There is no legal requirement that the Commission be notified of corporate mergers or acquisitions either before or after consummation. Premerger notification has been the subject of several bills in both Houses of Congress. Except in instances where a complaint about a particular merger is received, or where premerger consideration is requested, the Commission must rely on financial newspapers, trade journals, manuals of investments and the like for information that a merger has occurred or is contemplated. An information sheet containing such information as is readily available from press reports and recognized reference manuals is prepared for each merger. In fiscal 1958, nearly 1,000 information sheets on reported mergers were prepared. These are referred to project attorneys who examine the readily available information and consult with economists and other experts with respect to each merger. They then determine the probable competitive effects and recommend whether or not further investigations should be undertaken.

If the preliminary review indicates the merger is one which may result in the adverse effects proscribed by the statute, a more comprehensive investigation is undertaken. This may be initiated by letters requesting the parties to submit detailed information concerning the companies and industry or industries involved, or by sending the matter to one of the Commission's branch offices for interview with officials of the merging companies. The data obtained from the companies involved usually are supplemented by data obtained from other sources, including competitors, suppliers, and customers of the merging companies, trade associations, and Government agencies. Investigations of this type, requiring as they do considerable economic and marketing analysis work, are generally more complicated, time-consuming and expensive than are investigations under other statutes administered by the Commission.

A total of 68 comprehensive merger investigations were undertaken during fiscal 1958. Among such investigations in progress during the year were Union Carbide Corp.'s acquisition of Visking Corp.; National Sugar Refining Co.'s acquisition of Godchaux Sugars, Inc.; Procter & Gamble Co.'s acquisition of Clorox Co.; Reynolds Metals Co.'s acquisition of Arrow Brands, Inc.; and acquisitions of a number of barite producers by Dresser Industries, Inc., and National Lead Co. The Commission has issued its complaint in each of these matters, charging that the effect of the acquisition or acquisitions may be substantially to lessen competition or to tend to create a monopoly.

On June 30, 1958, there were 107 merger investigations in progress, involving companies in many different industries, including food and kindred products, textiles and apparel, steel and steel products, timber

and wood products, petroleum, chemicals and allied products, paper and allied products, and mining.

DIVISION OF SCIENTIFIC OPINIONS

This division furnishes the Commission's legal staff with scientific facts and opinions concerning the composition and efficacy of foods, drugs, medical devices, cosmetics and related commodities where questions of science arise in regard to advertising claims. It arranges for analyses or other tests of products under investigation and gathers information on their composition, nature, effectiveness, and safety. The division provides scientific opinions and information needed in (1) considering matters under investigation, (2) negotiating stipulations, and (3)preparing complaints. It also assists the Commission's legal staff in preparing for hearings involving questions of science and secures the services of expert scientific witnesses.

Fiscal Year Ended June 30, 1958

Number of written opinions rendered -----	242
Number of oral opinions rendered -----	493
Number of analyses and tests -----	19
Number of hearings attended -----	53
Number of stipulations conferences attended -----	14
Number of expert witnesses secured -----	26

The written opinions rendered involved the following

Foods -----	34
Drugs -----	99
Cosmetics -----	25
Devices -----	19
Economic poisons -----	20
Miscellaneous -----	45

On July 1, 1957, there were 31 requests for scientific and medical opinions awaiting study and report in the division and on June 30, 1958, the number pending was 52. On June 30, 1958, there were outstanding 19 formal complaints involving matters in which the division was expected to furnish advice to the Commission attorneys and to obtain scientific and medical witnesses.

The written opinions rendered by the division involved a variety of human foods, livestock feeds, vitamin and mineral supplements, skin preparations, sunburn preventives, hair and dandruff preparations, depilatory preparations, feminine hygiene devices, trusses, contact lenses, eyeglasses, hearing aids, shoes for which curative claims were made, cooking utensils, insecticides, disinfectants, bleaches, and cigarettes. Attention was given to a substantial number of health and medical books advertised to the laity. Among the matters given consideration from the standpoint of possible health hazards were devices

designed to eliminate static electricity which contained small amounts of radium or other radioactive substances.

It was necessary to give continued attention to preparations, both external and internal, offered for the treatment of arthritis, rheumatism and related conditions, and to preparations or courses of treatment offered for prevention and cure of baldness. A substantial number of products and devices for the treatment of obesity were investigated. During the fiscal year the type of influenza popularly known as "Asian flu" became epidemic and considerable time was spent in investigating a variety of products offered for the prevention or cure of this condition.

The matters referred to the division for scientific opinion became increasingly complex and difficult to resolve. A steadily increasing number of drugs and cosmetics contain one or more ingredients regarding whose virtues and limitations the published medical and scientific literature provides, at most, only fragmentary and inconclusive reports. Consequently, the division must locate and confer with the medical specialists and other scientists who have firsthand knowledge of the therapeutic and other properties of the drugs and cosmetics. In many instances, advertisers seize upon preliminary favorable scientific reports, published or unpublished, and make them the basis for extensive advertising campaigns. Authorities in a particular field, when contacted, may characterize the reports as inadequate, preliminary and inconclusive; but, having had no actual experience with the product in question, they are unable to state categorically that the claims based upon the preliminary reports are false. Under such circumstances, the only hope of accurate appraisal, and where necessary, effective regulation of advertising is to have the products tested clinically. Conferring with scientists regarding new products and ingredients, and planning and arranging for clinical tests is time-consuming work, frequently entailing considerable travel.

DIVISION OF ACCOUNTING

This Division furnishes accounting services in the law enforcement activities of the Commission and in general economic investigations.

In the legal casework field, the Division prepares accounting analyses and studies of the pricing policies of corporations and concerns in Commission proceedings in regard to (1) alleged price discriminations under section 2 of the Clayton Act as amended by the Robinson-Patman Act; (2) cost data submitted by respondents in justification of alleged price discrimination under the Robinson-Patman Act; (3) alleged price fixing in cases arising under section of the Federal Trade Commission Act, and (4) evidentiary data of alleged sales below cost in violation of section of the Federal Trade Commission Act.

In addition, the Division compiles production and sales statistics and analyzes financial data of companies and competitors involved in mergers under section 7 of the Clayton Act, and also compiles statistics concerning costs, prices and profits and the financial positions of companies under section 6 of the Federal Trade Commission Act.

During the year, accounting services were furnished in connection with legal cases and investigations, These included 43 Robinson-Patman cases, 11 other Clayton Act cases, 16 section 5 Federal Trade Commission Act, and 6 other cases involving the Wool Products Labeling Act, the Fur Products Labeling Act, and the Trade Mark Act.

In addition, accounting services were furnished in connection with the Commission's financial and statistical activities. A study was made of the profitableness of identical companies in selected manufacturing industries during the years 1940, 1947-56. A report was prepared on rates of return (after taxes) for identical companies which comprised in 1940 the major part of each of 25 manufacturing industries, and for the 12 largest companies in each of 39 industries for the years 1955 and 1956.

During the past year, accounting services also were furnished in connection with inquiries being conducted by the Subcommittee on Antitrust and Monopoly Legislation, Senate Committee on the Judiciary. The Commission furnished the committee with information concerning the long-term profits of companies in a number of major industries.

DIVISION OF WOOL, FUR, AND FLAMMABLE: FABRICS

The Commission is charged by Congress with administering three separate and important pieces of consumer legislation—the Wool Products Labeling Act of 1939, the Fur Products Labeling Act, and the Flammable Fabrics Act. Their purposes are to protect consumers, manufacturers, and distributors from misbranded wool and fur products and from false invoicing and advertising of fur products and furs, as well as from the dangers surrounding the uses and marketing of highly flammable wearing apparel and fabrics.

The Wool Products Labeling Act and the Fur Products Labeling Act provide for informative labeling of wool and fur products. The requirements of the Fur Act also extend to invoicing and advertising of fur products and furs. Under the terms of the Flammable Fabrics Act, wearing apparel or fabrics not meeting standards of flammability set out in the statute must be entirely removed from the market.

Where necessary, actions for condemnation and injunction, as well as criminal prosecution for willful violations, are available in the Federal courts. These actions are in addition to the Commission's regular cease-and-desist order procedure.

Under each of these statutes, the Commission has issued rules and regulations necessary for their administration and enforcement. These regulations, which become substantive law, have been issued and are being maintained by the Division of Wool, Fur, and Flammable Fabrics as integral parts of the legislation.

The very nature of these three pieces of consumer legislation, which differ materially from the other statutes administered by the Commission in view of their affirmative requirements, necessitates compliance inspection and industry counseling work throughout the country. Such inspection work is conducted at all levels of merchandising, including manufacturing, wholesaling and retail distribution. Under planned programs of inspection, the compliance of those amenable to the statutes is checked periodically and assistance given in making on-the-spot correction of deficiencies under the acts and regulations. Counseling service is also given. When substantial violations are found, full investigation of the practices is made and formal action recommended against offenders.

Approximately 70 industries manufacture products subject to the provisions of the Wool Act. Members of these industries approximate 25,000 manufacturers and 260,000 distributors. Subject to the Fur Act are approximately 7,500 manufacturers, and 175,000 distributors. Over 300,00 dealers and distributors of wearing apparel are subject to the provisions of the Flammable Fabrics Act.

Highly competitive conditions in the wool industry, together with the general rising prices of consumer goods, have caused and are causing many manufacturers to resort to the use of substitute materials and fibers of lower quality and cost in maintaining established price structures for their products.

Inspections during the year revealed an increase in misbranding of wool products and the need for an accelerated compliance inspection program, including the examination of fiber content records required of all wool product manufacturers. Especially is this true in the interlining, wool batting, and comforter industries, as well as the suppliers of reprocessed and reused wool fiber stocks, which under such conditions have been and are being upgraded to higher classifications.

There has been an increasing demand for fabrics and garments made from specialty fibers such as cashmere, vicuna, camel hair, alpaca, and llama, as well as fabrics made from a blend of wool and fur fibers taken from expensive fur-bearing animals. The scarcity of these fibers, together with premium prices, has resulted frequently in the substitution of less desirable fibers and the misbranding of wool products.

Since the European and Asiatic countries producing yarns, textiles, and knitted goods have recovered from World War II, wool products are being imported into the United States in ever-increasing volume.

These manufacturers are beyond the FTC's jurisdiction so far as inspections of plants and records are concerned. Therefore, closer watch must be maintained by Commission investigators on foreign imports with the cooperation of the Bureau of Customs.

During the past year there have been many Fur Act violations. Because of the superiority of American mink which comes from fur farms throughout the country, there have been numerous cases where imported mink of an inferior quality has been passed off as domestic mink. In addition, low grade mink is tip-dyed to give it the appearance of high-quality natural mink. Also, numerous cases were directed against false advertising of fur values.

In the enforcement of the Flammable Fabrics Act, it is necessary to exercise close surveillance over those sections of the industry that might normally produce potentially dangerous products, such as the fine sheers and high pile or highly brushed cellulose fiber fabrics, including chenilles, brushed rayons, nets, lawns, organdies, etc. In addition to carrying on inspections of our domestic manufacturers, it also is necessary to keep a sharp eye on imports made of potentially dangerous fabrics.

Workload Statistics for Fiscal Year 1957

I. Field inspections and industry counseling:	
Wool Act:	
Number of concerns inspected -----	1,490
Number of wool products inspected (sampling method) -----	4,396,515
Fur Act:	
Number of concerns inspected -----	936
Number of fur products inspected -----	69,094
Number of advertisements examined -----	30,765
Flammable Fabrics Act:	
Number of concerns inspected -----	1,825
II. Interpretations and opinions rendered concerning Wool, Fur, and Flammable Fabrics Acts and Regulations thereunder:	
Wool Act -----	3,437
Fur Act -----	2,283
Flammable Fabrics Act -----	627
III. Informal cases involving minor Wool and Fur Act deficiencies handled administratively. These include matters involving infractions of the Acts and Regulations where formal action does not appear necessary and compliance is effected on a cooperative basis. -----	
	<u><u>3,602</u></u>
IV. Special compliance investigations relating to Commission orders and stipulations completed and reported on during the fiscal year:	
Wool Act Fur Act -----	19
Fur Act -----	42
Flammable Fabrics Act -----	1
	<u><u>62</u></u>
V. Investigations completed with recommendation for:	
Complaint:	
Wool Act -----	47
Fur Act -----	77
	<u><u>124</u></u>
Stipulation:	
Wool Act -----	21
Fur Act -----	40
Sec. 5 (FTC Act) -----	3
	<u><u>64</u></u>

LITIGATION

Supplied with facts produced by the investigation of a case, the Bureau of Litigation analyzes them and, if necessary, augments them in developing and perfecting a draft of complaint which it can recommend that the Commission issue. If the Commission agrees and the complaint is issued, trial attorneys from this Bureau undertake its prosecution.

Their duties in litigated cases include the preparation of trial briefs and other legal documents, such as answers to defense motions, petitions, and appeals; and the examination and cross-examination of witnesses for both sides, frequently involving complex legal, scientific, and economic issues.

The trial attorneys also introduce documentary evidence, participate in pre-trial conferences, present oral argument before examiners and the Commission, and, in certain instances, represent the Commission in court proceedings.

In the final analysis the case stands or falls on the record established during trial. Not only is the Commission's order based on it but also the decision of the United States Court of Appeals if the respondent appeals an adverse order.

In cases where the respondent enters into a consent order to discontinue the challenged practices, the trial attorney conducts the negotiations leading to the settlement.

Heading the Bureau is a director who exercises general supervision over all activities. In addition, there are two assistant directors and an assistant to the director. As of June 30, 1958, there were 65 trial attorneys in the Bureau, including legal advisers, of whom 4 are specialists in antimonopoly law and the other a specialist in antideceptive practice law. Two economists also were assigned to the Bureau.

CASE WORK IN 1958

The volume of cases begun and concluded during fiscal 1958 increased substantially over the previous year, as evidenced by the following table:

	Antimonopoly		Antideceptive practices		Total increase over 1957		
	1958	1957	1958	1957	1958	1957	Percent
Complaints issued -----	86	55	¹ 268	187	354	242	46
Orders to cease and desist -----	² 45	² 31	³ 228	⁴ 148	273	179	52

- ¹ In addition, there were false and misleading advertising charges included in two antimonopoly complaints
- ² In addition, there was one order partially disposing of a case
- ³ In addition, there were seven orders partially disposing of cases
- ⁴ In addition, there were five orders partially disposing of cases

In addition, the Commission through this Bureau successfully instituted four proceedings in the United States District Courts to restrain mislabeling of wool products pending the adjudication of these matters before the Commission. These injunctions served to protect the public against mislabeling during the interim period.

Some of the more significant cases started or completed during the year follow.

ANTIMONOPOLY CASES

Antimonopoly litigation significantly increased in fiscal 1958. A total of 86 complaints were issued, exceeding the 1957 figure by approximately 56% percent and more than doubling the comparable figure in 1954. Antimonopoly orders obtained during the year totaled 45 (plus 1 partial order), an increase of 45 percent over 1957 and 80 percent over 1954.

Antimerger Litigation

During the year, more merger cases were handled than ever before in the history of the Commission. A tabulation of cases brought under section 7 of the Clayton Act reveals that new complaints were issued, 3 orders of divestiture were obtained, and 12 additional cases were in varied stages of litigation. These statistics assume added significance when the nature of the individual proceedings is considered.

Litigation of antimerger cases generally entails extensive, highly contested hearings and involves intricate legal and economic considerations. Section 1, as amended in 1950, is addressed toward probable adverse competitive effects stemming from acquisitions or mergers of corporations engaged in interstate commerce. The Commission is empowered to order the acquiring corporation to divest itself of the stock or assets it illegally acquired.

