

ANNUAL REPORT  
OF THE  
FEDERAL  
TRADE COMMISSION  
FOR THE  
FISCAL YEAR ENDED JUNE 30  
1943

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## FEDERAL TRADE COMMISSION

GARLAND S. FERGUSON, *Chairman* <sup>1</sup>  
CHARLES H. MARCH  
EWIN L. DAVIS  
WILLIAM A. AYRES  
ROBERT E. FREER  
OTIS B. JOHNSON, *Secretary*

### FEDERAL TRADE COMMISSIONERS--1915-43

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-A p r. 21, 1917.
George Rublee	New Hampshire	Mar.16, 1915-May 14, 1916.
William B. Colver	Minnesota	Mar.16, 1917-Sept. 25, 1920.
John Franklin Fort	New Jersey	Mar. 16, 1917-Nov. 30,1919.
Victor Murdock	Kansas	Sept. 4, 1917-Jan. 31, 1924.
Hus ton Thompson	Colorado	Jan. 17, 1919-Sept. 25, 1926.
Nelson B. Gaskill	New Jersey	Feb. 1. 1921-Feb. 24, 1925.
John Garland Pollard	Virginia	Mar. 6, 1920-Sept. 25, 1921.
John F. Nugent	Idaho	Jan.15, 1921-Sept. 25, 1927.
Vernon W. Van Fleet	Indiana	June 26, 1922-July 31, 1926.
Charles W. Hunt	Iowa	June 16, 1924-Sept. 25,1932.
William E. Humphrey	Washington	Feb.25, 1925-Oct. 7, 1933.
Abram F. Myers	Iowa	Aug. 2, 1925-Jan. 15, 1929.
Edgar A. McCulloch	Arkansas	Feb.11, 1927-Jan. 23, 1933.
Garland S. Ferguson	North Carolina	Nov.14, 1927,
Charles H. March	Minnesota	Feb. 1, 1929.
Ewin L. Davis	Tennessee	May 26,1933.
Raymond B. Stevens	New Hampshire	June 26, 1933-Sept. 25, 1933,
James M. Landis	Massachusetts	Oct.10, 1933-June 30, 1934.
George C. Mathews	Wisconsin	Oct.27, 1933-June 30,1934.
William A. Ayres	Kansas	Aug. 23,1934.
Robert E. Freer	Ohio	Aug. 27, 1935.

### EXECUTIVE OFFICES OF THE COMMISSION

Pennsylvania Avenue at Sixth Street, Washington, D. C.

### BRANCH OFFICES

45 Broadway, New York  
433 West Van Buren Street,  
Chicago

55 New Montgomery Street,  
San Francisco  
909 First Avenue, Seattle  
150 Baronne Street, New Orleans

<sup>1</sup> Chairmanship rotates annually. Commissioner Freer will become Chairman in January 1944.



## **LETTER OF SUBMITTAL**

To the Congress of the United States:

I have the honor to submit herewith the Twenty-Ninth Annual Report of the Federal Trade Commission for the fiscal year ended June 30, 1943.

By direction of the Commission:

GARLAND S. FERGUSON, *Chairman.*

# CONTENTS

## INTRODUCTION

	Page
Duties of the Commission	1
Summary of legal activities	2
Wartime investigations	3
General investigations	4
The Commissioners and their duties	5
How the work of the Commission is handled	6
Publications of the Commission	7
Recommendations	9

## PART I. WARTIME INVESTIGATIONS

Priorities investigations	11
Tabular summary of priorities investigations	14
Distribution methods and costs	15
Industrial corporation reports project	16
Tabular summaries of industrial corporation reports	18
Studies of costs, prices and profits	21
Other wartime activities	24

## PART II. GENERAL LEGAL WORK

Description of procedure	27
Legal investigation	30
Disposition of cases by stipulation	34
Complaints	35
Orders to cease and desist	39
Types of unfair methods and practices	49
Cases in the Federal courts	56
Tabular summary of legal work	66

## PART III. TRADE PRACTICE CONFERENCE RULES

Codified rules of fair competition for industries	71
Group I and Group II rules defined	72
Industry rules and their operation	73
Types of practices covered in approved rules	73
Informative labeling	75

# VI

# CONTENTS

## PART IV WOOL PRODUCTS LABELING ACT

	page
Industry and public protected from misbranding and deceptive concealment of content	75

## PART V. RADIO AND PERIODICAL ADVERTISING

Special procedure provides continuous survey of published and broadcast matter	81
--	----

## PART VI. MEDICAL ADVISORY DIVISION

Furnishes medical Opinions and scientific information in matters involving food, drugs, devices, and cosmetics	87
--	----

## PART VII. FOREIGN TRADE WORK

The Export Trade Act	89
List of export associations on file with Commission	90
Regulation of trade and industry abroad	91

## PART VIII. FISCAL AFFAIRS

Appropriation act providing funds for Commission work	93
Appropriations and expenditures for fiscal year	94
Appropriations and expenditures, 1915-43	95

## APENDIXES

Federal Trade Commission Act	97
Titles of other acts administered by the Commission	105
Statement of policy	105
Investigations, 1915-43	106
Index	123

**ANNUAL REPORT**  
OF THE  
**FEDERAL TRADE COMMISSION**  
FOR THE  
**FISCAL YEAR ENDED JUNE 30, 1943**

**INTRODUCTION**

**DUTIES OF THE COMMISSION**

The Federal Trade Commission herewith submits its report for the fiscal year July 1, 1942, to June 30, 1943. Organized March 16, 1915, under the Federal Trade Commission Act, which was approved September 26, 1914, and amended March 21, 1938, the Commission is an administrative agency of the Federal Government.