Crown Zellerbach Corp., Docket 6180

During the year the Commission handed down its first opinion accompanying an order of divestiture under amended section 7, in the Crown Zellerbach (Corp. case. Adopting the initial decision of

the hearing examiner with substantial modifications, the Commission ruled that Crown Zellerbach, the Nation's second largest producer of paper and paper products, violated section 7 by unlawfully acquiring a major competitor, St. Helen's Pulp & Paper Co. According to the Commission, the acquisition eliminated a fully integrated competitor from the market, substantially increased respondent's position in the relevant line of commerce, and tended to create a monopoly in the coarse-paper industry. The Commission ordered Crown to divest itself of St. Helen's in such a manner as to restore to St. Helen's the competitive significance it enjoyed prior to the acquisition.

Vendo Co., Docket 6648

The Commission directed the Vendo Co. to divest itself of exclusive patent and trademark rights obtained by acquiring its major competitor, Vendorlator Manufacturing Co. According to the complaint, over one-half of the total annual sales of coin-operated vending machines built to dispense bottled soft drinks were accounted for by Vendo and Vendorlator. The order also prohibits Vendo from acquiring any interest in any bottle vending machine company for a 10-year period.

Antimerger complaints issued during the year include the following:

Union Carbide Corp., Docket 6826

Union Carbide Corp., described in the complaint as the Nation's second largest chemical company and leading producer of polyethylene resins, was charged with illegally acquiring the VisKing Corp., major manufacturer of synthetic sausage casings and the Nation's leading producer of polyethylene film. The acquisition, the complaint alleges, may have the effect of substantially lessening competition or tending to create a monopoly in the manufacture, sale and distribution of polyethylene resins, polyethylene film and synthetic sausage casings in the United States.

Procter & Gamble Co., Docket 6901

The Nation's leading producer of soap and detergent products, the Procter & Gamble Co., was charged with illegally acquiring the Clorox Chemical Co., the country's largest distributor of household liquid bleach.

The effect of this acquisition, it is alleged, may be to place competitive producers of household liquid bleach in a position where they are unable to compete with Procter & Gamble due to its full line of products, ability to obtain grocery store shelf space, financial and economic strength and merchandising and promotional ability.

National Sugar Refining Co., Docket 6852

The acquisition of the Nation's seventh largest sugar refiner by the Nation's second largest sugar refiner was attacked by the Commission as being illegal. The complaint alleges that National Sugar Refining Co., the second largest sugar refiner in the United States, purchased the refining business of Godchaux Sugars, Inc., and its sugar refinery at Reserve, La., for approximately \$14 million. The complaint points out that there has been little if any expansion in the sugar refining industry since, 1939; the number of refiners has decreased from 112 in 1939 to 88 in 1954; production has increased 23 percent; entry into the industry is difficult due to the large capital requirements for manufacturing processes and advertising expenses; and a tendency toward concentration of production facilities is clearly indicated.

Reynolds Metals Co., Docket 7009

Challenged here was that the acquisition by Reynolds Metals Co. of all the outstanding stock of one of its customers, Arrow Brands, Inc., may substantially lessen competition or tend to create a monopoly in the manufacture and sale of decorative aluminum foil. The complaint notes that Reynold, a fully integrated company, is a major producer and manufacturer of aluminum and fabricated aluminum products.

In other antimerger proceedings initiated during the year the Commission charged Dresser Industries, Inc. (Docket 7095) and National Lead Co. (Docket 7096), the two leading producers of barite, with unlawfully acquiring competitors in violation of section 7 of the Clayton Act. The complaints also allege that the elimination of competitors by acquisition and the resulting increase in respondents' dominance constitute restraints of trade, unfair methods of competition, and unfair acts and practices within the scope of section 5 of the FTC Act. The Dresser case is particularly significant as it represents the first time the Commission has challenged the acquisition of a foreign corporation under section 7.

Another complaint alleged that Consolidated Foods Corp. (Docket 7000), a multi-million-dollar food processor and retailer, had violated the antimerger law by acquiring Gentry, Inc., a principal member of the onion and garlic dehydrating industry. The acquisition allegedly threatens competition and tends to create a monopoly in the dried food seasonings business.

Price Discrimination Cases

The largest number of antimonopoly cases initiated during the year were brought under section 2 of the Clayton Act, as amended by the Robinson-Patman Act. Section 2, among other things, prohibits sellers from unjustifiably discriminating between competing purchasers in prices, promotional allowances, services or facilities.

During fiscal 1958, 61 complaints and 39 orders issued relating to Robinson-Patman Act violations.

Illustrative of such orders is one directed against a leading beer distributor, Anheuser-Busch, Inc. Accepting the initial decision of the hearing examiner with slight modification, the Commission prohibited Anheuser-Busch from discriminating in price between its purchasers by reducing its beer price in any market where it competes with others unless it "proportionally" reduces prices everywhere. The Commission held that Anheuser-Busch had lessened competition in the St. Louis market by illegally reducing its price for Budweiser beer there while maintaining its premium prices in the rest of the country. As a result of these discriminatory prices, Anheuser-Busch went from fourth to first in the St. Louis market at the expense of the business of its local competitors.

Other corrective action taken with respect to area price discrimination resulted in consent orders prohibiting two members of the dairy industry, Arkansas City Cooperative Milk Association, Inc. (Docket 6639) and Sylvan Seal Milk, Inc. (Docket 6737), from discriminating in price between customers in separate market areas, or otherwise, by undercutting competitors' prices. The orders also forbid them to charge competing customers different prices. A third order, arising out of a complaint charging the Amalgamated Sugar Co. (Docket 6768) with predatory price discriminations, prohibits Amalgamated from discriminating in price between its customers regardless of their location where the lower price undercuts the prices of its competitors.

Continuing its attack upon discriminatory pricing in the automotive replacement parts industry, the Commission issued two orders and three complaints against distributors of auto parts relating to the practice of charging large volume customers and members of groups buying organizations less than their smaller competitors. In the matter of Standard Motor Products, Inc. (Docket 5721) the Commission declared illegal a pricing system based upon total aggregate purchases of central-buying groups. It stated that "[a] more advantageous price to one customer gives him increased margin of profit, permits additional services to customers, more vigorous selling and other opportunities for the extension of his business at the expense of his less favored competitors."

Also, four central-buying groups and their 141 jobber members were charged with inducing and receiving discriminatory prices from auto parts suppliers in violation of section 2 (f) of the Clayton Act.

Other actions taken against members of the auto parts and supplies field for discriminatory pricing involve Firestone Tire & Rubber CO. (Docket 7141) and Automotive Supply Co. (Docket 7142). Fire

stone, according to the complaint, has violated section 2 (a) by giving preferential prices to certain large volume customers (including Automotive Supply Co.) which have been classified arbitrarily as "warehouse dealers." Automotive Supply Co., one of Firestone's largest purchasers, is charged with knowingly inducing, and receiving these discriminatory prices.

Separate multiple-count complaints were issued during the year against three major producers and distributors of electric shavers and certain of their subsidiaries. Schick, Inc. (Docket 6892), North American Philips Co., Inc. (Docket 6900) and Ronson Corporation (Docket 7066) were charged with giving wholesaler discounts to retailers in violation of section 2 (a), and granting discriminatory and disproportionate advertising allowances in violation of section 2 (d). In addition, Schick and North American Philips were alleged to have contravened section 2 (e) by providing free demonstrator services to certain favored retailers without making them available to competitors on proportionally equal terms. The Ronson and Schick complaints also allege that respondents entered into agreements with many of their customers for the purpose of fixing and maintaining resale prices. The complaints allege that such practices tend to hinder competition unduly and create a monopoly in respondents in the sale of electric shavers, and are unfair methods of competition and prohibited by section of the FTC Act. A final count in the Schick case charges the company with making certain false representations about its product.

In other complaints, The Borden Co. (Docket 7129), one of the Nations largest producers of dairy products, was charged with discriminating in price between private label and Borden label customers in the sale of canned evaporated milk; and National Dairy Products Corp. (Docket 7018), the largest distributor of dairy products in the United States, will favoring large multi-store chain and central-buying, customers with discriminatory prices in violation of section 2 (a) and promotional allowances in violation of section 2 (d) . Also, Westinghouse Electric (Corp. (Docket 7150) and Admiral Corp. (Docket 7094) are alleged to have granted discriminatory prices and advertising allowances in respective contravention of sections 2 (a) and 2 (d) of the Clayton Act.

Illegal Brokerage

Proceeding against a number of packers and brokers in the canned salmon and seafood industry, the Commission issued 18 complaints alleging the use of illegal selling practices. Respondents were charged with granting favored customers discounts and allowances in lieu of brokerage, or reduced prices reflecting brokerage, in contravention of section 2 (c) of the Clayton Act.

In the food products field, the Commission issued orders prohibiting food brokers from "splitting" or passing on any part of customary brokerage commissions to buyers (Henry Broach & Co. [Docket 6484]) and from receiving illegal brokerage fees on purchases made for their own accounts (Jabie Sales Co. [Docket 6812], Food Mart, Inc. [Docket 6910], Coyner-Evans Co.[Docket 6969]) . The complaints against the latter two concerns were issued during fiscal 1958.

A wholesale grocers' cooperative, its affiliate, and 35 member grocery wholesalers were charged with unlawful receipt of brokerage payments on direct purchases of food and grocery products (National Retailer-Owned Groceries, Inc.[Docket 7121].

Discriminatory Promotional Allowances

Consent orders obtained by the Commission prohibited Pompeian Olive Oil Corp. (Docket 6468), McCormick & Co. Inc., (Docket 6460), and Reed Candy Co. (Docket 6461) from granting discriminatory promotional allowances to their customers. The Commission's complaints alleged that respondents had illegally granted special allowances to large supermarket chains for promotion of anniversary sales without making proportionally equal allowances available to competing customers, as required by section 2.

Issuing a final order in an extensively litigated case, the Commission ruled that Crosse & Blackwell Co. (Docket 6463), a leading food producer, had illegally discriminated among its customers in furnishing advertising allowances. Rejecting respondent's contention that it was a "packer" within the meaning of the Packers and Stockyards Act, and thus under the exclusive jurisdiction of the Secretary of Agriculture, the Commission ordered Crosse & Blackwell to treat its customers alike.

In another proceeding against a well-known food manufacturer the Commission overruled the hearing examiner's dismissal. It declared that J.H. Filbert, Inc. (Docket 6467) had violated section 2 (d) by giving special advertising allowances to Food Fair Stores.

Seven suppliers of chain stores, Groveton Paper Co. (Docket 6592), General Foods Corp. (Docket 6596), Sunshine Biscuits Inc. (Docket 6597) Piel Brothers, Inc. (Docket 6598) Hudson Pulp & Paper Corp. (Docket 6599), P. Lorillard Co. (Docket 6600) and Sunkist Grocers, Inc. (Docket 6595) were prohibited by Commission order from granting illegal promotional allowances to favored chainstore customers by entering into agreements with certain major broadcasting companies. In return for broadcasting time, paid for by the suppliers, the recipient grocery chains featured in-store promotional displays of respondent manufacturer's products. The Commission ruled that these arrangements were illegal and transgressed section 2 (d).

Three other suppliers, Judson Dunaway Corp., General Mills, Inc., and Swanee Paper Corp. (Dockets 6925-6927, respectively) were charged with illegally paying substantial sums of money for advertising purposes to the Grand Union Co., a large eastern supermarket chain. The complaints allege that payments made to Grand Union were not made available to the chain's competitors on proportionally equal terms. In addition, General Mills and Judson Dunaway are charged with entering into monopolistic exclusive dealing agreements with customers which provide that the latter not handle similar products made by respondents' competitors. The complaints state that the effect of these agreements may be substantially to lessen competition or tend to create a monopoly in violation of section 3 of the Clayton Act.

Shortly after the issuance of the Dunaway, General Mills, and Swanee complaints, the Commission proceeded against the Grand Union (Docket 6973), alleging that it engaged in unfair methods of competition by inducing illegal promotional allowances from suppliers. It is further alleged that in return for the illegal payments, Grand Union agreed to purchase its products exclusively from these three suppliers.

In proceedings against three members of the tobacco industry, the Commission charged the American Tobacco Co. (Docket 6830), R. J. Reynold Tobacco Co. (Docket 6848), and Brown & Williamson Tobacco Co. (Docket 6908) with granting discriminatory promotional allowances to certain of their customers. Other complaints charging illegal discrimination in the granting of advertising and promotional allowances were issued against Ward Baking Co. (Docket 6833), Exquisite Form, Brassiere, Inc. (Docket 6966), Hafner Coffee Co. (Docket 6061), Longines-Wittenauer Watch Co., Inc. (Docket 7117), Keystone Manufacturing Co., Inc. (Docket 7118), and Trifari, Krussman & Fischel, Inc. (Docket 7119).

Exclusive Dealing

Agreements which may substantially lessen competition or tend to create a monopoly by providing for exclusive dealing are outlawed by section 3 of the Clayton Act. Further, the foreclosure of an outlet to competitors and the preclusive effects of such agreements may register a violation of section of the Federal Trade Commission Act.

A Commission complaint brought under section culminated in an order directing International Shoe Co. (Docket 6835), the largest manufacturer of shoes in the world, and its wholly owned subsidiary Shoenterprise Corp., to stop giving financial benefits to shoe retailer customers on the condition that the recipient not handle competitors' products. The order also prohibits the enforcement or continuation of such restrictive conditions presently in existence.

Illustrative of other Commission action taken with respect to such competitive restrictions is a complaint charging Socony Mobil Oil Co. (Docket 6915) with inducing customers to handle its petroleum products exclusively.

Similar complaints were issued against Rural Gas Service, Inc. (Docket 7065), a major New England distributor of liquefied petroleum gas, and Mytinger & Casselberry, Inc. (Docket 6962), a large vitamin and mineral supplement supplier.

Other Antimonopoly Proceedings

Recognizing man's ingenuity in inventing methods to circumvent specific antitrust legislation, Congress, in enacting section 5 of the Federal Trade Commission Act, prohibited all unfair methods of competition in commerce. This broad directive enables the Commission to act as "watch dog" for any unfair competitive practices and has resulted in cases involving a diversity of competitive acts and practices. Over 50 percent of antimonopoly litigation pending at the close of the fiscal year and more than 28 percent of all complaints issued during the year contained section counts.

Illegal price-fixing in the west coast tuna industry was brought to a halt by a Commission order. Six associations of tuna boat owners, three fishermen and cannery workers unions, and the California Fish Cannery Association, Inc., and its members, agreed to stop illegally fixing and maintaining prices and engaging in trade restraining practices.

In another order, the Asheville Tobacco Board of Trade (Docket 6490) was required to discontinue monopolizing the tobacco auction warehouse industry in the Asheville, N. C., market. Also, Virginia Excelsior Mills, Inc. (Docket 6630) and 12 manufacturers of excelsior were prohibited by Commission order from carrying out unlawful restraint of trade agreements. The Commission's opinion states that the manufacturers operated Virginia Excelsior Mills as a medium through which [t]hey could control and fix prices and quotas on excelsior.

Typical companies charged with engaging in monopolistic activities in restraint of trade are: Bearings, Inc. (Docket 7134) and six wholly owned subsidiaries, allegedly the largest distributors of bearings in the 15-State area in which they operate, for restraining trade by conspiring to coerce and illegally coercing manufacturer suppliers to refuse to deal with competitors ; The Gummed Industries Association, Inc. (Docket 7079), the Nation's dominant manufacturers and distributors of flat ,gummed paper, for conspiring to fix prices; The Roberts Co. (Docket 6943) and five other manufacturers and distributors of carpet and floor covering accessories for entering into monopolistic price fixing agreements; Stewart & Stevenson Services

Inc. (Docket 7002) and eight other franchised distributors of General Motors' products, for combining to fix prices and conditions of sale of diesel engine replacement parts; American National Retail Jewelers Association (Docket 6986), a trade association of retail jewelers, and its more than 4,000 members, for concertedly fixing uniform markups on the retail sale of silverware and using tile association to induce increased discounts and profit margins from silverware manufacturers; The Sun Oil Co. (Docket 6934), for causing retail dealers to enter into illegal exclusive dealing and price fixing agreements; and the Texas Co. (Docket 6898), for illegally fixing the resale prices of its gasolines, and for discriminating in gasoline prices among its customers.

ANTIDECEPTIVE PRACTICE CASES

The Commission's activities in the antideceptive practice field, year in and year out, are responsible for the largest percentage of all cases in which orders to cease and desist are entered. There has been a steady annual increase in the number of antideceptive practice complaints and orders issued, and fiscal 1958 was a banner year.

During the year there were 268 complaints and 228 orders to cease and desist in deceptive practice matters. These figures contrast with 187 complaints and 148 orders for fiscal 1957, and 150 complaints and 132 orders for fiscal 1956. These 1958 figures represent a 43-percent increase in complaints and a 64-percent increase in orders over fiscal 1957, and 79 percent more complaints and 73 percent more orders than in fiscal 1950.

Below are summaries of the actions taken in some of the more significant cases:

Docket 6938-Universal Interchange, Inc., et al.

This is one of seven matters in which complaints issued during the year charging that farm and business property owners were misled into believing that respondents had clients who desired to purchase the property. Actually, the complaint alleged, respondents were selling advertising space in bulletins published by them, and the prospective buyers were nonexistent.

Other allegations in the complaint were that fees collected in advance from property owners for the services they thought they would receive were not refunded when their property was not sold within stated times as promised. Also alleged to be false were claims that respondents were affiliated with 1,000 brokers, none of whom would share a Commission if one of them sold the property; that the owner had underpriced his property and should ask more for it (the purpose being to increase the fee); and that State officials had endorsed respondents' activities and bulletins.

Eight affiliated corporations and six individuals operating on a nationwide scale were joined in this complaint.

An interesting footnote to the Commission's disclosures in this field is that, on May 22, 1958, Senators Mundt and McClellan introduced a bill (S. 3889) which would amend the United States Criminal Code. The bill proposes that a section be added to the Code making it a felony for a person to knowingly make false representations in the course of persuading property owners to buy advertising for the purpose of reaching purchasers outside their own State.

Docket 7137 —Encyclopedia Britannica, Inc.

This publisher has been charged with misrepresenting, through its door-to-door salesmen, that the Encyclopedia Britannica was offered at a bargain price for a limited time only. The truth was, the complaint charged, that the purportedly reduced price was the regular price usually available at any time.

Docket 6971 - -McGraw-Hill Publishing Co., Inc., et al.

In a case involving other publishers of trade and professional magazines, the respondents have been charged with using deception to sell advertising space in two of the magazines they print. The complaint alleged that respondents' advertising space salesmen used purportedly authoritative and current readership surveys furnished them by respondents which show favorable comparisons with competitive publications. In one instance the survey was not conducted by the authority claimed to have made it, and in another the studies had been made more than years before, the complaint charged.

Docket 710-Alex Sales Co., et al.

Docket 7152 —Harlow Hair Experts, et al.

The Commission continued its attack on purveyors of drug formulas claimed to be hair growers and baldness preventives. In complaints issued against these two unrelated companies and their owners, the Commission contended such claims were false. In addition, it alleged the advertising was deceptive in a material respect for not having affirmatively disclosed that the great majority of cases of excessive hair loss and baldness is the common type known as "male pattern baldness," a condition in which respondents' preparations are of no value whatever.

Orders to cease and desist were entered in four other cases where the complaints had issued in prior years, requiring the respondents to stop making curative claims and failing to make affirmative disclosure in advertisements concerning "male pattern baldness..'

Docket 7115—Cannon Mills, Inc.

This distributor of towels, sheets and blankets has been charged with misrepresenting the fiber content of certain blankets advertised.

Docket 7101—Rayco Manufacturing Co., Inc., et al.

These respondents, who advertise and sell automobile seat covers and convertible tops to the public through some 111 independently owned, franchised dealers located throughout the Nation, have been charged in the complaint with using fictitious pricing claims and other misrepresentation in advertising.

The complaint alleged that purported regular retail prices of various seat covers and convertible tops offered at "sacrifice prices" were fictitious. Equally false, it said, were advertising statements that the products were made to order for each buyer's car, that a complete convertible top could be purchased for the advertised price (the rear window and curtain cost additional), that the products had been awarded a Fashion Academy seal in a contest with a representative number of competitive products, and that the U. S. Testing Co. had found Rayco's products more durable than competitive products.

Docket 702 —Firestone Tire & Rubber Co.

In another automotive product case, this tire manufacturer has been charged in a complaint with misrepresenting in advertising that its second-line "Super Champion" and "DeLuxe Super Champion" tires were identical to original equipment tires on new cars. The first-line, 100-level Firestone tire found on new cars, the complaint alleged, was the "Firestone DeLuxe Champion."

The complaint further charged that these various names are confusing and mislead the public into thinking that "Super Champion" and "Delux Super Champion" tires are superior to "Deluxe Champion" tires.

Docket 6931—Aristocrat Clock Co., et al.

This was one of five matters in which complaints issued during the year against dealers in watches who allegedly misrepresented the jewel content of their goods. This particular concern was alleged to have represented, through use of the brand names "Seventeen" and "Twenty-One," that its 1- or 2-jewel watches contained 17 and 21 jewels.

Dealers proceeded against in the other complaints represented, variously, that 17-jewel watches were 25-jewel and that synthetic jewels were genuine rubies.

In one of the cases the Commission accepted a consent agreement requiring Hawthorne Watch Co., et al. (Docket 7011) to cease preticketing their merchandise with fictitiously high retail prices, and from representing that watches have jeweled movements, are guaranteed, were awarded gold medals in international competition and are new, when the facts are otherwise.

Docket 7010—Klear Vision Contact Lens Specialists, Inc., et al.

Docket 7026—Fluidless Contact Lenses, Inc.

Complaints were issued against these two unrelated companies and various individuals responsible for their practices, alleging they misrepresented the effectiveness and wearing comfort of their corneal contact lenses. It was not the fact, the complaints stated, that the lenses could be worn all day without discomfort or irritation, unqualifiedly, and that the lenses would correct all defects in vision, particularly in cases that require bifocals.

Additionally, Fluidless was charged with having falsely represented that certain actresses and athletes wore and recommended the lenses; that the lenses could be tried without financial risk, provided more ventilation to the eyes than other contact lenses, and were unbreakable; and that the company had fitted over 100,000 persons.

The Klear Vision company also was charged with misrepresenting that the lenses would stay in place under all conditions and were different from other contact lenses in permitting air and tears to bathe the cornea. Klear Vision consented to the entry of an order, prohibiting further use of these claims and representations.

Docket 705—Adell Chemical Co., Inc.

As a result of the Commission's continued monitoring of actual television broadcasts, a complaint was issued against this manufacturer alleging false representations of the safety of "Lestoil," a widely advertised household cleaning fluid.

The complaint alleged that because the product possessed a dangerously low flash point allowing it to vaporize into a flammable mixture under many conditions commonly encountered in the home, it was improper of the respondent to disseminate telecasts showing (1) a youthful "budding chemist" cleaning a test tube with an open bottle of Lestoil near a burning candle, (2) a housewife cleaning the wall area adjacent to a radiator, with the open bottle resting on the radiator, (3) an open bottle of the product resting on top a stove, while the announcer recommended it for the cleaning of stoves, and (4) a housewife pouring the product onto laundry in an electric washing machine.

The complaint additionally alleged an unfair and deceptive practice through failure to reveal in labeling, advertising or elsewhere the fact that a dangerous fire hazard might result from use of the product under ordinary conditions that could be encountered in the normal course of recommended usage.

The respondent agreed to the entry of an order prohibiting it from representing directly or indirectly that Lestoil is not combustible or is safe to use near an open flame or extreme heat, and from failing to give adequate warning of these facts on the label of the product.

Docket 7130—Zoysia Farm Nurseries, Inc., et al.

Claims made in circulars and newspaper and magazine advertising disseminated by these respondents in promoting both mail order and retailer sales of Zoysia grass have been charged as being grossly exaggerated and false.

A complaint issued by the Commission alleged that, contrary to representations appearing in advertising matter, the respondents' grass has not been approved by the United States Government, does not multiply itself 50 times in a few months, is not weed-free, and does require feeding. The complaint also alleged deception on the part of many advertisements for failing to reveal that the grass will turn tan or brown after the first or second frost and will remain so until growth is resumed in the spring.

Docket 7106—Arnold Constable Corp.

This was one of 102 cases in litigation in fiscal 1958, 77 of which were new complaint matters, involving alleged violations of the Fur Products Labeling Act. During the year, the Commission issued 60 orders to cease and desist against violators of this act.

Arnold Constable's newspaper advertisements, it was alleged in the complaint, showed fictitious regular prices from which furs were offered as reduced. The company was also charged with labeling and invoicing irregularities.

Docket 7060—Browning, King & Co., Inc., et al.

Two affiliated clothing manufacturers and two of their officers were charged in a complaint with misbranding men's and boys' clothing in violation of the Wool Products Labeling Act. The clothing was retailed to consumers through chain outlets owned and operated throughout the country by Browning King.

Among misbranded products, it was alleged, were men's sport clothes labeled or tagged "All Wool," which according to the complaint, contained a substantial percentage of non-Wool fibers.

Also included in the complaint was a charge that fictitious pricing claims had been made in advertising and on tags. "Regular price \$60" coats were "Reduced to only \$30" and "Regular price \$105" suits were "reduced to only \$52.50." The complaint alleged that the goods had never been sold at the higher prices mentioned.

This was one of 46 cases on the litigation docket in fiscal 1958 involving alleged violations of the Wool Act. Thirty-six of these were new complaint matters. Twenty-three orders to cease and desist were entered in Wool Act cases during the year.

* * * * *

Among the numerous other cases on the litigation docket, charges of false advertising involved the following types of products and serv

ices: automobile wax, men's belts, billfolds, blankets, comforters, book abridgements and reprints, children's books, a "health book," a "cooperative" book publishing plan, bracelets, rugs, chinaware, cigars, a newspaper clipping service, collection agency services, aluminum cookware, stainless steel cookware, corrugated fiberboard boxes, perfume, shampoos, men's jewelry, cutlery, vitamins, electric kitchen appliances, hearing aids, trusses, a laxative, a reducing drug preparation, alleged arthritis and rheumatism treatments, vacuum cleaners, file cabinets, flatware, furniture, automobile gasoline and crankcase oil additives, moccasins, handbags, home study courses, hosiery, a chemical oven cleaner, watchbands, watch cases, power lawn mowers, radios, pocket knives, a trade union publication, rose bushes, binoculars, house paint, paint brushes, photographs and photographic enlargements, pianos, plywood paneling, radio and television tubes, roof coatings, safety glass spectacles, sewing machines, aluminum siding, telescopes, tile adhesives, umbrellas, and vending machines.

HEARING EXAMINERS

After a case has been investigated, prepared for trial, and a complaint issued, testimony must be taken formally before a hearing examiner. Twelve hearing examiners, including the chief hearing examiner, serve the Commission, which has general administrative supervision over them. However, their appointment and tenure are under the sole authority of the Civil Service Commission.

The Administrative Procedure Act outlines the powers and duties of all hearing examiners in the Federal service, including the Federal Trade Commission. Under this act, the hearing examiner has the duty and authority to conduct fair and impartial hearings and to rule upon offers of proof and receive evidence at the formal hearings over which he presides. The hearing examiner is in full charge of the case from the time the complaint is issued until he renders his initial decision. In addition to ruling upon offers of proof and admissibility of evidence, he was empowered to hold pretrial conferences for the purpose of settlement and simplification of issues. He also rules upon all procedural and other interlocutory motions which, prior to the passage of the Administrative Procedure Act, were passed upon by the Commission itself. The right of the parties to appeal to the Commission from such rulings is restricted. This change in procedure results in a substantial saving of time in the processing of the cases.

The principal duty of the hearing examiner, however, is to make and file an initial decision in each proceeding, which becomes the decision of the Commission if no appeal is made from it by either of the parties or if the Commission itself does not enter a stay order or put the case on its own docket for review. In any event, the decision of the hearing examiner becomes a part of the formal record and is taken into consideration by the court in any review of the case. This was not true prior to the passage of the Administrative Procedure Act.

The reason the Federal courts now give serious consideration to the decisions of the hearing examiner is that he is the man who under the law has the duty of listening to the witnesses and rendering his decision based upon their sworn testimony. The Commission may adopt in whole or in part the decision of the hearing examiner or may set it

aside completely. As a matter of practice, however, since 1963 there have been very few instances where the decisions of the hearing examiners have been completely reversed or set aside.

Particularly since 1950, when the hearing examiners assumed the responsibility of taking full charge of the case from the time the Commission issues its complaint until the initial decision is rendered, unjustified delays have been avoided in the scheduling of hearings and in the rendering of the initial decisions.

Performance during fiscal 1908 furnishes evidence that the Commission's hearing examiners have continued their efficient handling of cases. The following table illustrates this.

Fiscal Year	On hand	Received	Total Handled	Disposed of	On hand	Hearing days
1955 - - - -	126 (July 1, 1954) - -	165	291	124	167 (June 30, 1955) - - -	611
1956 - - - -	167 (July 1, 1955) - -	201	368	187	181 (June 30, 1956) - - -	670
1957 - - - -	181 (July 1, 1956) - -	250	431	232	199 (June 30, 1957) - -	733
1958 - - - -	199 (July 1, 1957) - -	377	576	328	2448 (June 30, 1958) - -	783

OFFICE OF THE GENERAL COUNSEL

When cases advance beyond the agency to the courts, the General Counsel and the attorneys of his staff represent the Commission as its counsel. Consequently, all litigation to which the Commission is a party in Federal District Courts and Courts of Appeals is handled by the Office of the General Counsel. In cases reaching the Supreme Court, the legal services devolving upon the Commission are performed by this office in collaboration with the Solicitor General of the United States, who represents the Government in that Court.

The General Counsel functions as the Commission's chief law officer and principal legal adviser. His office, in addition to the court work, administers the Webb-Pomerene Export Trade Act, reviews all trade practice rules before their approval and promulgation by the Commission, gives informal advice to businessmen on trade regulation matters involving laws administered by the Commission, analyzes and reports on new legislation, polices compliance with the Commission's cease and desist orders, initiates penalty suits and contempt actions in their enforcement, and integrates the order compliance with work programs for securing obedience to voluntary stipulations and trade practice rules. The General Counsel represents the Commission in hearings before congressional committees and also supervises the special legal assistants to the Commission. He likewise advises the Chairman of the Commission on clearance of industry voluntary agreements and programs sponsored by different agencies in carrying out the Defense Production Act and the Small Business Act. Review by his office of these industry agreements and programs is directed to such purposes as aiding small business and eliminating or minimizing possible anticompetitive effects which may run counter to the basic policies underlying the Federal Trade Commission Act and the antitrust laws. As a further service in the Commission's organization, legal studies and manuals issued for guidance of the Commission's professional staff are prepared under supervision of the General Counsel.

Fiscal 1958 Highlights

A Commission case does not end when an order to cease and desist issues. Consistent compliance policing shows how and if it is being obeyed, and violators are subject to court proceeding.

One contempt action in a circuit court resulted in more than \$19,000 being paid in to the U.S. Treasury. Here, the Dolcin Corp. Of New York City had been fined \$15,0000 for criminal contempt of the court's mandate to obey the FTC's order forbidding misrepresentation of a drug product. The court denied a petition for rehearing by two officials, and the fines were collected.

An additional \$21,000-plus found its way to the Treasury from judgements in civil penalty proceedings against respondents violating Commission orders. These procedures are instituted only when compliance cannot be obtained otherwise.

Of the six cases decided by the Supreme Court during fiscal 1938, three favored the Commission's position and the others did not. The Court also denied nine petitions for certiorari to review decisions of Courts of Appeals and granted three petitions on behalf of the Commission.