The duties of the Commission fall into two categories: (1) Legal activities in enforcement of the laws it administers, and (2) general investigations of economic conditions in interstate and foreign commerce.

In addition to discharging these duties, the Commission during the fiscal year directed the work of its investigative, legal, accounting, statistical, and other services in conducting urgent wartime investigations and studies, for the War Production Board, the Office of Price Administration, and the Office of Economic Stabilization.

Legal activities of the Commission embrace (1) the prevention and correction of unfair methods of competition and unfair or deceptive acts or practices in commerce, in accordance with the Federal Trade Commission Act, in which it is declared that unfair methods of competition and unfair or deceptive acts or practices in commerce are unlawful; (2) administration of section 2 of the Clayton Act, as amended by the Robinson-Patman Act, dealing with price and other discriminations, and sections 3, 7, and 8 of the Clayton Act dealing with tying and exclusive-dealing contracts, acquisitions of capital stock, and interlocking directorates, respectively; (3) administration of the Webb-Pomerene or Export Trade Act, for the promotion of foreign trade by permitting, under stated restrictions, the organization of associations to engage exclusively in export trade; and (4) administration of the Wool Products Labeling Act of 1939, which is designed to protect industry, trade, and the consumer against the evils

resulting from the unrevealed presence of substitutes and mixtures in wool products.

The general investigations arise chiefly under section 6 (a), (b), and (d) of the Federal Trade Commission Act, giving the Commission 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 \* \* \* 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 \* \* \* 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. \* \* \*

(d) Upon the direction of the President or either House of Congress <sup>1</sup> to investigate and report the facts relating to any alleged violations of the antitrust acts by any corporation.

### SUMMARY OF LEGAL ACTIVITIES

The Commission during the fiscal year disposed of more than 1,000 legal matters in their informal stage, either by docketing as applications for complaints, by progression to the status of formal complaints, by acceptance from respondents of stipulations to cease and desist from the practices involved, by consolidation with other proceedings, or by closing the matters.

The Commission issued 212 formal complaints alleging violations of the laws it administers; entered 165 orders directing respondents to cease and desist from such violations; and accepted 280 stipulations to discontinue unlawful practices, 109 pertaining especially to radio and periodical advertising.

Results favorable to the Commission were obtained in 37 cases in the Federal courts: 24 before United States circuit courts of appeals and 13 before United States district courts. Circuit courts of appeals set aside 2 and affirmed 16 Commission orders (3 with modifications) and dismissed petitions filed by respondents for review of orders in 6 cases. Twenty-six petitions for review were filed during the year.

<sup>1</sup> The Independent Offices Appropriation Act for 1934 provided that future Investigations by the Commission for Congress must be authorized by concurrent resolution of the two Houses. Under the appropriation act for 1944, 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."



The Supreme Court denied petitions for certiorari sought by respondents in three cases, and district courts in three instances dismissed actions instituted by respondents.

More than 150 industries operated under fair trade practice rules of the Commission during the year, and the administration of such rules was directed in line with the war effort.

The Wool Products Labeling Act, effective July 14, 1941, was given wide application during the year, attention having been directed, among other matters, to the specific labeling practices of several thousand manufacturers and distributors.

At the close of the fiscal year, 49 export trade associations were operating under the Export Trade (Webb-Pomerene) Act.

### WARTIME INVESTIGATIONS

Eighteen investigations directly related to furtherance of the war effort were conducted by the Commission during the year for the War Production Board, the Office of Price Administration, or the Office of Economic Stabilization. (For details of wartime investigations, see p.11.)

At the request of the War Production Board, the Commission made investigations in 10 basic industries to determine whether users of materials essential to the war production program were complying with priority orders issued by the Board. These surveys covered 940 aluminum foundries, 38 prime contractors engaged in the manufacture of major war products, 381 principal consumers of tin, 348 manufacturers and wholesalers of quinine, 244 consumers of glycerin, 42 companies using capital equipment in the production of war materials, 166 manufacturers of portable electric lamps, 19 manufacturers of electric fuses, 236 suppliers of silver and manufacturers of silverware, and 71 manufacturers of commercial cooking equipment. A special investigation also was undertaken for the War Production Board to determine whether a housing organization, in procuring ranges, refrigerators and heating units for its various projects, had extended ratings in excess of priorities granted by the Board,

A report in five parts pertaining to methods and costs of distributing principal commodities, including food, wearing apparel, carpets, building materials, petroleum products, automobiles, tires and tubes, and electrical household appliances, was completed by the Commission. The report, entitled *Distribution Methods and Costs*, was planned to obtain information for use of, and was furnished to, the Office of Price Administration and other war agencies.

The Commission completed its series of financial reports on the 1940 operations of corporations operating in 86 principal strategic materials industries. These industrial corporation reports, which

had been coordinated with wartime work, were furnished to the Office of Price Administration, the War Production Board, branches of the War and Navy Departments, and other Government establishments.

Reports based on a survey of practices, costs, prices, and profits in the bread baking and wheat flour milling industries were compiled for the Office of Economic Stabilization and also were furnished to the Office of Price Administration and the Secretary of Agriculture. Studies of costs, prices and profits in the steel industry, the fertilizer and related products industries, and the biscuit and cracker industry were undertaken at the request of and submitted to the Office of Price Administration, the reports providing that agency with factual background for its price stabilization functions.

In connection with its normal survey of commercial advertising (see p.81), the Commission, at the request of various war agencies, periodically reported to the agencies concerned such advertising as contained pertinent war-related references to war production, price rises or trends, rationing, or priorities, or possible violations of press and radio wartime practice codes.