The Division of Appeals represented the Commission in cases before 10 of the 11 United States Court of Appeals and in 4 United States District Courts. It completed litigation in 27 cases, involving the preparation of numerous legal documents, and presented 19 arguments. In addition to its court work, the Division worked on drafts of reports , proposed legislation and prepared opinions and recommendations on law and procedure.

Securing compliance reports and enforcing compliance in current cases accounted for the greatest part of the work done by the Division of Compliance, which handled more than 1,800 separate matters.

However, the survey of the status of compliance in more than 4,000 orders issued prior to 1947 continued to receive its share of attention. Examined were 490 reports in these older cases, bringing the cumulative total to 3,050 since the program's inception in August 1954. In addition, the Division instituted 162 compliance investigations, bettering the 1957 total by 5.

The Division of Special Legal Assistants prepared 304 documents to implement Commission decisions, an increase of 53 over the previous year.

At the years end, 37 export trade associations comprising 468 American corporations were registered with the Commission under the Webb-Pomerene Act. Their business transactions and activities in foreign commerce fall within the supervision of the Office of Export Trade.

The approximate value of foreign shipments of registered associations in 1957 topped \$930 million, compared to less than \$903 million in 1956 and less than \$817 million in 1955.

A total of 62 reports on bills and legislative proposals was prepared by the General Counsel's Office. It also represented the Commission or advised members of the Commission concerning 27 bills or legislative considerations.

DIVISION OF SPECIAL LEGAL ASSISTANTS

The principal assignment of this division is the preparation of documents needed to implement Commission decisions in adjudicative proceedings. The work includes the examination of formal records and reporting on them to the Commission or individual Commissioners.

Attorneys of the division consult with Commissioners and staff members on questions of law, policy, and procedure in connection with all phases of the Commission's work. They prepare reports and recommendations on a wide variety of subjects, including questions of substantive law, proposed trade practice rules, and proposed reports to the public.

During fiscal 1958 the division prepared drafts of 304 case dispositions, an increase of 53 over the preceding year. Of the 304, 79 were final decisions and 225 were interlocutory. Division attorneys also prepared 39 miscellaneous reports and recommendations.

DIVISION OF APPEALS

The principal function of the Division of Appeals is to represent the Commission in proceedings in the Federal courts.

Any person, partnership, or corporation against whom the Commission has issued an order to cease and-desist may petition a United States Court of Appeals to review and set aside that order. The Commission may petition a court of appeals to affirm and enforce an order to cease and desist issued under authority of the Clayton Act which has been violated. Disobedience of a court's decree enforcing a Commission order or subpoena may be punished by that court as a contempt. When a subpoena issued by the Commission has not been obeyed the Commission may apply to a United States District Court to issue its order requiring compliance with the subpoena. Any person suffering legal wrong because of final Commission action for which there is no other adequate remedy in any court may obtain a review in a United States District Court.

The Division represents the Commission in such litigation and in any other proceedings which may arise in the Federal courts involving the Commission. It participates with the Office of the Solicitor Gen-

eral in the preparation and presentation of Commission cases in the Supreme Court of the United States

In addition to its court work the Division assists in preparing drafts of reports by the Commission upon legislative proposals when committees of the Congress or the Bureau of the Budget have asked the Commission's views. It prepares opinions and recommendations on questions of substantive and administrative law and procedure arising in the work of the Commission and its staff, and in court proceedings.

During fiscal 1958 the Division completed litigation in 27 cases, 9 of which were antimonopoly cases, were antideceptive practice cases, 8 involved the Commission's subpoena powers, 1 was an action for contempt of the court which had commanded obedience to a Commission order to cease and desist, 3 were actions for contempt of courts which had issued orders commanding obedience to Commission subpoenas, and 1 involved an attempt by a respondent to obtain review of an interlocutory order of the Commission.

Six cases, including three pending at the start of the year, were decided by the Supreme Court. Three were decided in favor of, and three contrary to, the Commission's petition. The court denied four pending petitions for certiorari to review court of appeals decisions in favor of the Commission. It denied five of six such petitions filed during the year, and one was pending at the close of the year. Three petitions for certiorari on behalf of the Commission were granted, and the cases were among those decided.

Cases open for further action at the close of the fiscal year included 1 in the Supreme Court, 28 in courts of appeals, and 2 in district courts. These involved 8 antimonopoly, 13 antideceptive practices, 2 subpoena, and 2 contempt cases.

The Division filed 25 briefs and 11 memoranda upon the merits, participated in the preparation of 3 petitions for certiorari and 13 briefs in opposition, presented 19 arguments, filed 6 applications for court orders, and filed 72 other papers in cases in the course of litigation. It represented the Commission in cases in the United States Courts of Appeals for 10 of the 11 circuits, and in United States District Courts in districts.

Antimonopoly Cases in Federal Courts

In the Supreme Court

Decisions

Three cases pending at the beginning of the fiscal year were concluded: Standard Oil Co. (price discrimination in the sale of gasoline); and C.E.Niehof and Moog Industries, Inc. (price discrimination in the sale of automotive parts).

In Standard the Court upheld the court of appeals, which had set aside the Commission's order for lack of substantial evidence to support the conclusion that Standard's price discriminations had not been justified as made in good faith to meet the equally low prices of competitors. In Niehoff the Commission that refused a plea to hold its cease and desist order in abeyance, and upon review the Seventh Circuit had decided that the order should not; take effect until that court should later so direct. The Supreme Court vacated that judgment and remanded to the Circuit Court with directions to affirm the Commission's order in its entirety, ruling: "If the Commission has decided the question, its discretionary determination should not be overturned in the absence of a patent abuse of discretion." In Moog no such request had been made of the Commission, and the Eighth Circuit had declined to delay effectiveness of the order. The Supreme Court affirmed, ruling: "If the question has not been raised before the Commission * * * a reviewing court should not in any event entertain it."

Petitions for Certiorari Denied

In E. Edelman (price discrimination in the sale of automotive products), and in Harlem Paper Products and in Metropolitan Bag and Paper Distributors Association (restraint of trade in fine and wrapping papers), the Court denied pending petitions for certiorari to review court of appeals decisions affirming the Commission's orders.

In Chain Institute, Inc. (restraint of trade and price discrimination in sale of chain products), and in P. & D. Mfg. Co., Inc. (price discrimination in sale of automotive products), the court denied petitions filed during the year to review decisions affirming the Commission's orders.

Pending Cases

At the close of the fiscal year no antimonopoly cases were pending in the Supreme Court.

In Courts of Appeals Decisions

Three of the four antimonopoly cases pending at the beginning of the year proceeded to decision before its close.

Chain Institute, Inc., Chicago, Ill. (Seventh Circuit), restraint of trade and price discrimination in the sale of chain products. The Commission's order was affirmed and enforced. (Petition for certiorari was denied.)

Stokely-Van Camp, Inc., Indianapolis; Ind. (Seventh Circuit), a combination in restraint of trade. The court sustained the Commission's findings that Stokely had violated the law, but ruled that be

cause the violations had been voluntarily stopped, no order to cease and desist should issue. It set aside the order and remanded the case with instructions to dismiss the complaint, without prejudice. (The Solicitor General has determined not to petition for certiorari.)

Simplicity Pattern Co., Inc., New York, N. Y. (District of Columbia Circuit), restraint of trade and granting of discriminatory services in tire sale of dress patters. The Commission's order was set aside and the case remanded for further evidence and consideration. (The Solicitor General has been asked to petition for certiorari.)

One case arose and proceeded to decision during the year. Virginia Excelsior Mills, Inc., et al., Doswell, Va. (Fourth Circuit, price fixing and restraint of trade in the sale of excelsior. The court mollified slightly the terms of the order, and as so modified affirmed and enforced it.

Pending Cases

Atlanta Trading Corp., New York, N.Y. (Second Circuit, discriminatory promotional allowances in sale of canned meat products, remained pending throughout the year.

Petitions to review were filed and are pending in Crown-Zellerbach Corp., San Francisco, Calif. (Ninth Circuit), unlawful acquisition of a competing paper products company, in Standard Motor Products, Inc., New York, N. Y. (Second Circuit), price discrimination in the sale of automotive products, in Anheuser Busch, Inc., St. Louis, Mo. (Seventh Circuit), price discrimination in the sale of beer, Henry Broach & Co., Chicago, Ill. (Seventh Circuit), unlawful sharing of brokerage with customer, and in Asheville Tobacco Board of Trade, Asheville, N.C. (Fourth Circuit), restraint of trade in raw tobacco.

Antideceptive Practice Cases in the Federal Courts In the Supreme Court

Decisions

The Court granted the Commission's petitions for certiorari to review the decisions in American Hospital and Life Ins. Co. and National Casualty Co., in which the courts of appeals had held that the Commission lacked jurisdiction over the practices of the insurance companies involved. The Supreme Court affirmed on the ground that those practices were regulated by state law within the meaning of the McCarran-Ferguson Act provision withdrawing applicability of the Federal Trade Commission Act from the business of insurance to the extent that it is so regulated.

Petitions for Certiorari Denied

Wm.H. Wise Co., Inc., was denied certiorari to review a court of appeals decision affirming and enforcing the Commission's order.

Pending Cases

Petition was filed by R. B. James, et al., for writ of certiorari to review a court of appeals decision affirming and enforcing the Commission's order.

In Courts of Appeals

Decisions and Other Disposition

Three of the six cases pending at the start of the year proceeded to decision.

American Life and Accident Ins. Co., St. Louis, Mo. (Eighth Circuit), misrepresentations in mail-order sales of insurance. The Commission order was affirmed and enforced.

Arrow Metal Products Corp., Haskell, N. J. (Third Circuit), deceptive practices; in sale of awnings and parts. Affirmed and enforced.

James H. Sewell, Santa Ana, Calif. (Ninth Circuit), false advertising of a device for insertion in shoes. 'Upon remand by Supreme Court the Commission's order was affirmed and enforced.

Six cases arose and proceeded to decision during the year.

Automobile Owners Safety Insurance Co., Kansas City, Mo. (Eighth Circuit), misrepresentations in mail-order sales of insurance. Affirmed and enforced.

R. B. James et al., Chicago, Ill. (Seventh Circuit), distribution of lottery merchandising devices. Affirmed and enforced. (Petition for certiorari has been filed.)

Wm. T. Loesch, et al., Houston, Tex. (Fourth Circuit), deceptive practices in sale of hair and scalp preparations. Affirmed and enforced.

Mandel Bros., Inc., Chicago Ill. (Seventh Circuit), misbranding and deceptive practices in the sale of fur products. Commission's order modified and affirmed. (The Solicitor General has been asked to petition for certiorari.)

National Clearance Bureau, et al., Newark, N. J. (Third Circuit), deceptive practices in obtaining credit information. Affirmed and enforced.

Vulcanized Rubber & Plastics Co. New York, N. Y. (District of Columbia Circuit), misrepresentation of plastic combs. Petition to review and set aside the Commission's order was dismissed.

Three cases remained pending throughout the year, North American Accident Insurance Company, Chicago, Ill. (Fifth Circuit) and Travelers Health Association, Omaha, Nebr. (Eighth Circuit), misrepresentations of insurance policies, and Carter Products, Inc., New York, N. Y. (Ninth Circuit), false advertisement of a drug product.

Petitions to review were filed and are pending in Better Living, Inc., Philadelphia, Pa. (Third Circuit), false advertising of aluminum doors, windows, and awnings; in Bernard Rosten, Chicago, Ill. (Second Circuit) and Surf Sales Co., et al., Chicago, Ill. (Seventh

Circuit), sale and distribution of lottery merchandising devices; Shafe, et al., Flint, Mich. (Sixth Circuit), false advertising of a drug product; Harsam Distributors, Inc., New York, N. Y. (Second Circuit), misrepresentations in sales of perfume; and Frank A. Kerran, et al., Oklahoma City, Okla. (Tenth Circuit), Mohawk Refining Corp., et al., Newark, N. J. (Third Circuit), and Royal Oil Corp., et al., Baltimore, Md. (Fourth Circuit), deceptive concealment in sale of used motor oil.

Subpoena Cases in Federal Courts

In the Supreme Court

Decisions

In James F. Crafts the Court granted the Commission's petition for certiorari, pending at the start of the year and reversed the court of appeals decision which had reversed district court decision granting enforcement of a Commission subpoena.

Petitions for Certiorari Denied

The court denied the petition of Wm. T. Reed, pending at the start of the year, for certiorari to review a court of appeals decision affirming the district court decision enforcing a Commission subpoena, and denied the petition filed by Scientific Living, Inc., for certiorari to review a court of appeals dismissal of its appeal from a district court decision enforcing a Commission subpoena.

In Courts of Appeals

Decisions

Three cases pending at the start of the year were concluded. In Scientific Living, Inc., Scranton, Pa. (Third Circuit), and Fred J. Bowman, Chicago, Ill. (Seventh Circuit), district court decisions enforcing Commission subpoenas were affirmed. In Wm. B. Rubin, Hoboken, N. J. (Second Circuit), the court denied a motion to stay the mandate upon its decision reversing a district court's denial of enforcement of a Commission subpoena.

In District Courts

Decisions

The Commission instituted subpoena enforcement actions against; Paskey DeDominico Co., Seattle, Wash. (Western District of Washington) and Crawford Clothes, Inc., and Frank Schwartz, Long Island City, N. Y. (Eastern District of New York), and the subpoenas were enforced by the courts.

Pending Cases

In Halmark, Inc., Chicago, Ill. (Northern District of Illinois), and Waltham Watch Co., New York, N.Y. (Southern District of N. Y.), the Commission has filed applications for enforcement of its subpoenas.

Contempt Proceedings in Federal Courts In the Courts of Appeals

In Dolcin Corp., New York, N. Y. (District of Columbia Circuit), false advertising of a drug product, the court had found the corporation and its officers guilty of criminal contempt of the court's mandate directing compliance within the Commission's order to cease and desist, and had imposed fines of \$15,000 upon the corporation, \$2,500 upon its president and \$1,000 upon its treasurer, and \$750 upon its secretary. It denied petitions for rehearing by the treasurer and secretary, and the fines were collected and paid into the the U.S. Treasury.

In Mildred Hohensee, and in Gene Basalyga, both Scranton, Pa. (Third Circuit), the court dismissed an appeal from decision of the district court (Middle District of Pennsylvania) a decision of the district court (Middle District of Pennsylvania) holding respondent in contempt; of the court's order commanding obedience to the Commission's subpoena. In Scientific Living, Scranton, Pa. (Third Circuit), appeal is pending from decision of the district court (Middle District of Pennsylvania) holding the corporation in contempt and fining it \$3,000.

P. Lorrillard Co., New York, N. Y. (Fourth Circuit), false advertising of cigarettes, is pending upon the court's order directing Lorillard to show cause why contempt proceedings should not be instituted against it for violation of that court's 1951 decree forcing the Commission's order to cease and desist;

In District Courts

In Paskey DeDominico, Seattle, Wash. (Western District of Washington), the court, at the instance of the Commission, issued its order directing DeDominico to show cause why he should not be held in contempt for violation of that court's order commanding obedience to a Commission subpoena. In response DeDominico purged the contempt by complying with the order and obeying the subpoena, and upon his doing so the Show cause order was discharged.

Interlocutory Orders Cases in Federal Courts

In Renaire Corp. (Pennsylvania) et al., Springfield the Supreme Court denied Renaire's petition for certiorari to review the court of appeals decision dismissing for want of jurisdiction Renaire's petition for a writ of prohibition and mandamus against the Commission, and its petition to review an interlocutory order of the Commission.

DIVISION OF COMPLIANCE

This Division obtains and maintains compliance with the Commissions cease and desist orders. Without continuous surveillance, the Commission is unable to know whether or how its orders are being obeyed.

Each respondent is required to report how he is complying with these orders and intends to do so in the future. Immediately following the entry of an order, the Division scrutinizes these reports and augments them where necessary by conferences, supplemental reports, or investigations. In addition, the Division:

Requests and analyzes results of the investigations of complaints of violation of orders.

Represents the Commission to the extent requested by United States District Attorneys in District Courts of the United States in all civil penalty suits.

Works out acceptable voluntary compliance programs.

Discovers violations and speeds prosecutions of the penalty provisions of the Federal Trade Commission Act, which is imperative in the public interest.

(NOTE: Violation of a Federal Trade Commission act order makes a respondent liable to civil penalty up to \$5,000 for each violation. Where the violation continues, each day of its continuance is a separate offense.)

Penalty proceedings during fiscal 1958

Pending July 1, 1957	-----	13
Filed during year	-----	12
Total for disposition	-----	25
Disposed of during year	-----	12
Pending June 30, 1958	-----	13
Certified, not yet filed	-----	4

Summary of civil suits since 1947¹

Fiscal year	Total judgements	Suits certified to the Attorney General
1947	\$38,000.00	1
1948	-----	0
1948	16,900.00	0
1949	7,000.00	9
1950	80,000.00	1
1951	11,600.00	5
1952	59,538.00	3
1953	8,950.00	2
1954	40,132.00	11
1955	19,342.70	9
1957	24,704.60	12
1958	21,557.38	11
Total	327,725.57	-----

¹ This division was established in May, 1947.

Civil Penalty Cases Concluded

International Research Co. (Seventh Circuit).—Sale and use of deceptive materials designed to obtain by subterfuge information concerning alleged delinquent debtors. Judgment entered in the sum of \$1,500 in the Northern District of Illinois was affirmed.

Hollywood Film Studios (N.D. Ill.)—Deceptive practices in connection with the sale of photographic enlargements and frames there-

for. Judgment of \$962.38 together with mandatory injunction requiring future compliance with the order to cease and desist entered.

Hauptman Feather Co. (E. D. N. Y.).—Misrepresentation of feather and down content of pillows. Dismissed upon payment of \$2,000 in compromise settlement.

Seydel Chemical Co. (N. J.).—False representations concerning the value of a drug preparation designed for use in the treatment of arthritic and rheumatic conditions. Judgment for \$3,000.

The Capitol Service, Inc. (W. D. Mich.).—Misrepresentation of correspondence course designed to train purchasers thereof for civil service positions. Judgment for \$2,000.

The B. F. Goodrich Co. (N. D. Ohio).—Misrepresentation of savings and discounts to be afforded purchasers of automobile tires. Judgment for \$2,500.

Bostwick Laboratories, Inc. (Conn.).—Misrepresentation of a mothproofing preparation. Dismissed upon payment of \$1,750 in compromise settlement.

Maryland Distributing Co. (Md.).—Misrepresentation of watches. Judgment for \$1,500 together with injunction restraining further violations of the order to cease and desist entered.

Mid-West Bottle Cap Co. (N.D. Ill.)—Conspiracy to fix prices and restrain trade in connection with the sale of closure milk bottle caps. Judgment for \$3,000.

Sanitary Feather Co.—Misrepresentation of down content of pillows. Judgment for \$300 together with injunction restraining further violations of order to cease and desist entered.

Jack Stallup (Md.).—Distribution of merchandise by lottery. Judgment for \$500 together with injunction restraining further violations of the order to cease and desist entered.

Stanley L. Rose (Md.).—Misrepresentations in connection with the sale of sewing machines. Judgment for \$500 together with injunction restraining further violations of the order to cease and desist entered

Civil Penalty Cases Pending

Snappy Fashions, Inc. (E. D. N. Y.).—Failure to label wool products as required by the Wool Products Labeling Act of 1939.

Mueller Hair Experts (Fifth Circuit).—Misrepresentation of the merits of a drug preparation designed for use in the treatment of hair and scalp conditions. On appeal from a judgment entered in the Southern District of Texas assessing a penalty of \$8,000 and costs.

Paul R. Dooley, Inc. (S. D. Calif.).—Misrepresentation of the merits of a drug preparation designed for use in the treatment of hair and scalp conditions.

American Greetings Corp. (N.D. Ohio).—Unfair methods of competition in connection with the sale of greeting cards.

Duon, Inc. (S. D. Fla.). Unfair methods of competition in connection with the sale of cosmetic supplies.

Home Diathermy (S. D. N. Y.).—Misrepresentations as to the therapeutic value of a diathermy device.

Henry Modell, et al. (S. D. N. Y.).—Misrepresentations as to the origin of miscellaneous merchandise.

Moye Photographers (D. C.).—Deceptive practices in connection with the sale of photographs.

American Seal-Kap Corp., Sealright Co. Inc., and Smith-Lee Co., Inc. (N.D.N.Y.)—Conspiracy to fix prices and restrain trade in connection with the sale of closure milk bottle caps.

Larry A. Deeter (E.D. Wash.).—Misrepresentations in connection with the sale of encyclopedias.

Edward Lowenthal (Ariz.).—Sale and use of deceptive materials designed to obtain by subterfuge information concerning alleged delinquent debtors.

Harry Burch (W.D. Wash.)—Misrepresentation of correspondence courses designed to train purchasers thereof in practical nursing and motel management.

Universal Wool Batting Corp.(S.D.N.Y.)—Misbranding of wool batting.

In all civil penalty cases the Division prepares for transmission with the certification to the Attorney General, for filing in the United States District Court, all the necessary pleadings and a trial memorandum, and offers full aid of its attorneys in prosecution and trial of the case. Usually the offer is accepted and the Division attorneys not only fully participate but often solely conduct the trials. They also prepare a; necessary further pleadings and briefs for filing with the court, which includes requests for admissions, interrogatories, objections, motions, and court findings, and personally arrange and take all necessary oral depositions of those witnesses who cannot be subpoenaed to appear personally.

The primary objective is to obtain compliance with orders rather than to exact a large number of civil penalty judgments. This cannot be achieved without prompt application of civil penalty procedures when compliance later prove unsatisfactory cannot be obtained otherwise.

Experience shows that a respondent may be in compliance today and in violation 3 or 4 years hence, and that without the reasonable and continued surveillance approximately 70 percent of such orders would have no meaning or effect. In at least 70 percent of the compliance cases handled, it is necessary to do much more than analyze and file reports. In about two-thirds of the cases which involve continued work, they do so either because the original reports of compliance later prove unsatisfactory, or new violations are discovered..

Most orders involving restraints of trade are issued under the Clayton Act and have no finality until enforced by decree by the United States Court of Appeals after proof of violation, and proof of a further violation is necessary for a fine in contempt. During fiscal 1958 this Division initiated five formal investigational hearings looking toward enforcement of Robinson-Patman Act orders. Work on these cases is in progress and has not reached the stage of release for the public record.

The present manner and form of actual compliance by the Cement Industry with final decree of enforcement entered July 27, 1948 by C. C. A. 7th pursuant to mandate of the United States Supreme Court on April 2, 1948 (333 U. S. 683), was given intensive study and is still being given priority.

The Division has initiated and has outstanding 22 investigations of compliance with Clayton Act orders.

A total of 162 compliance investigations were instituted and supervised by the Division, 57 of which were in connection with antimonopoly matters. This 162 is an increase of compliance investigations over the preceding fiscal year.

Progress on Review of Old Orders

Since its organization, the Commission has issued approximately 5,236 cease and desist orders. Prior to 1964 the Compliance Division, established in 1947, had been able to deal adequately with order compliance primarily only as to those orders issued since 1947, of which there are now about 1,181. In August 1954, a survey of the status of compliance by respondents with the more than 4,000 previous orders was begun. Its status follows:

	Fiscal year 1958	Cumulative to July 1, 1958
Examined -----	490	3,050
Screened as requiring no action -----	249	1,312
Supplemental reports requested -----	174	1,181
Compliance brought current -----	137	1,140

Of the 1,005 old orders not yet surveyed, more than 300 involve restraints of trade, Clayton Act violations, price-fixing conspiracies and other complicated problems. Obviously, satisfactory survey of the current state of compliance with such orders in most cases cannot be achieved merely by obtaining supplemental reports from the respondents. Field investigation is essential. During fiscal 1958 increased demands of current work, compliance and otherwise, on the Commission's investigative facilities have forced curtailment of this particular activity by confining it to inquiry into those cases where there is good reason to believe, from facts at hand, that respondents

to such old orders are not complying therewith, in which event such matters are reopened and handled as current compliance work.

Current Order Compliance

The most substantial portion of the Division's work consists of securing compliance reports and, where necessary, enforcing compliance with orders currently issued. As each order is issued the Division must study and analyze reports to insure that respondents adjust their business practices to conform to the Commission's cease and desist orders, and here voluntary compliance cannot be obtained, to initiate and pursue enforcement in the court.

Statistics on Matters and Cases Handled in Fiscal 1958:

"Matters" consist of (a) reports of compliance for processing; (b) complaints of alleged violation of orders; (c) conferences and opinions regarding compliance; and (d) initiating and processing preliminary inquiries into compliance. Each category of these "matters" is a distinct operation requiring substantial man-hours. In other words, the same case often requires handling several times, as is apparent from the following table showing the number of "matters" and the number of "cases" handled, and disclosing that 1,863 "matters" handled involved but 686 "cases."

Matters

Total pending July 1, 1957 -----	1,406
Received during year -----	1,731
Total for disposition during year -----	3,137
Disposed of during year -----	1,863
Total ending June 30, 1958 -----	<u>1,274</u>

Cases

Cases pending July 1, 1957 -----	429
received during year -----	706
Total for disposition during year -----	1,135
Disposed of during year -----	686
Cases pending June 30, 1958 -----	<u>449</u>

OFFICE OF EXPORT TRADE

This Office performs legal and related services incident to the administration of the Webb-Pomerene (Export Trade) Act 15 U.S.C. § 61-65).

American businessmen and corporations engaged in selling American-made products overseas are subject to the restraints of the United States antitrust laws. One important reservation, however, is con-

tained in the Export Trade Act. In this statute Congress has permitted American business competitors to organize an association to engage solely in foreign trade and has granted them partial freedom from criminal and civil prosecution under the Sherman Antitrust Law. Every export association thus created and registered with the Commission is granted this legal immunity provided it abstains from various anticompetitive practices proscribed by the act.

Thirty-seven associations composed of 468 American corporations are now registered with the Commission. Usually, an export association is formed to achieve mutually beneficial advantages for its members derived from increasing their business opportunities in global markets, pooling their resources, strengthening their bargaining position in dealing with buyers and trade conditions in foreign markets, abating foreign commerce barriers and for other reasons. The associations function chiefly as central selling agencies for all of their members or otherwise perform a variety of mercantile services comparable to conventional domestic trade associations.

There is a wide range among the membership of export trade associations. Some are composed of large American manufacturers, some are small business components and others are a mixture of both large and small producers. The nature of commodities shipped to foreign markets is equally broad. Export trade is important to the economic and foreign policy program of the United States. For instance, during 1957 over a tenth of U. S. machine tool production and a third of the soybean production contributed to the flow of commerce in international trade. Export trade associations, registered under the act, embrace those in the machine tool and soybean industries and other industrial and agricultural products.

Under section 4 of the act the Commission is empowered to prohibit unfair methods of competition in foreign transactions. Corresponding authority is conferred to investigate trade conditions in foreign countries under section 6 (h) of the Federal Trade Commission Act. Thus, the Office of Export Trade advises other bureaus within the Commission and confers with the Departments of Justice and State.

The Office of Export Trade is concerned with the continuing supervision of the activities and practices of export associations in their business transactions and relations in foreign commerce. The business conduct involved in distributing products overseas presents antitrust considerations similar to commercial practices followed in domestic trade. Problems for consideration are exclusive and restrictive sales agreements, unfair acts injuring other American exporters, patent pooling arrangements, price fixing within the United States and other behavior which by precedent has been ruled illegal by the Commission.

During 1957 there has been great momentum in world trade conditions coupled with the creation of new export trade associations under the act. The approximate value of foreign shipments attributable to Webb-Pomerene associations within the last 3 years is as follows:

	1955	1956	1957
Metal and metal products -----	\$51,838,736	\$74,775,522	\$90,794,509
Products of mines and wells -----	31,125,327	47,816,616	49,858,659
Lumber and wood products -----	8,339,244	7,520,496	7,352,276
Foodstuffs -----	148,904,921	158,804,988	158,816,538
Miscellaneous including abrasives, motion pictures, pencils, scientific instruments, textiles, and typewriters -----	<u>576,122,144</u>	<u>613,731,138</u>	<u>623,605,444</u>
Total -----	816,330,342	902,648,760	930,427,446

LEGISLATION

In order to better carry out its duties, the Commission sought—but failed to obtain—certain new legislation from the Congress.

A major proposal was that Commission orders to cease and desist issued under authority of the Clayton Act be made final the same as orders under the Federal Trade Commission Act. As it now stands, an order issued by the Commission under the Clayton Act has no finality. If such an order is violated, the Commission may then, and only then, seek a decree of enforcement from a United States court of appeals. Thereafter, a further violation would support a contempt of court proceeding. Faster and more effective enforcement is possible of orders issued under the Federal Trade Commission Act since a violation of such a Commission order may be proceeded against by a civil penalty suit.

Another major legislative objective that failed of enactment was the requirement that notification of proposed mergers be made to the Commission by corporations of significant size engaged in interstate commerce. The need for this legislation arises from the fact that by the time the Commission can institute appropriate antimerger proceedings, the merging companies have become so intermingled that the time-honored problem of "unscrambling eggs" is encountered.

While it is true that companies contemplating mergers have the privilege of obtaining an opinion from either the FTC or the Justice Department on the legality of this action, this premerger clearance is not mandatory (and relatively infrequently sought). This means that the Commission must, to a large extent, rely on financial news papers, trade journals, investment manuals, and the like for its first news of mergers, and by that time remedial action in the case of illegal mergers is exceedingly more difficult.

An important corollary proposal also failed of enactment. This would have authorized the Commission to apply to the Federal District courts for preliminary injunctions against proposed mergers which the

Commission has reason to believe would be in violation of section 7 of the Clayton Act. The Commission would similarly be empowered to seek orders requiring maintenance of the status quo in instances where such mergers had already been accomplished. In the absence of such Commission authority, corporations may now complete their merger arrangements or may dispose of assets acquired through merger in the face of pending Commission proceedings designed to ascertain the legality of the merger and to direct disposition of assets in a manner appropriate to the public interest in cases where the mergers are found to be illegal.

The Commission also sought amendments of the Federal Trade Commission and Packers and Stockyards Acts to re-vest in the Commission jurisdiction over certain acts and practices of persons who qualified as "packers" under definition of the Packers and Stockyards Act and thereby came under the exclusive jurisdiction of the Secretary of Agriculture.¹

¹ Legislation on this subject was enacted subsequent to the end of fiscal 1958 as P.L. 85-909, Sept 2, 1958

CONSULTATION

This Bureau undertakes to obtain maximum voluntary compliance with the laws administered by the Commission.

This work recognizes two highly important factors: first, that many violations of the law result from ignorance of its requirements; and, second, that many business evils can be dealt with effectively if members of an industry can be persuaded to renounce the illegal practice voluntarily and simultaneously—so that none is put to a competitive disadvantage during the process. Indeed, the initiative for such industrywide reforms frequently comes from industry members who dislike illegal practices and are eager to give them up provided their competitors will do likewise.

Certainly it is to the Commission's advantage to have the machinery to encourage and to assist such mass surrender of illegal methods. Not only is it far less expensive than bringing cases against individual respondents, but it is the most equitable means of obtaining compliance with the law.

Admittedly, many companies do not respond to self-policing, and only mandatory FTC processes can keep them on the right side of the law. Nevertheless, the Commission's voluntary procedures are extremely effective in supporting the genuine desire of most businessmen to compete fairly.