### **GENERAL INVESTIGATIONS**

During the war emergency, numerous branches of the Government, especially the war agencies, have utilized the basic factual accounting, statistical and economic data covering important national industries which were gathered by the Commission in the approximately 135 general investigations and 370 special cost studies it has conducted during its existence.<sup>2</sup>

A majority of these general investigations were authorized by congressional resolutions, some were conducted pursuant to Presidential orders, a number were made at the request of other branches of the Government, and others on the initiative of the Commission. Many of these inquiries have supplied valuable information bearing on competitive conditions and trends in interstate trade and industrial development and have shown the need for, and wisdom of, legislative or other corrective action.

Investigations conducted by the Commission have led, directly or indirectly, to the enactment of important laws, including the Export Trade Act, the Packers and Stockyards Act, the Securities Act of 1933, the Public Utilities Holding Company Act of 1935, the Natural Gas Act of 1938, and the Robinson-Patman Antidiscrimination Act of 1936, which amended section 2 of the Clayton Act.

<sup>2</sup> An alphabetical list and brief description of the investigations conducted by the commission appear in the appendix, beginning at p.106.

## THE COMMISSIONERS AND THEIR DUTIES

The Federal Trade Commission is composed of five Commissioners appointed by the President and confirmed by the Senate. Not more than three of the Commissioners may belong to the same political party.

As provided in the Federal Trade Commission Act, the term of office of a Commissioner is seven years, dating from the 26th of September <sup>3</sup> last preceding his appointment, except when he succeeds a Commissioner who relinquishes office prior to the expiration of his term, in which case the act provides that the new member "shall be appointed only for the unexpired term of the Commissioner whom he shall succeed." Upon the expiration of his stated term of office, a Commissioner continues to serve until his successor has been appointed and confirmed.

As of June 30, 1943, the Commission was composed of the following members: Garland S. Ferguson, Democrat, of North Carolina, Chairman; Charles H. March, Republican, of Minnesota; Ewin L. Davis, Democrat, of Tennessee; William A. Ayres, Democrat, of Kansas, and Robert E. Freer, Republican, of Ohio.

Each December the Commission designates one of its members to serve as Chairman during the ensuing calendar year. Commissioner Ferguson has served as Chairman during the calendar year 1943, having succeeded Commissioner Ayres. Commissioner Freer will become Chairman in January 1944. Through this method of rotating the chairmanship, each Commissioner serves as Chairman at least once during his term of office. The Chairman presides at meetings and signs the more important official papers and reports at the direction of the Commission.

In addition to the general duties of administering the statutes committed to the Commission for enforcement, each Commissioner has supervisory charge of a division or divisions of the work of the Commission. Chairman Ferguson has supervisory charge of the Trial Examiners Division and the Division of Trade Practice Conferences; Commissioner March, of the Legal Investigation Division; Commissioner Davis, of the Trial and Appellate Division; Commissioner Ayres, of the Administrative Divisions and the Medical Advisory Division, and Commissioner Freer, of the Radio and Periodical Division and the Division of Accounts, Statistics and Economic Investigations. The Secretary of the Commission is its executive officer.

<sup>3</sup> September 26 marks the anniversary of the approval of the Federal Trade Commission Act in 1914.

Each case coming before the Commission for consideration is assigned to a Commissioner for examination and report before it is finally acted upon by the Commission. The Commissioners meet each work day for the transaction of business, including the hearing of oral arguments in cases before the Commission. They usually preside individually at the trade practice conferences held for industries; perform numerous administrative duties incident to their position; and direct the work of a staff which, as of June 30, 1943, numbered 487 officials and employees, including attorneys, economists, accountants and administrative personnel stationed in Washington and in 5 branch offices; In addition, as of June 30, 1943, 121 members of the staff were on military furlough and serving in the various armed forces of the Nation.

### **HOW THE WORK OF THE COMMISSION IS HANDLED**

The legal work of the Commission is under the supervision of its Chief Counsel, its Chief Examiner, its Chief Trial Examiner, the Director of its Radio and Periodical Division, and the Director of its Division of Trade Practice Conferences.

The Chief Counsel acts as legal adviser to the Commission, supervises its legal proceedings against respondents charged with violations of the acts administered by the Commission, has charge of the trial of cases before the Commission and in the courts, and supervises the foreign trade work of the Commission as conducted, pursuant to the Export Trade Act, by the Export Trade Section.

The Chief Examiner has charge of legal investigations of applications for complaint alleging violations of the laws over which the Commission has jurisdiction, except as to probable violations involving false advertising which come under the observation of the Radio and Periodical Division. When the Commission undertakes general investigations, the Chief Examiner supervises those which are primarily of a legal nature. Certain of the wartime investigations are conducted by the Legal Investigation Division.

Members of the Trial Examiners Division preside at hearings for the reception of evidence in formal proceedings and in certain of the general investigations conducted by the Commission. Other members of the division negotiate settlements by stipulation of applications for complaint, subject to the approval of the Commission.

The Division of Trade Practice Conferences conducts the activities relating to fair trade practice rules for industries, including the holding of hearings and industry conferences, administration and enforcement of rules, and other staff duties incident to the trade practice conference procedure. This division also is charged with administration of the Wool Products Labeling Act and the rules and regulations promulgated thereunder.

The Radio and Periodical Division conducts preliminary office investigations in cases involving allegations of false and misleading advertising. Such cases usually result from the division's continuing examination of radio and periodical advertising, and, in a majority of instances, are disposed of by stipulation. This division also carries on a special continuing examination of war-related advertising for various war agencies.

The Medical Advisory Division furnishes the Commission or any of its divisions with professional opinions in matters involving medical, chemical or scientific questions relating to food, drugs, cosmetics, and devices arising in connection with investigations or the trial of cases instituted under the provisions of the Federal Trade Commission Act.