The Bureau of Consultation is composed of three divisions: Trade Practice Conferences, Stipulations, and Small Business. Its functions are: (1) to obtain voluntary compliance with the laws administered by the Commission by means of trade practice rules, conferences, stipulations, and other types of informal procedures; (2) to give informal advice in matters under trade practice rules and stipulations; and (3) to advise small business informally on matters over which the Commission has jurisdiction.

OFFICE OF THE DIRECTOR

In addition to exercising general supervision over the work of the three divisions, the Director leads the Bureau's activities in the administration of the FTC's advertising guides for entire industries.

On May 20, 1968, the Commission approved Tire Advertising Guides which became effective on August 27. The guides were issued to the industry and published in the Federal Register. In issuing them, the Federal Trade Commission initiated a new type of voluntary law enforcement. Designed to concentrate attention on a particular field of misleading advertising, the guides give the tire industry detailed notice of what advertising, the Commission considers illegal.

Heretofore, the Commission's industrywide efforts to obtain voluntary compliance with the law been limited to trade practice conferences, which cover all aspects of an industry's practices coming under FTC jurisdiction, and to state guides by which the Commission instructs its own staff on requirements of proper advertising for product. The new procedure permits the Commission to pinpoint a particular area of confusion concerning an industry's product and to set forth for the guidance of all concerned what it believes the law requires to protect competition and the public interest.

In administering the Tire Advertising Guides, the Bureau will continue to deal cooperatively with members of the Tire Industry to achieve voluntary compliance with the law.

Through the Cigarette Advertising Guides, approved by the Commission on September 15, 1955, for the use of its staff in evaluating cigarette advertising, the Bureau of Consultation secured the voluntary discontinuance or revision of 66 questionable claims during the past fiscal year.

Because the Tobacco Industry had no generally accepted standard method of testing to determine the "tar" and "nicotine" content of cigarette smoke, the Commission authorized the Bureau to hold a public conference on February 26 and 27, 1968. The purpose of the conference was to give the Commission facts necessary to enable it to adopt testing specifications essential to a proper appraisal of test data on which advertising claims are based.

Attending the conference were representatives of cigarette manufacturing firms, testing laboratories, Government agencies, magazine publishers, and medical groups. The Bureau since has been in contact with a number of manufacturers and testing laboratories in a further effort toward the ultimate addition of a standard method of testing limited to determining the propriety of test data submitted by cigarette companies to substantiate their claims.

DIVISION OF TRADE PRACTICE CONFERENCES

This Division administers the trade practice conference program of the Commission which provides for:

(1) Establishment and revision of trade practice rules for industries in cooperation with their members

(2) Furnishing of advice and guidance on requirements of the rules and the propriety of business practices as related to them; and

(3) Obtaining voluntary compliance with the rules on an individual as well as an industrywide basis.

Trade practice rules, interpretive of the laws administered by the Commission, define and catalog practices and business behavior considered to be lawful. Such rules greatly reduce the need for individual complaint proceedings, thereby substantially lowering the cost of law enforcement.

The great majority of trade practice conference proceedings result from industry application. When an application is received, all information bearing on whether it should be granted or denied is studied and reported upon to the Commission. Applications are granted when the Commission believes the proceedings will constructively advance the best interests of the industry on sound competitive principles and substantially improve voluntary observance of the law by industry members.

Upon approval, the Division conducts an industrywide conference at which suggested trade practice rules are proposed. Those attending are afforded opportunity to be heard on the rules and to suggest others. Following examination of the conference record and after any technological and legal research, including consultation with legal experts and technicians of other Government agencies that might be necessary, proposed rules are submitted to the Commission for release for public hearing. Not only the industry members immediately concerned but also other interested or affected parties, including consumer groups, are invited to attend and to express themselves freely concerning the proposed rules.

Following the hearing and after study and analysis of the whole record, final rules are submitted to the Commission with the recommendation that they be promulgated.

Of equal importance to its "rulemaking" work are the Division's activities in obtaining industrywide compliance with them. This includes answering numerous inquiries concerning the requirements and application of rule provisions and the propriety of proposed or current industry practices. These inquiries are received from industry members, trade associations, Members of Congress, Better Business Bureaus, consumers and consumer groups, and others interested in or affected by the rules. They present many complex legal problems involving price discrimination, exclusive dealing, discriminatory promotional allowances, illegal brokerage, price-fixing, conspiracies, and other types of monopoly, restraint of trade, and deceptive or unfair practices.

Accomplishments During Fiscal 1958

Statistics on rulemaking activities of the Division follow:

Trade practice rules in force on July 1957	161
Industries for which revised rules were promulgated	5
Industries for which rules were rescinded	2
Trade practice rules in force on June 30, 1958	159
Trade practice conference proceedings for industries pending on July 1, 1957	25
Applications for trade practice conference proceedings received	11
Applications for trade practice conference proceedings disposed of	7
Trade practice conference proceedings for industries pending on June 30, 1958	29
(a number of these proceedings were advanced during the year.)	
Rules for industries given attention during the year for possible revision and supplementation (proceedings for some of these likely to be instituted in fiscal 1959)	29

During fiscal 1958 the Commission promulgated revised rules for five industries, namely: Slide Fastener, Nursery, Paint and Varnish Brush, Rabbit, and Commercial and Industrial Floor and Vacuum Machinery Industries. In addition, the proceedings for the establishment of new and revised trade practice rules for the Macaroni and Noodle Products Industry, the Building Wire and Cable Manufacturing Industry, and the Cut and Wire Tack Industry were advanced to the point where final rules were submitted to the Commission for approval and promulgation.]

Proposed rules for the Sunglass Industry were drafted and released during the year. The industry trade practice conference was held for the Outlet and Switch Box Manufacturing Industry, and it is anticipated that proposed rules will be released for public hearing early in fiscal year 1969.

Conference proceedings for the Direct Selling Industry were terminated upon request of the applicants after both the industry conference and the public hearing on proposed rules were held, and the existing rules for the industry were rescinded by the Commission. The rules for the Bank and Commercial Stationery Industry likewise were rescinded.

The rules for the Slide Fastener Industry afford more extensive and detailed clarification of the requirements of the Robinson-Patman Act than any previous rules. Among other things, rule provides guidance with respect to justification of price differentials based on the "cost of manufacture, sale, or delivery" where the seller has permitted the buyer to return part of the goods involved for credit or refund. The rule also points out that when goods of like grade and quality are sold to one or more customers at lower prices than to other competing customers, it is immaterial that they are classified by the seller

¹ Rules for these three industries were approved and promulgated on July 3, 1958

as "seconds," secondary line," "rejects," etc. In addition, the rules, totaling 19 in number, cover many other practices with respect to which industry was in need of guidance.

The Nursery Industry rules now provide specifically that labels and advertising must reveal when rose bushes previously have been used previously have been used in greenhouses for the commercial production of cut flowers. In addition, when other specified conditions exist which affect the viability and flower production of such plants, they likewise must be disclosed.

Revised rules for the Paint and Varnish Brush Industry are directed primarily to presenting misrepresentation concerning the composition of the brushing part of the products. The rules require labels to disclose affirmatively the kind of material of which the brushing part is composed whenever the lack of such disclosure has the capacity to deceive purchasers. Conditions under which the word "bristle" shall not be used also are specified in the rules.

The revision of the 1962 Commercial and Industrial Floor and Vacuum Machinery rules extended their application to manufacturers of vacuum cleaners and enlarged their scope to include more unfair trade practices.

The rules for the nationwide Rabbit Industry inhibit misrepresentation in the sale and distribution of all types, breeds, varieties, and strains of live domestic rabbits and cavies. Among the many different types of deception covered in the rules is the practice by sellers of representing that they will buy back the offspring of the rabbits or cavies sold by them when they will not, or that they will pay more for such offspring than is the fact.

One of the outstanding provisions of the Macaroni and Noodle Products rules forbids misrepresentation of the protein, caloric, and starch content of industry products.

The Building Wire and Cable rules furnish guidance on prohibited discriminatory prices, rebates, refunds, discounts, credits, etc., which effect unlawful price discrimination. Other subjects include prohibited forms of trade restraints, prohibited sales below costs, including breach of contract, consignment distribution, enticing away employees of competitors, and commercial bribery.

COMPLIANCE WORK

Rule compliance activities of the Division during fiscal 1968 follow:

Compliance matters pending July 1, 1957 -----	290
New compliance matters initiated during the year -----	539
Total for disposition -----	829
Disposed of during year -----	434
Pending June 30, 1958 -----	395

These compliance activities included:

Luggage and Related Products Industry. Substantial progress was made during the year in effecting discontinuance of deceptive leather designations and fictitious price tickets on both men's and women's billfolds.

Fountain Pen and Mechanical Pencil Industry. Industry practices of preticketing products with fictitious and exaggerated prices and misrepresenting their gold content were greatly curtailed by continuous administrative action under the rules.

Rayon and Acetate Textile Industry. The following factors necessitate ever-vigilant administration of these rules in the interest of consumer protection: the present-day use of silk or linen fibers in fabrics composed predominantly of rayon; the weaving or processing of such fabrics to simulate silk or linen; and the tendency to pass off products made therefrom as silk or linen by (1) labeling them as such, (2) using silk or linen-connoting terms to describe them, and (3) failing to disclose the rayon content.

Hosiery Industry. Such practices as labeling industry products with exaggerated regular prices and failing to disclose when they are "seconds," "irregulars," etc., were given attention during the year and corrective action taken.

Poultry Hatching and Breeding Industry. Considerable time was devoted to halting misleading chick designations and the use of "bogus independent" chick outlets in advertising. Liaison work with officials of the National Poultry and Turkey Improvement Plans of the United States Department, of Agriculture and participating State agencies materially assisted in obtaining nationwide rule of observance.

Jewelry Industry. Administrative work under these relatively new rules has been directed at misrepresentation as to gold and silver content of industry products, fictitious pricing of them and misrepresentation of precious and semiprecious stones.

Watch Case Industry. Practices in this industry which received attention during the year involved failure to disclose metal composition and foreign origin of industry products.

Statistics relating to rule interpretation work of the Division during fiscal 1958 are as follows:

Rule interpretation matters pending July 1, 1957 -----	36
Rule interpretations requested during fiscal 1958 -----	221
Rule interpretations effected during fiscal 1958 -----	216
Rule interpretation pending June 30, 1958 -----	41

DIVISION OF STIPULATIONS

This Division administers the Commission's program for obtaining law observance by voluntary agreement or stipulation to cease and desist. The procedure is informal and was designed to provide a

speedy means of law enforcement without the expense of formal litigation.

Under this procedure, a person charged with engaging in unlawful practices is afforded an opportunity to present his side of the matter informally and to enter into an agreement or stipulation to discontinue those practices shown by the facts to be unlawful. The stipulation becomes effective when approved by the Commission and is a matter of public record. Since the adoption of this method in 1925 over 9,000 stipulations have received Commission approval.

After acceptance of a stipulation by the Commission the Division obtains from the parties a report showing how they are complying with their agreements. In addition, it conducts a systematic check on compliance with older stipulations. Appropriate corrective action is taken in cases of noncompliance.

Stipulation Procedure

Cases appropriate for disposition by stipulation are referred for this procedure after investigation by the Bureau of Investigation.² The proposed respondent is given a statement of the practices believed from the investigation to be unlawful and is afforded an opportunity to discuss the issues informally with a State representative (118 such informal conferences were held during the year). He or his counsel may also present such factual information as he may wish to have considered, in plus or in writing. A stipulation providing for discontinuance of any practices factually shown to be illegal then may be entered into and, if approved by the Commission, serves as a basis for disposing of the case.

In fiscal 1958 the Commission approved 146 stipulations and seven were pending at the end of the year. A summary of stipulation negotiations for the fiscal year follows:

Cases pending with the Division July 1, 1957	-----	79
Cases received by the Division during fiscal 1958 Total	-----	163
Total	-----	<u>242</u>
Disposition		
Reported to the Commission for:		
Action on executed stipulations	-----	146
Other action	-----	2
Referred to the Bureau of Investigation for further action	-----	44
Referred to the Bureau of Litigation for consolidation with formal proceedings	-----	1
Withdrawn by the Commission	-----	1
Total	-----	<u>194</u>
Cases pending June 30, 1958	-----	48

² Opportunity to enter into a stipulation is not afforded when the alleged violation of law involves false advertising of food, drugs, devices or cosmetics which are inherently dangerous, the sale of fabrics and wearing apparel which are so highly flammable as to be dangerous, or the suppression or restraint of competition through conspiracy or discriminatory or monopolistic practices. The Commission reserves the right in all cases to withhold the privilege of disposition by voluntary agreement.

Practices Covered by Stipulations

Some of the practices covered by stipulations approved during the fiscal year were:

In four stipulations the parties agreed to stop advertising that their products offered protection against "Asian Flu."

In 44 stipulations manufacturers or distributors of fur products agreed to discontinue practices violative of the Fur Products Labeling Act, including misbranding, false invoicing, and false and deceptive advertising.

An automobile manufacturer agreed not to represent that certain of its automobiles have the same engine or engines of the same horsepower, unless this is a fact.

Two sellers of crevices containing radioactive materials agreed to label their crevices so as to warn users of the possible harmful effects of these materials.

A baking company agreed to discontinue advertising claims that consumption of its bread will cause the consumer to lose weight or prevent him from gaining weight.

In 14 stipulations advertisers of medicinal preparations, some to be taken orally and others to be applied externally, agreed to discontinue claims that their products have any beneficial effect on rheumatism, arthritis, neuritis or other arthritic or rheumatic conditions or their symptoms beyond temporarily relieving minor aches and pains.

A radio station agreed not to misrepresent the length of time it had served a community.

Eight manufacturers or distributors of wool products entered into agreements providing for the labeling of these products in accordance with the requirements of the Wool Products Labeling Act.

Six companies engaged in the sale of watches agreed not to represent that their products are guaranteed unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

In 10 stipulations manufactures or distributors agreed to stop misrepresenting the prices of their various products.

Two truss manufacturers agreed not to advertise that their product will retain hernias of ruptures unless expressly limited to reducible hernias or ruptures.

Twelve sellers of rugs, blankets, and various articles of wearing apparel agreed not to misrepresent the fiber content of these products.

Four firms engaged in locating delinquent debtors agreed not to use any form, questionnaire, or other material which misrepresents or fails to reveal the purpose for which information is requested.

Four publishers of paperback books agreed to disclose when book is abridged or has been published previously under another title.

Three manufacturers of cigars and other tobacco products agreed to disclose that certain of their products have paper binders.

Four sellers of various products imported from foreign countries agreed to disclose, the country of origin.

Two manufacturers of water pumps agreed not to misrepresent the capacity of their pumps.

Two manufacturers of juice extractors agreed to discontinue representations that fruit or vegetable juice extracted by their products will assure good health.

Three manufacturers agreed not to represent their shoes as "hand sew" except as to such parts that are.

A vending; machine manufacturer stipulated that he would not misrepresent the profits which may be realized by purchasers of this machine.

A corporation offering correspondence courses agreed not to use the word "Institute" in its corporate name or otherwise.

A directory publisher stipulated not to represent that his publication or business is connected with the United States Government.

An advertiser of a hair-and-scalp preparation agreed to discontinue claims that use of this preparation will prevent loss of hair.

Initial Compliance

During the fiscal year 136 reports of compliance submitted by parties to recently approved stipulations were received and filed as showing satisfactory compliance. Sixteen reports not considered satisfactory or needing further investigation were referred to other Bureaus for appropriate attention. Two matters were reported to the Commission with recommendation for filing. Fifty-seven matters were pending at the close of the year.