In addition to receiving scientific advice from the Medical Advisory Division, the Commission, in its investigation of cases, makes full use of the facilities offered by other departments of the Government to which it refers matters for scientific opinions and information. The Commission receives effective cooperation from such agencies as the United States Public Health Service, the National Bureau of Standards, the Food and Drug Administration, and the Department of Agriculture's bureaus relating to agricultural chemistry, entomology, plant industry, animal industry, dairy industry, and home economics, as well as from nongovernment hospitals, clinics, and laboratories, and from members of the medical profession and other scientists. The opinions and data furnished by such agencies and individuals are often particularly helpful in enabling the Commission to reach its conclusions with respect to scientific and technical questions coming before it.

The Division of Accounts, Statistics and Economic Investigations conducts the general inquiries of the Commission, such as industry inquiries, the industrial corporation reports project, and the current studies of wartime costs, prices, and profits. This division cooperates with the legal divisions with respect to antitrust cases and to cost-accounting work for the Robinson-Patman Act cases.

The Administrative Divisions conduct the business affairs of the Commission and function under the executive direction of the Secretary. These divisions are: Budget and Finance, Personnel Supervision and Management, Research and Library, Records, and Publication and Procurement.

## **PUBLICATIONS OF THE COMMISSION**

Publications of the Commission, reflecting the character and scope of its work, vary in content and treatment from year to year. Important among such documents are those presenting fact-finding studies, reports, and recommendations relating to general business

and industrial inquiries. Illustrated by appropriate charts and tables, these books and pamphlets deal with current developments, possible abuses, and trends in an industry, and contain scientific and historical background of the subjects discussed. They have supplied the Congress, the Executive agencies of the Government, and the public with information not only of specific and general value but of especial value as respects the need or wisdom of new and important legislation to which they have frequently led, as well as to corrective the Department of Justice, and private interests affected. The Supreme Court has at times had recourse to them, and many have been designated for reading in connection with university and college courses in business administration, economics, and law.

The 85 published volumes <sup>4</sup> of *Federal Trade Commission Decisions* contain (1) the findings of fact and orders to cease and desist issued by the Commission throughout the years and (2) the stipulations accepted by the Commission wherein respondents agree to cease and desist from unlawful practices. They constitute a permanent and authoritative record of the remedial measures taken by the Commission to stop violations of the laws it administers. The decisions set forth in these volumes establish for industry, business, and the individual the guideposts of fair competitive dealing. They also tell, case by case, the story of the multiplicity of unlawful practices which have been found to be detrimental to the public interest and of the accomplishments of the Commission in the prevention of such practices.

Decisions of the Federal courts in their review of Commission cases are published in separate volumes. The trade-practice rules, the regulations under the Wool Products Labeling Act, and the Rules of Practice before the Commission are published in pamphlet form.

The Federal Trade Commission Act, section 6 (f), says the Commission shall have power--

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

Publications of the Commission for the fiscal year ended June 30, 1943, were:

*Federal Trade Commission Decisions, Volume 34, November 1, 1941, to June 30, 1942.*

*Federal Trade Commission Rules, Policy and Acts, January, 11, 1943.*

<sup>4</sup> Volume 35, covering the period from July 1, 1942, to December 31, 1942, was published after the close of the fiscal year.

*Annual Report of the Federal Trade Commission for the Fiscal Year Ended June 30, 1942.* House Document No.10, Seventy-eighth Congress, First Session, January 9, 1943.

During the war emergency the Commission has limited the size and the number of its publications.

### **RECOMMENDATIONS**

Since 1930 the Federal Trade Commission has consistently recommended in its annual and special reports to Congress the amendment of section 7 of the Clayton Act. The substance of such recommendations was that acquisition of assets be declared unlawful under the same conditions which are already applied to the acquisition of stock. In its annual reports for the fiscal years ended June 30, 1941, and June 30, 1942, the Commission called attention to the endorsement of such recommendations by the Temporary National Economic Committee in its final report and to the Committee's suggestion to Congress that the acquisition of assets of competing corporations over a certain size be forbidden without prior governmental approval to insure that the purpose and probable result of such acquisition would be in the public interest. The Commission is in accord with this view and the principle of the Temporary National Economic Committee of thus limiting future expansion of the evil.

## **PART I. WARTIME INVESTIGATIONS**

Investigations undertaken by the Federal Trade Commission during the fiscal year, 18 in number, related directly to furtherance of the war effort and were made for and at the request of Government war agencies, including the War Production Board, the Office of Price Administration, and the Office of Economic Stabilization.

The reports on the investigations were made to the war agencies requesting them and related to (1) compliance by industries with priority orders issued by the War Production Board; (2) methods and costs of distributing principal commodities ; (3) 1940 financial operations of 86 industrial corporation groups; and (4) costs, prices and profits in the bread-baking, wheat-flour-milling, biscuit and cracker, steel-producing, and fertilizer and related products industries.

These investigations are described in the following pages, as are other activities of the Commission directed to support of the war program, including the administration of fair-trade-practice rules for many industries, the enforcement of the provisions of the Wool Products Labeling Act, and the analysis of radio and periodical advertising for certain of the war agencies.

### **PRIORITIES INVESTIGATIONS**

#### **SURVEYS OF TEN INDUSTRIES ENGAGED IN ESSENTIAL WAR PRODUCTION CONDUCTED FOR WAR PRODUCTION BOARD**

The War Production Board, pursuant to authority vested in it by Executive orders issued in January 1942, designated the Federal Trade Commission as an agency to conduct investigations of certain basic industries to determine the extent and degree to which they were complying with the Board's orders relative to the allocation of the supply and the priorities of delivery of materials.

The Commission during the fiscal year continued the series of priorities investigations conducted for the War Production Board. Vital requirements of the war program made it necessary for the Government to divert from civilian uses certain materials essential to the successful prosecution of the war. In furtherance of this plan, the Commission at the request of the War Production Board undertook to ascertain whether industries producing such materials were complying with its rules and regulations governing priorities.



Under this confirmation, during the fiscal year, the Commission through its Legal Investigation Division undertook 10 Nation-wide surveys for the War Production Board covering the investigation of 2,485 companies engaged in essential war production. Eight of the surveys, involving 2,178 companies, were completed, while surveys of the remaining 307 companies approached completion at the close of the fiscal year. The industries investigated and the number of companies covered in each were:

*Aluminum.*-- Vital requirements of the war program created a shortage of aluminum and aluminum scrap, and in order to conserve their use the War Production Board prescribed restrictions and regulations embodied in its Supplementary Order M-1-d, Amendment No. 1 of Supplementary Order M-1-d, and Supplementary Orders M-1-e and M-1-f.

The investigation covered the operations of 940 aluminum foundries under the above identified orders, as amended.

*Contractors, prime.*--This investigation related to the method of operation of 88 principal plants engaged in the manufacture of major war products and equipment and had to do with matters of procurement, use, and inventory stocks of critical materials. Items such as accounting, inventory control, purchase practices, etc., formed a part of the investigation.

*Tin.*--In furtherance of the conservation program dealing with critical war materials, the War Production Board found it necessary to restrict the use of tin, and the investigation of 881 principal consumers of tin was undertaken for the purpose of determining 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 United States.

*Quinine.*--By reason of the critical shortage of quinine existing in the United States, the War Production Board found it necessary in the prosecution of the war effort to determine the currently visible supply of this drug and its derivatives. In this connection, the Commission investigated 348 manufacturers and wholesalers of quinine to determine their compliance with the requirements of Conservation Order No. M-131-a relating to quinine and other drugs extracted from cinchona bark.

*Glycerin.*--The War Production Board, to conserve the supply and direct the distribution of formaldehyde, paraformaldehyde, and hexamethylenetetramine, requested the Commission to survey 244 companies consuming large quantities of glycerin to determine whether they had improperly extended preference ratings to obtain formaldehyde, paraformaldehyde, and hexamethylenetetramine to which

they were not entitled under Order M -25. The investigation, in the case of paint and resin manufacturers, scrutinized their use of phenols, including phenol, orthocresol, metaparacresol, cresylic acid, and xylenols, in conformity with Order M-27; of phthalic anhydride, under Order M-214; tung oil and oiticica oil, under Order M-57; ethyl cellulose, under Order M-175; shellac, under Order M-106; nitrated cellulose, under Order M-157; and glycols, under Order M-215; and their inventory. The use and consumption of containers also were covered. All companies were surveyed and reported on respecting their consumption of glycerin and their compliance with Order M-58. Tobacco companies were called upon to show the amount of glycerin which was incorporated in and became a part of the cigarette or other tobacco products manufactured by them.

*Capital equipment.*--This investigation was made to determine whether any of 42 major companies whose activities were surveyed and which were engaged in the production of war materials had pro-cured capital equipment in contravention of Priority Regulation No. 12 of the War Production Board.

*Lamps, electric.*--Investigation was made of 166 manufacturers of portable lamps to determine whether they were operating within Limitation and Conservation Orders L--33 and M-9-c, which restricted or stopped the use of copper products or copper base alloy products in the manufacture of portable lamps. The manufacturers investigated produce approximately 70 percent of all the portable lamps produced by the industry.

*Fuses, electric.*--The operations of 19 representative fuse manufacturers were surveyed to determine their compliance with Limitation Order L-158 and L-161, as amended, which limit the use of copper or copper base alloy in the manufacture and assembly and restrict the sale or shipment of component parts of electric fuses.

*Silverware.*--This investigation, which had not been completed at the close of the fiscal year, concerned 236 manufacturers of silverware and suppliers of silver and their compliance with General Preference Order M--9-a, Supplemental Order M-9-b, and Conservation Order M-9-c, all as amended.

*Cooking equipment, etc., commercial.*--Seventy-one manufacturers of commercial cooking and food and plate warming equipment were investigated to determine their compliance with Limitation Orders L--182 and L-182, as amended; Conservation Orders M-126 and M-9-c, as amended; and Priorities Regulation No.1. The time element precluded the completion of this investigation before the close of the fiscal year.

*W. P. B. commends F. T. C. work.*--Reports on each of the investigations completed were made directly by the Commission to the War

Production Board. All these investigations were of a highly confidential nature for use by the Board in enforcing compliance with its orders and regulations and in further consideration of its policies relating to production for war purposes. Where deliberate and wilful violations were disclosed, the cases concerned were prepared for possible criminal prosecution.

The War Production Board has indicated that the Federal Trade Commission, in conducting investigations relating to war activities, is rendering highly beneficial service to the Board in its effort to achieve maximum production of war materials. It is the expressed intention of the Board to utilize this organization continuously in these activities and there is an informal agreement that the Commission will maintain an investigational staff of attorney-examiners sufficient in size to enable it to dispose promptly of such investigational work as may be requested by the Board in order to effect compliance with its orders and regulations and to assure that production of war materials be maintained at the highest possible level.