Stipulation Compliance Check

The following is a summary of the program for checking compliance with older stipulations:

On hand July 1, 1957	87
Initiated during period	275
Received from Bureau of Investigation	18
Total	380
Filed as showing compliance	235
Reported to the Commission with recommendation for:	
Filing after voluntary correction of violations	19
Rescission of stipulation	2
Amendment of stipulation	2
Referred to the Bureau of Investigation for further attention	37
Total	295
On hand at end of period	85

DIVISION OF SMALL BUSINESS

The purpose of this Division, which completed its fourth year of operation June 30, 1958, is to assist small business in obtaining the protection afforded by the laws administered by the Commission and to advise as to their requirements.

Its principal functions are:

1. To give informal staff advice to small-business men on how to conduct their businesses within the statutes administered by the Commission;
2. To advise small-business men as to the proper method of preparing applications for complaint against illegal practices of competitors.
3. To expedite through the Commission those matters involving practices which adversely affect small business;
4. To perform liaison functions with the House and Senate Select Committees on Small Business, the Small Business Administration and other agencies dealing with the problems of small business;
5. To inform small-business men of the functions and jurisdiction of other governmental agencies concerned with their interests.

Description of Work

The Division handles problems pertaining to both unfair and deceptive acts and practices and those falling within the antitrust laws. In general, these problems involve questions relating to proposed courses of business practices in which the inquirer is engaging or intends to engage or which are being engaged in by a competitor, as well as discriminatory practices of suppliers. Informal advice is provided regarding the applicability of statutes administered by the Commission to the particular practice involved following the necessary research, consultation, or liaison work required. That advice is supported by case citations, Commission releases, and other official papers, when appropriate.

ECONOMICS

The functions of this Bureau are to give economic and statistical assistance to the Commission in its investigative and trial work, to make economic studies for publication in response to requests by the Commission, by Congress, or by the President, and to compile and publish quarterly financial reports covering manufacturing corporations. The first two functions are performed by the Division of Economic Evidence and Reports and the third by the Division of Financial Statistics.

DIVISION OF ECONOMIC EVIDENCE AND REPORTS

The Commission's Economic Report on Antibiotics Manufacture was completed and sent to the Government Printing Office in June 1958, publication being scheduled for late July. This study, begun by direction of the Commission in 1956, relied primarily on data requests sent to the manufacturers in July 1956 and May 1957. The fiscal year 1958 was occupied with analysis of the returns from the second and longer data request, drafting and revising the report and investigation which followed leads developed by the economic inquiry.

The study covered only the manufacture of antibiotics. Funds and manpower were not available to extend it to the distribution of manufactured products through wholesaling all retailing channels, doctors, and hospitals, to the ultimate consumers. The intention of the study was to shed light on a branch of industry regarding which few facts were publicly known, partly because much of its development took place during World War II, when secrecy was required, and partly because manufacture of antibiotics is not a separate industry but a segment of the pharmaceutical industry.

The economic report traces the industry's development from the discovery of penicillin in England in 1928, through the beginnings of manufacture of manufacture in the United States between 1941 and 1943, to the flourishing industry of the present day. Net sales reached \$344 million in 1951, and by 1956 had not passed that figure although the physical output had doubled. In 1956 twelve manufactures were producing

antibiotic substances, with almost half the product value being accounted for by the two largest producers.

The industry was developed through the work of research laboratories and on the basis of patents. Sodium and potassium penicillin, the first products, were never patented. Streptomycin, the next important antibiotic developed, was patented by Rutgers University, which licensed the manufacturing rights to various companies. The later improvements on penicillin, streptomycin, and other antibiotics discovered since that time have been patented by private companies. Product improvement and the discovery of new products through organized research and testing are significant if not dominating factors in the industry's development. New products are then marketed under the trademarks of the patentees or of other companies licensed by the patentees to manufacture them. The most important group of these patented antibiotic substances consists of the four broad spectrum antibiotics, which have the capacity to attack a wide range of disease causing organisms and whose dollar sales in 1956 were about half of the grand total.

As a result of declining production costs and competition among numerous producers, the prices of the older forms of penicillin and of the streptomycins had declined in 1956 by approximately 99 percent from their original levels. There has been a good deal less price competition in the broad spectrum antibiotics—whose prices have been identical and unchallenged since 1951—and other recently found specialties. Then the 1956 quoted prices of the tablet forms of these newer drugs are translated into terms of cents per gram, the range is from \$1.12 to \$1.51 a gram. The tablet forms of the other antibiotics were being quoted by the same manufacturers at prices equivalent to 91 cents per gram or less. Figures submitted by the companies indicated that profits on some of the newer antibiotics before taxes went as high as 35 to 40 cents on each dollar of sales, whereas profits on the older penicillins and streptomycin averaged nearly zero or reflected actual deficits.

In the absence of significant price competition among these newer antibiotics, they have been marketed by aggressive promotional methods similar to those used in the sale of other ethical drugs. Such efforts are directed at the physician since consumers merely purchase the drugs prescribed by their doctors. This special situation for consumers is characteristic of the ethical drug industry and strongly influences its competitive pattern.

The Division also rendered assistance to the Bureaus of Investigation and Litigation in their antimerger work. This consisted of compiling statistical data, analyzing economic evidence, and preparing

economic exhibits. Background data also was prepared in connection with the litigation of several major restraint-of-trade cases.

Assistance also was given by the Division to the Bureau of Consultation in its development of staff guides for cigarette advertising. This involved making a pilot study of cigarette smoking habits, conducted in the Washington, D.C. area, in order to provide data for the development of questionnaire forms.

As the staff requirements of the antibiotics study were decreasing, the Division, early in 1958, undertook a report on concentration in the cement manufacturing industry in objective of the report was appraisal of the probable effects on concentration of the Federal Road Building Program and other current developments affecting the industry. Field interviews were completed with cement manufacturers and leading cement users in regard to current marketing practices and recent economic developments in the industry. Analysis and summary of the materials developed was in progress at the end of the year.

In response to an inquiry from the Senate Small Business Committee, the Division assisted in the preparation of general resolution concerning a survey of the food industry.

DIVISION OF FINANCIAL STATISTICS

The primary function of the Division of Financial Statistics is to collect and summarize each quarter uniform financial statements from a systematic (probability) sample of all enterprises, except newspapers, which are classified as manufacturers and are required to file Federal corporate income tax form 1120.

The primary purpose of this sample survey is to ascertain each quarter, for all agencies in the executive and Legislative branches of the Federal Government, the current financial condition and operating results of a major segment of the Nation's economy—corporate manufacturing. (Corporations account for approximately 95 percent of all manufacturing in the United States.)

The published summaries, entitled Quarterly Financial Report for Manufacturing Corporations contain estimates of 15 profit-and-loss items, 32 balance-sheet items, and 46 financial operating ratios for each of 31 industry groups and 13 asset sizes.

This information is used by various Federal agencies in analyzing current business conditions, estimating net income in national income statistics, estimating current tax liability and future tax receipts, evaluating the current financial position of small business, and as background information in determining current monetary and credit policy.

In addition, the published quarterly summaries have thousands of nongovernment subscribers; executives, use them to measure efficiency

and appraise costs by comparing a company's operating results with the average performance of companies of similar size or in the same line of business, to determine whether to undertake new ventures by comparing the profitability of various types of business activity, and as a guide to the relative movement of sales and profits in order to reduce controversies in wage negotiations.

APPROPRIATIONS AND FINANCIAL OBLIGATIONS

FUNDS AVAILABLE FOR FISCAL YEAR 1958

Funds available to the Commission for the fiscal year 1958 amounted to \$6,185,500. Public Law 85-69, 85th Congress, approved June 29, 1957, provided \$5,950,000; and Joint Resolution, Title II—providing for increased pay costs, Public Law 86-72, 85th Congress, approved June 30, 1958, provided the sum of \$235,500.

Obligations by Activities, Fiscal Year 1958

1. Antimonopoly:		
Investigation and litigation	-----	2,692,270
Economic and financial reports	-----	546,530
2. Deceptive practices:		
Investigation and litigation	-----	1,396,390
Trade practice conferences and small business	-----	295,020
Textile and fur enforcement	-----	460,160
Lanham act and insurance	-----	36,770
3. Executive direction and management	-----	406,160
4. Administration	-----	351,228
Total	-----	<u>\$6, 185, 048</u>

Settlements Made Under Federal Tort Claims Act

During the fiscal year 1958 the Commission paid no claim nor were any claims pending.

Comparative Appropriations

Appropriations available to the Commission for the past 3 fiscal years and obligations for the same period, together with the unobligated balances, as 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	Obligation	Balance
1956	641	Lump sum (including printing and binding)-	\$4,548,500	\$4,546,745	\$1,755
1957	744	Lump sum (including printing and binding)-	5,550,000	5,514,219	35,781
1958	738	Lump sum (including printing and binding)-	6,185,500	6,185,048	452

APPENDIXES

Federal Trade Commissioners-1915-58

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,
John Franklin Fort	New Jersey	1920.
Victor Murdock	Kansas	Mar. 16, 1917-Nov. 30, 1919.
Huston Thompson	Colorado	Sept. 4, 1917-Jan. 31, 1924.
Nelson B. Gaskill	New Jersey	Jan. 17, 1919-Sept. 25, 1926.
John Garland Pollard	Virginia	Feb.1, 1920-Feb. 24, 1925.
John F. Nugent	Idaho	Mar.6, 1920 -Sept. 25, 1921.
Vernon W. Van Fleet	Indiana	Jan.15, 1921-Sept. 25, 1927.
Charles W. Hunt	Iowa	June 26, 1922-July 31, 1926.
William E. Humphrey	Washington	June 16, 1924-Sept.25,1932.
Abram F. Myers	Iowa	Feb.25, 1925-Oct. 7, 1933.
Edgar A. McCulloch	Arkansas	Aug.2, 1926-Jan. 15,1929.
Garland S. Ferguson	North Carolina	Feb. 11, 1927-Jan. 23, 1933.
Charles H. March	Minnesota	Nov.14,1927-Nov.15, 1949.
Ewin L. Davis	Tennessee	Feb. 1, 1929-Aug. 28, 1945.
Raymond B. Stevens	New Hampshire	May 26, 1933-Oct. 23, 1949,
James M. Landis	Massachusetts	June 26,1933-Sept.25, 1933.
George C. Mathews	Wisconsin	Oct. 10, 1933-June 30, 1934.
William A. Ayres	Kansas	Oct. 27,1933-June 30, 1934.
Robert E. Freer	Ohio	Aug. 23,1934-Feb. 17, 1952.
Lowell B. Mason	Illinois	Aug. 27,1935-Dec. 31, 1948,
John Carson	Michigan	Oct. 15, 1945-Oct. 31, 1056
James M. Mead	New York	Sept.28,1949-March
Stephen J. Spingarn	New York	31,1953.
Albert A. Carretta	Virginia	Nov.16,1949-Sept.25, 1955.
Edward F. Howrey	Virginia	Oct. 25, 1950-Sept.25, 1953.
John W. Gwynne	Iowa	June 18, 1952-Sept.25, 1954.
Robert T. Secrest	Ohio	April 1, 1953-Sept. 12, 1955.
Sigurd Anderson	South Dakota	Sept. 26, 1953-.
William C. Kern	Indiana	Sept. 26, 1954-.
Edward T. Tait	Pennsylvania	Sept. 12, 1955-.
		Sept. 26, 1955 - .
		Nov. 2, 1956 - .

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 all of the 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. Making 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, traders to prevent certain wholesale or retail dealers or 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 part 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 concerned.

15. Selling or distributing punchboards and other lottery crevices 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.

11. 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 or 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 customer 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 seller'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) False or misleading use of the word: "Free" in advertising.

(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 pretended 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 being 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 that 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 selection 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 misleadingly by 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 within 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 fulfilment, 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 is 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 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

(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 lending seller to ship under the belief that he would receive prices higher than the buyer intended to or did pay.

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).
12. Flammable Fabrics Act, approved June 30, 1953, and amendment thereto approved August 23, 1954 (67 Stat. 111; 68 Stat. 770).

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

* Published as last amended by the Federal Fair Trade, or McGuire, Act, approved July 14, 1952. (See footnote on p. 89.)

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 for 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 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

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.

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 State 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 account, 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, anal 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) ⁵ (1) Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are hereby declared unlawful.

(2) Nothing contained in this Act or in any of the Antitrust Acts shall render unlawful any contracts or agreements prescribing minimum or stipulated prices, or requiring a vendee to enter into contracts or agreements prescribing minimum or stipulated prices, for the resale of a commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, when contracts or agreements of that description are lawful as applied to intrastate transactions under any statute, law, or public policy now or hereafter in effect in any State, Territory, or the District of Columbia in which such resale is to be made, or to which the commodity is to be transported for such resale.

⁵ Sec. 5 (a) is published as amended by Public Law 542, 82d Cong., ch. 745, 2d Sess., H. R. 5767, Approved July 14, 1952, 66 Stat. 631 ;15 U. S. C. 47 (Federal Fair Trade Act [McGuire Act]).

(3) Nothing contained in this Act or in any of the Antitrust Acts shall render unlawful the exercise or the enforcement of any right or right of action created by any statute, law, or public policy now or hereafter in effect in any State, Territory, or the District of Columbia, which in substance provides that willfully and knowingly advertising, offering for sale, or selling any commodity at less than the price or prices prescribed in such contracts or agreements whether the person so advertising, offering for sale, or selling is or is not a party to such a contract or agreement, is unfair competition and is actionable at the suit of any person damaged thereby.

(4) Neither the making of contracts or agreements as described in paragraph (2) of this subsection, nor the exercise or enforcement of any right or right of action as described in paragraph (3) of this subsection shall constitute an unlawful burden or restraint upon, or interference with, commerce.

(5) Nothing contained in paragraph (2) of this subsection shall make lawful contracts or agreements providing for the establishment or maintenance of minimum or stipulated resale prices on any commodity referred to in paragraph (2) of this subsection, between manufacturers, or between producers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other.

(6) 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, and persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 406 (b) 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 was used or where such person, partnership, or corporation resides or carries on business, by filing in the court, within sixty days⁶ from the date of the service of such order, a written petition praying that the order 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 be 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

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 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 his 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 subsection (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, or (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 become 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.

(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, or both annual and 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 either⁸ 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 Acts 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

⁷ This sentence added by sec. 4 (c) of Public Law 459, 81st Cong., approved March 16, 1950, and effective July 1, 1950.

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."

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 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 of 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 proceeding 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 thing 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 of not less than \$1,000 nor more 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 willfully 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 \$5,000 or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

If any corporation required by 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 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 representa-

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.

¹⁰ This subsection added by sec. 4 (a) of Public Law 459, 81st Cong., approved March 16, 1950, and effective July 1, 1950.

tions 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 statement 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 (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 rubbed, 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.

¹⁰ This subsection added by sec. 4 (a) of Public Law 459, 81st Cong., approved March 16, 1950, and effective July 1, 1950.

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; 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 differing methods or quantities

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 96 and footnote 8 on page 101, with respect to the repeal of Section 9, Section 17 in part, Sections 18 and 19, and Sections 21-23. inclusive, by two acts of June 25, 1948, namely, C. 645 (62 Stat. 683) and C. 646 (62 Stat. 896); and footnotes on pages 94 and 97 concerning the amendment of Sections 7 and 11 by act of Dec. 29, 1950, C. 1184 (64 Stat.1125).

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."

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, 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 amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

SEC. 5. That a final judgment 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 or 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

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).

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 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 his eligibility to act 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, 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 of directors or as its 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.

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 matter as to substance, as 18 U. S. C., Sec. 660 (62 Stat. 730).

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 Commission where applicable to all other character of commerce to be exercised as follows:

Whenever the Commission or Board vested with jurisdiction thereof shall have reason to believe that 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, 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 sections 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 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 1254 of title 28, United States Code.

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).

Any part 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 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 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.

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 a 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 or 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 or 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 or 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

⁶ See second paragraph of footnote 8 on page 108.

⁷ See second paragraph of footnote 8 on page 108.

of the party making the application, for which injury there is no adequate remedy at law, and such property or 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 so 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 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 of 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 or 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

⁷ See footnote 8 on page 108.

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 provided herein 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 judgment 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 the granting of such writ of error, execution of judgement 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.

Flammable Fabrics Act

(Approved June 30, 1953; 67 Stat. 111; 15 U. S. C. Sec. 1191)
[PUBLIC—No. 88—83D CONGRESS, CH. 164—1ST SESS.]
[H. R. 5069]

AN ACT To prohibit the introduction or movement in interstate commerce of articles of wearing apparel and fabrics which are so highly flammable as to be dangerous when worn by individuals, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Flammable Fabrics Act."

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "person" means an individual, partnership, corporation, association, or any other form of business enterprise.

(b) The term "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

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 18 U. S. C., Section 402 (as amended by Public Law 72, May 21, 1949, 81st 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.

Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

(c) The term "Territory" includes the insular possessions of the United States and also any Territory of the United States.

(d) The term "article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals except hats, gloves, and footwear: Provided, however, That such hats do not constitute or form part of a covering for the neck, face, or shoulders when worn by individuals: Provided further, That such gloves are not more than fourteen inches in length and are not affixed to or do not form an integral part of another garment: And provided further, That such footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

(e) The term "fabric" means any material (other than fiber, filament, or yarn) woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor which is intended or sold for use in wearing apparel except that interlining fabrics when intended or sold for use in wearing apparel shall not be subject to this Act.

(f) The term "interlining" means any fabric which is intended for incorporation into an article of wearing apparel as a layer between an outer shell and an inner lining.

(g) The term "Commission" means the Federal Trade Commission.

(h) The term "Federal Trade Commission Act" means the Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914, as amended.

PROHIBITED TRANSACTIONS

SEC. 3. (a) The manufacture for sale, the sale, or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any article of wearing apparel which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale or the offering for sale, in commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce or for the purpose of sale or delivery after sale in commerce, of any fabric which under the provisions of section 4 of this Act is so highly flammable as to be dangerous when worn by individuals, shall be unlawful and shall be an unfair method of competition and unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The manufacture for sale, the sale, or the offering for sale, of any article of wearing apparel made of fabric which under section 4 is so highly flammable as to be dangerous when worn by individuals and which has been shipped or received in commerce shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

STANDARD OF FLAMMABILITY

SEC. 4. (a) Any fabric or article of wearing apparel shall be deemed so highly flammable within the meaning of section 3 of this Act as to be dangerous when worn by individuals if such fabric or any uncovered or exposed part of such article of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in the Commercial Standard promulgated by the Secretary of Commerce effective January 30, 1953, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53," or exhibits a rate of burning in excess of that specified in paragraph 3.11 of the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53." For the purposes of this Act, such Commercial Standard 191-53 shall apply with respect to the hats, gloves, and footwear covered by section 2 (d) of this Act, notwithstanding any exception contained in such Commercial Standard with respect to hats, gloves, and footwear.

(b) If at any time the Secretary of Commerce finds that the Commercial Standards referred to in subsection (a) of this section are inadequate for the protection of the public interest, he shall submit to the Congress a report setting

forth his findings together with such proposals for legislation as he deems appropriate.

(c) Notwithstanding the provisions of paragraph 3.1 Commercial Standard 191–53, textiles free from nap, pile, tufting, flock, or other type of raised fiber surface when tested as described in said standard shall be classified as class 1, normal flammability, when the time of flame spread is three and one-half seconds or more, and as class 3, rapid and intense burning, when the time of flame spread is less than three and one-half seconds.¹

ADMINISTRATION AND ENFORCEMENT

SEC. 5. (a) Except as otherwise specifically provided herein, sections 3, 5, 6, and 8 (b) of this Act shall be enforced by the Commission under rules, regulations and procedures provided for in the Federal Trade Commission Act.

(b) The Commission is authorized and directed to prevent any person from violating the provisions of section 3 of this Act in the same manner, by the same means and with the same jurisdiction, powers and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act; and any such person violating any provision of section 3 of this Act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) The Commission is authorized and directed to prescribe such rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act.

(d) The Commission is authorized to—

(1) cause inspections, analyses, tests, and examinations to be made of any article of wearing apparel or fabric which it has reason to believe falls within the prohibitions of this Act; and

(2) cooperate on matters related to the purposes of this Act with any department or agency of the Government; with any State, Territory, or possession or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

INJUNCTION AND CONDEMNATION PROCEEDINGS

SEC. 6 (a) Whenever the Commission has reason to believe that any person is violating or is about to violate section 3 of this Act, and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States or in United States court of any Territory for the district or Territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction or restraining order shall be granted without bond.

(b) Whenever the Commission has reason to believe that any article of wearing apparel has been manufactured or introduced into commerce or any fabric has been introduced in commerce in violation of section 3 of this Act, it may institute proceedings by process of libel for the seizure and confiscation of such article of wearing apparel or fabric in any district court of the United States within the jurisdiction of which such article of wearing apparel or fabric is found. Proceedings in cases instituted under the authority of this section shall conform as nearly as may be to proceedings in rem in admiralty, except that on demand of either party and in the discretion of the court, any issue of fact shall be tried by jury. Whenever such proceedings involving identical articles of wearing apparel or fabrics are pending in two or more jurisdictions, they may be consolidated for trial by order of any such court upon application seasonably made by any party in interest upon notice to all other parties in interest. Any court granting an order of consolidation shall cause prompt notification thereof to be given to other courts having jurisdiction in the cases covered thereby and the clerks of such other courts shall transmit all pertinent records and papers to the court designated for the trial of such consolidated proceedings.

(c) In any such action the court upon application seasonably made before

¹ Subparagraph (c) added by Public No. 629, 83d Cong., Ch. 833, Second Session, S. 3379 (An Act to amend section 4 of the Flammable Fabrics Act, with respect to standards of flammability in the case of certain textiles), approved Aug. 23, 1954.

trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

(d) If such articles of wearing apparel or fabrics are condemned by the court they shall be disposed of by destruction, by delivery to the owner or claimant thereof upon payment of court costs and fees and storage and other proper expenses and upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce, or by sale upon execution of good and sufficient bond to the effect that such articles of wearing apparel or fabrics will not be disposed of for wearing apparel purposes until properly and adequately treated or processed so as to render them lawful for introduction into commerce. If such products are disposed of by sale the proceeds, less costs and charges, shall be paid into the Treasury of the United States.

PENALTIES

SEC. 7. Any person who willfully violates section 3 or 8 (b) of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$5,000 or be imprisoned not more than one year or both in the discretion of the court: Provided, That nothing herein shall limit other provisions of this Act.

GUARANTY

SEC. 8. (a) No person shall be subject to prosecution under section 7 of this Act for a violation of section 3 of this Act if such person (1) establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received, to the effect that reasonable and representative tests made under the procedures provided in section 4 of this Act show that the fabric covered by the guaranty, or used in the wearing apparel covered by the guaranty, is not, under the provisions of section 4 of this Act, so highly flammable as to be dangerous when worn by individuals, and (2) has not, by further processing, affected the flammability of the fabric or wearing apparel covered by the guaranty which he received. Such guaranty shall be either (1) a separate guaranty specifically designating the wearing apparel or fabric guaranteed, in which case it may be on the invoice or other paper relating to such wearing apparel or fabric; or (2) a continuing guaranty filed with the Commission applicable to any wearing apparel or fabric handled by a guarantor, in such form as the Commission by rules or regulations may prescribe.

(b) It shall be unlawful for any person to furnish, with respect to any wearing apparel or fabric, a false guaranty (except a person relying upon a guaranty to the same effect received in good faith signed by and containing the name and address of the person by whom the wearing apparel or fabric guaranteed was manufactured or from whom it was received) with reason to believe the wearing apparel or fabric falsely guaranteed may be introduced, sold, or transported in commerce, and any person who violates the provisions of this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

SHIPMENTS FROM FOREIGN COUNTRIES

SEC. 9. Any person who has exported or who has attempted to export from any foreign country into the United States any wearing apparel or fabric which, under the provisions of section 4, is so highly flammable as to be dangerous when worn by individuals may thenceforth be prohibited by the Commission from participating in the exportation from any foreign country into the United States of any wearing apparel or fabric except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act.

INTERPRETATION AND SEPARABILITY

SEC. 10. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other law. If any provision of this Act or the application thereof to any person or circumstances is held invalid the remainder of the Act and the application of such provisions to any other person or circumstances shall not be affected thereby.

EXCLUSIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the ordinary course of its business; or (b) to any converter, processor, or finisher in performing a contract or commission service for the account of a person subject to the provisions of this Act: Provided, That said converter, processor, or finisher does not cause any article of wearing apparel or fabric to become subject to this Act contrary to the terms of the contract or commission service; or (c) to any article of wearing apparel or fabric shipped or delivered for shipment into commerce for the purpose of finishing or processing to render such article or fabric not so highly flammable, under the provisions of section 4 of this Act, as to be dangerous when worn by individuals.

EFFECTIVE DATE

SEC. 12. This Act shall take effect one year after the date of its passage.

AUTHORIZATION OF NECESSARY APPROPRIATIONS

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Approved June 30, 1953.

General 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 System of Accounts for Retail Merchants* (19 p., 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, o. p.), 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

¹ The wartime cost-finding inquiries, 1917-18 (p. 122), 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.

competitors rather than capital stock. ⁴ (See also under Farm Implements and Independent Harvester Co.)

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; ⁵unbalanced 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., o. p.); Part II, Fruits, Vegetables, and Grapes, 906 p. 6/10/37, o. p.; 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, 16 p., o. p.).]

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 (F. T. C.), International Petroleum Cartels, and International Alkali Cartels.

Cement (Senate).—Inquiry into the cement industry's competitive conditions and distributing 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.)

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 Industry (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.

⁵ See footnote 4 above.

⁶ Basing-point systems are also discussed in the published reports listed herein under "Price Bases," "Steel Code," and "Steel Sheet Piling."

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 recommendations 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, o. p., 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 records for 1917-18 for about 99 percent of the anthracite and 95 percent of the bituminous coal production (Cot 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., o. 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.; (6) 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.

⁷ See footnote 4, p. 114.

Coffee (F. T. C.).—In its 1954 Economic Report of the Investigation of Coffee Prices, the Commission reported that the coffee price spiral of 1953-54 "cannot be explained in terms of the competitive laws of supply and demand." The report lists and discusses six major factors responsible for the price spiral, and recommends Congressional action to correct some of the "market imperfections" and "irregularities" found. (523 pp., 7/30/54.)

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 in Manufacturing, Changes in, 1935 to 1947 and 1950 (F. T. C.).— This 153-page report shows that, on the basis of a study of the top 200 companies, concentration in American manufacturing was 2.8 percentage points higher in 1950 than in 1935. The report explores the reasons for the changes in recorded concentration in individual industries.

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, o. p. (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 in Foreign Countries (S. Doc. 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, o. p. 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 cooperatively 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.

In 1947 the Commission published *The Present Trend of Corporate Mergers* (23 p., o. p.). This is a review of some of the economic effects of the loophole in the Clayton Act existing at that time in the fact that there was no prohibition against mergers by the acquisition of assets.

In 1948 the Commission published *The Merger Movement: A Summary Report* (134 p., o. p., also 7 p. processed summary). In this report the legal history of the antimerger provisions of the Clayton Act is reviewed. Significant individual mergers are examined in detail. Maps, diagrams, charts and tabular statistical materials are used to illustrate the economic effects of the then in force antimerger legislation.

The Report on Corporate Mergers and Acquisitions (210 p.) was published in May 1955. This study, bringing up to date much of the statistical material in the 1947 and 1948 reports, showed, among other things, that 1,773 formerly independent competitive firms in manufacturing and mining industries alone had disappeared in the period 1947-54 as a result of mergers or acquisitions, and that more than one-third of the total number of acquisitions occurred in only 3 industries, food, nonelectrical machinery, and textiles and apparel—all predominantly small business fields.

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 indication that cottonseed crushers or refineries had fixed prices in violation of the antitrust laws (*Cottonseed Industry*, H. Doc. 193, 70th, 37 p., 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, S. Doc. 209, 71st, 5/19/33).

71st, 4 p., o. p., 2/28/30, and final report, 207 p., o. p., with 11 vols. testimony.

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. (1949-1950) 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) o. p., 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 6 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 subtitles : Part I, Important Food Products (11/11/43, 223 p., o. p.); Part 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 in Distribution (10/30/44, 50 p.) ; Part VI, Milk Distribution, Prices, Spreads and Profits (6/18/45, 58 p., o. p.); Part VII, Cost of Production and Distribution of Fish in the Great Lakes Area (6/30/45, 59 p.); 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, 82 p.). 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 (162 p., o.p.). See also Concentration of Productive Facilities.

Du Pont Investments (F. T. C.).—The Report of the F. T. C. on Du Pont 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.

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 Feed, 206 p., o. p., 3/29/21).

Fertilizer (Senate).—Begun by the Commissioner of Corporations ⁸ (S. Res. 487, 62d, 3/1/13), 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 distribution 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 Packer in Produce and Grocery Foods (6/30/19, 390 p., o. p.); V. Profits of the Packers (6/28/19, 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 stock-

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."

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.

yards. (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., 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., o. p. and Wholesale Baking Industry, Part II—Costs, Prices and Profits (8/7/46, 137 p., o. 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

¹⁰ In connection with its wartime cost finding inquiries, 1917-18, p. 124 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).

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 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).—This 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. The 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, 7/25/19) 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., 11/15/20).

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 and 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

¹¹ See footnote 8, p. 119.

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 1916. 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., o. 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."

(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).

Housefurnishings (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 Housefurnishing Industries, 1018 p., o. p., 1/17/23, 10/1/23, and 10/6/24).

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.

Industrial Concentration and Product Diversification in the 1,000 Largest Manufacturing Companies: 1950 (F. T. C.).—This purely statistical report has 127 pages of text which state the findings in 52 text tables and 22 charts covering all manufacturing, food, electrical apparatus, and transportation equipment, and 529 pages of appendix tables covering these and other manufacturing industries. The 4 leading shippers of each product are identified, but shipments by individual companies are not disclosed.

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, o. p., 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., o. p., 1952.

International Phosphate Cartels (F. T. C.).—The F. T. C. Report on International Phosphate Cartels (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., o. 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., o. 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 the 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 Pole 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 Association (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.).—(See 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, o. p.).

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. (88 p. 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, 510 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, 4/24/16) were shown to have been partly a result of certain newsprint 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 (Newsprint 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, 6/18/13¹² 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 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, 22 p., 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 extension 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).

¹² See footnote 8, p. 119.

¹³ See footnote 8, p. 119. Conditions in one of the midcontinent fields were discussed by the Bureau of Corporations in Conditions in the Healdton Oil Field (Oklahoma) (116 p., 8/15/15).

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 two 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 superimposing 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., 1/12/28) 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).

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, o. p.) 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 method¹⁵ 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,

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.

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 1947-58 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 continuation 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. They 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).—A 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 1947-56, 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: A 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, o. p.) 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 to 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 system¹⁸ 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

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. 127.

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), o. p., 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.

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. p.; 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, 38p., 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 on 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 1911 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 Tariffs in Brazil, Uruguay, Argentina, China, Bolivia, and Peru (240 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 manufacture 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 (26 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 reports²⁰ 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 and 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

¹⁹ See footnote 10, p. 120.

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).

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, o. p.

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 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 L-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, 1942-43.—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, 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 nonportable 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.

Optical Decree (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 8/12/52) the manner in which an antitrust consent decree entered (Sept. 1948) against the American Optical Company and others, restraining them from discriminatory and monopolistic practices, was being observed, and report (2/10/54) to the Attorney General.

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-b, 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 how 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, 8 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 a 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, 1942-43.—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-43- a, 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.