Surveys undertaken for the War Production Board (and its predecessor, the Office of Production Management) during and prior to the fiscal year ended June 30, 1943, are summarized in the following table:

*Priority compliance surveys conducted for War Production Board*

Date of request of survey	Industry surveyed	Number of companies surveyed	Date of completion of survey
10-22-41	Steel industry	31	12-19-41
1-9-42	Copper, primary fabricators of	94	4-6-42
3-9-42	Copper base alloy ingot makers	76	4-6-42
4-3-42	Chromium and nickel, processors of	717	8-12-42
5-8-42	Jewel bearings, consumers of	172	6-30-42
5-7-42	Metalworking machines, invoicing and distribution of	406	7-30-42
5-8-42	Silverware, manufacturers of	19	6-15-42
		1,515	
6-29-42	Aluminum, foundries using	940	9-17-42
8-7-42	Contractors, prime, forward buying practices of	38	9-9-42
3-29-42	Tin	381	12-17-42
10-21-42	Quinine, manufacturers and wholesalers of	348	12-18-42
12-3-42	Glycerin, users of	244	2-20-43
12-29-42	Capital equipment, survey of	42	5-22-43
3-8-43	Electric lamps, manufactures of	166	5-21-43
4-5-43	Fuse manufacturers	19	5-12-43
5-11-43	Silverware manufacturers and silver suppliers	236	8-39-43
5-19-43	Commercial cooking and food and plate warming equipment, manufacturers of	71	8-12-43
		2,485	
	Total number of companies surveyed	14,000	

<sup>1</sup> This total does not include subsidiary companies. If subsidiaries were included the total of companies actually surveyed would be larger than that shown in the table.

*Housing organization investigation.*--In addition to the foregoing surveys, the Commission undertook a special confidential investigation for the War Production Board to determine whether a certain housing organization, in connection with projects owned or controlled by it,



had, in procuring ranges, hot water heaters, refrigerators, and heating units, extended ratings far in excess of priorities granted in the premises, and whether the records of the concern had been falsified to conceal such alleged violations. The investigation, requested on June 1, was completed on June 30, 1943, and transmitted to the Board for its consideration.

## **DISTRIBUTION METHODS AND COSTS**

### **DATA ON MAJOR COMMODITY GROUPS FURNISHED OFFICE OF PRICE ADMINISTRATION AND OTHER WAR AGENCIES**

The Commission during the fiscal year completed a report entitled *Distribution Methods and Costs*, based on its 1941 study of methods, channels, and costs of distributing particular commodities or closely allied groups of commodities. The inquiry was undertaken by the Commission under authority conferred upon it by section 6 of the Federal Trade Commission Act, the Commission resolution directing that study be made of the methods and channels of distribution, costs of distribution, and practices, usages, and trade barriers, laws, charges, rates, and other factors which are an element of or which affect distribution in any substantial degree.

The report summarizes information obtained in accordance with this resolution, as well as information respecting distribution obtained in other studies made by the Commission, including some Special studies made for war agencies. Data from these original sources are supplemented by information from published sources, both government and private. The inquiry was planned to obtain information for the use of war agencies, and when a part of the report was completed it was furnished to the Office of Price Administration and to other war agencies. The report is in five parts and covers commodities grouped as follows:

*Part I.*--Important food products, including bread, biscuits and crackers, coffee, flour, milk and milk products, packaged cereals, sugar (cane and beet), canned fruits and vegetables, fresh fruits and vegetables, and meats.

*Part II.*--Wearing apparel and carpets, including men's and boys' tailored clothing, men's and boys' shirts and collars, women's and misses' outerwear, women's hosiery, and wool carpets and rugs.

*Part III.*--Building materials, including lumber, paints and varnishes, and cement.

*Part IV.*--Petroleum products, automobiles, rubber tires and tubes, and electrical household appliances.

*Part V.*--Advertising as a factor in distribution.

The general plan of the report is to present information respecting the methods used and the costs of distribution incurred by a representative group of manufacturers of each product together with the distribution expenses of representative groups of wholesalers and retailers in whose business one or more of the commodities named is an important factor. In most instances the periods covered by the study were prior to the active participation of the United States in the war. It therefore presents data valuable for comparison with wartime methods and costs of distribution.

## **INDUSTRIAL CORPORATION REPORTS**

### **VALUABLE CORPORATION COST AND PROFIT DATA DEVELOPED FOR USE OF WAR**

#### **AGENCIES AND INDUSTRY IN WARTIME**

The industrial corporation reports project was initiated in accordance with the functions of the Commission as set forth in section 6 of its organic act. On May 27, 1940, the Commission directed certain corporations to file financial reports for the year 1939 and annually thereafter. The significant facts developed were published in combined form. After completing the reports on 1940 operations, the Commission was forced to discontinue the project because the Bureau of the Budget transferred the collection of the basic data to the Office of Price Administration.

For many years the Commission has been of the opinion that such a project would be of great benefit to the national economy in peacetime and of especial value in a national emergency. The plan was developed in cooperation with the Division of Statistical Standards, Bureau of the Budget, Executive Office of the President, and other Federal agencies. The Commission believes this type of fact-finding should be continuous so that essential information may be always available. Much time and expense could have been saved in the pre-war emergency had such data been available covering a period of at least 5 years.

Prior to the war period, the purpose of collecting and publishing these data obtained from industry and trade was to aid in promoting orderly business operations which would result in more stable business and more uniform employment of labor. To a considerable degree, this purpose still controls. Under war pressure, much of industry necessarily is forced into new channels, and both labor and capital, except during periods of conversion, are more fully employed than before. Under such conditions, the reports from industry and trade, when critically analyzed and properly compiled, provide the Government with basic information for use in formulating its over-all policy.

of industrial control and in guiding the Nation's industrial activities to the end that essential military and civilian needs may be attained. The information thus compiled may also serve the purpose, when compared with earlier reports, of showing the effects of the war effort on industry and trade and should aid in planning for post-war reconstruction.

The Commission believes the industry summaries would have been of increasing value to the Government in showing the trends of industrial activity, as well as to managers of corporations, stockholders, lenders of capital, and the general public.

The industrial corporation reports project had been fully coordinated with wartime work. The list of corporations earlier developed was supplemented to meet the minimum needs of the Office of Price Administration with regard to 1940 operations. The original 1940 project was expanded to cover 4,500 corporations representing the consolidated operations of more than 7,000 corporations, of which 270 are Canadian. The Commission also enlarged the project to collect and audit special annual reports of earlier years and quarterly reports of subsequent operations, approximately 12,000 in all, for the Office of Price Administration.

Considerable demand for the completed reports on industrial operations of the principal corporations has come from Government agencies most concerned with the war effort. The reports have been furnished to the Office of Price Administration, War Production Board, numerous branches of the War and Navy Departments, and other Government establishments. They were not released to the public because of wartime restrictions as to printing and publishing.

During the fiscal year, reports on the 86 industry groups were prepared, and the composite summary of all groups shows, among other things, the average rate of return for each of the industry groups, the range of returns for individual corporations, and the average rates of the corporations grouped according to the amount of assets.

The summary reports also give the total sales, the proportion sold in the domestic and export markets, the proportion of each dollar of sales represented by the cost of materials, production labor cost, other pay roll in cost of goods (except in repairs and maintenance and research and development), depreciation, obsolescence, etc., corporate taxes, social security and pension fund payments, repairs and maintenance, research and development expense, selling expense, advertising, administrative and general office expenses, and miscellaneous cost, together with the gross and net margins on sales.

## INDUSTRY GROUPS FOR WHICH 1940 OPERATIONS ARE REPORTED

Important data contained in the reports, listed according to commodity classifications, are shown in the following tables:

TABLE 1.--Average rates of return on the total investment before and after income and excess profits taxes, net profits per dollar of sales, and highest individual rates of return on the total investment for 86 industry and 7 subindustry groups, for 1940

Industry of subindustry group	Rates of			
	return on total investment before interest and taxes	Rates of return on stockholders' investment after interest and taxes	Net profit per dollar of sales	Highest individual rate of return on total investment
	Percent	Percent	Cents	Percent
1. Aircraft	69.19	36.36	23.83	109.84
2. Machine tool accessory and machinists' precision tool	60.93	32.29	27.59	197.96
3. Machine tool	52.01	29.16	26.98	206.35
4. Firearms and ammunition	41.63	24.70	26.50	353.13
5. Shipbuilding	40.17	23.30	13.42	136.70
6. Forgings (iron and steel)	31.26	18.78	18.88	62.31
7. Mechanical measuring instruments	27.13	18.40	17.66	170.49
8. Steam engine and turbine	26.86	16.17	23.63	36.87
9. Automobile parts and accessories	26.06	16.36	13.01	71.24
10. Mining machinery and equipment	24.99	17.69	20.15	91.62
11. Water softening equipment	24.82	18.27	9.79	72.42
12. Electric machinery and apparatus	23.92	15.25	16.80	53.92
13. Power boilers and associated products	23.86	14.95	10.16	27.86
14. Blowers, exhaust and ventilating fans	23.75	13.87	10.38	115.63
15. Drugs and medicines	23.29	18.65	13.65	51.87
16. Men's and boys' clothing: selling through own stores	23.6	17.0	11.60	32.09
17. Plastics	22.98	16.22	15.25	39.15
18. Screw machine products and wood screw	21.73	14.27	13.79	99.47
19. Asbestos and abrasives	21.64	14.35	14.95	46.74
20. Smelting and refining equipment	21.57	16.59	9.06	131.38
21. Mechanical stoker	21.07	14.21	13.24	32.74
22. Motor vehicle	21.10	13.59	10.38	42.61
23. Soap	21.04	17.13	12.41	45.99
24. Cranes; dredging, excavating and road-building machinery	20.83	14.52	14.14	52.80
25. Chemical, (industrial)	20.71	14.93	20.89	30.82
28. Cereal preparations	19.31	13.00	12.37	50.79
27. Soap, cottonseed products and cooking fats	18.16	14.73	10.60	45.99
28. Malt beverage brewing	17.53	13.97	9.97	46.93
29. Cigarettes	17.4	14.4	12.28	38.0
30. Refrigerator and air conditioning equipment	17.40	15.53	9.61	72.32
31. Wallboard and wall plaster (except gypsum)	17.39	15.56	12.20	44.54
32. Gypsum products	17.05	11.77	19.71	43.35
33. Internal combustion engine	16.65	10.80	12.84	25.76
54. Glass and glassware	15.98	11.70	15.29	44.51
35. Office and store machines	15.82	13.17	14.87	55.50
36. Rayon and allied products	15.72	10.57	22.46	27.95
37. Fruit and vegetable canning	15.54	12.28	10.01	52.64
38. Wire and cable (electrical)	15.52	11.66	8.30	51.56
39. Hardware	15.35	10.98	11.62	70.91
40. Elevator, escalator and conveyor	15.22	10.71	11.73	37.64
41. Furniture	14.8	12.3	8.81	47.52
42. Lead and zinc (secondary) smelting and refining	14.66	11.50	5.58	42.26
43. Wool carpet and rug	14.15	9.65	12.73	23.45
44. Bolt nut washer and rivet	14.67	10.45	9.77	48.33
45. Steel castings	13.63	10.67	13.34	72.24
46. Heating and cooking apparatus (except electric)	13.43	9.96	10.98	60.89
47. Textile machinery	13.06	9.32	14.71	56.44
48. Lead and zinc (primary) smelting and refining	12.96	10.12	13.1	40.42
49. Food products machinery	12.94	9.64	10.05	41.99
50. Pump, pumping equipment and air compressor	12.80	10.55	9.53	48.78
51. Tin can and tinware	12.65	9.52	11.91	22.64
52. Paint, varnish and lacquer	12.53	9.26	8.97	65.34
53. Gray-iron and malleable-iron castings	12.19	9.18	7.95	148.61
54. Paper and pulp	12.11	9.34	13.56	36.90
55. Corn products	11.78	9.51	10.94	20.68
56. Biscuit and cracker.	11.78	8.47	11.47	13.64
57. Copper (primary) smelting and refining	11.41	8.74	25.84	19.05
58. Woolen and worsted	11.40	8.11	6.23	50.19

1 Net profit from manufacturing and trading to total sales and total sales for cigarette, cigar, and other



tobacco products and distilled liquor exclude excise taxes.

INDUSTRY GROUPS FOR WHICH 1940 OPERATIONS ARE REPORTED 19

TABLE 1.--Average rates of return on the total investment before and after income and excess profits taxes, net profits per dollar of sales, and highest individual rates of return on the total investment for 86 industry and 7 subindustry groups, for 1940--Continued

Industry of subindustry group	Rates of return on total investment before interest and taxes	Rates of return on stockholders' investment after interest and taxes	Net profit per dollar of sales total	Highest individual rate of return on investment
	Percent	Percent	Cents	Percent
59. Special industry machinery	11.29	8.80	11.32	224.08
60. Plumber supplies	11.24	8.90	21.21	32.72
61. Footwear: Selling through own stores	11.2	8.5	5.8	30.7
62. Other tobacco products	11.1	9.0	1 22.5	14.6
63. Distilled liquor	11.00	9.70	1 13.27	30.33
64. Cigars	10.9	8.7	10.8	24.3
65. Acricultural machinery and tractor	10.78	8.13	10.89	34.46
66. Milk and milk products	10.63	8.99	4.29	146.3
67. Byproduct coke	10.59	11.19	10.00	23.00
68. Beet sugar	10.37	8.13	13.21	14.88
69. Rubber products	10.31	9.21	6.99	31.43
70. Bread and bakery products	10.18	8.02	5.30	54.35
71. Railroad equipment	10.00	7.57	11.52	49.13
72. Linoleum and other hard surface floor covering	9.23	7.33	8.93	16.02
73. Footwear: selling through nonaffiliated distributors	8.9	7.2	5.50	27.0
74. Cement	8.79	6.75	17.60	33.15
75. Cotton textiles	8.64	6.51	6.44	22.74
76. Merchant pig iron	8.3	6.2	12.00	21.98
77. Sewing machine	8.10	6.45	9.74	27.91
78. Paving and roofing materials	8.09	6.20	5.64	65.82
79. Flour milling	7.98	6.53	3.21	20.71
80. Lumber and timber products	7.72	6.21	11.17	43.62
81. Clay products (other than pottery)	7.60	5.62	12.66	22.65
82. Petroleum refining and marketing	7.29	6.66	9.71	30.19
83. Oil field machinery and tools	7.15	5.44	6.05	39.59
84. Textile dyeing and finishing (except woolen and worsted)	6.80	5.49	4.76	28.24
85. Tanned, curried, and finished leather	6.53	4.96	3.76	57.75
86. Petroleum (crude) producing	5.84	5.70	16.13	14.91
87. Commercial laundry, dry cleaning and pressing machinery	5.61	4.55	5.47	11.42
88. Men's and boys' clothing: selling to trade	5.6	4.4	2.8	22.95
89. Cottonseed products and cooking fats	5.21	3.97	2.87	13.86
90. Match	5.20	3.74	3.75	15.31
91. Fertilizer	4.17	3.39	4.34	18.18
92. Cane sugar refining	3.83	3.17	2.69	11.21
93. Men's and boys' clothing: selling direct	*1.4	*1.9	*0.40	*5.88

1 Net profit from manufacturing and trading to total sales and total sales for cigarette, cigar, and other tobacco products and distilled liquor exclude excise taxes.

\* Denotes loss

TABLE 2.--Summary of net sales, net profit on sales, and net profit per dollar of sales for 86 major Industry groups, for 2,748 corporations in 1940.

Industry and subindustry group	para-	Number of cor- porations	Net sales on sales	Net profit dollar	Net profit per estimated of sales	New sales to census or value of products
			(Add 000 to amounts)	(Add 000 to amounts)	Cents	Percent
1. Agricultural machinery and tractors	21	\$646,038	\$70,326	10.89	100. +	
2. Aircraft		27	569,767	135,766	23.83	100. +
3. Asbestos and abrasives		34	172,366	25,760	14.95	100. +
4. Automobile parts and accessories	64	878,150	114,297	13.01	51.66	
5. Beet sugar		14	132,743	15,563	13.21	98.8
6. Biscuits and crackers		7	167,563	19,221	11.47	83.45
7. Blowers; exhaust and ventilating fans	10	8,376	662	10.88	22.29	
8. Bolt, nuts washers and rivets	33	63,874	6,242	9.77	76.3	
9. Bread and bakery products	82	329,841	17,486	5.30	27.24	
10. Byproduct of coke		7	44,571	4,480	10.00	(1)
11. Cane sugar	17	376,511	9,015	2.69	97.9	
12. Cement		26	106,287	18,711	17.60	55.18
13. Cereal preparations	14	129,259	15,998	12.37	80.0	
14. Chemicals (industrial)	33	1,145,959	239,445	20.89	100. +	
15. Cigarettes, cigars, and other tobacco products:						
Cigarettes		10	1,183,941	131,411	22.80	
Cigars		12	71,833	7,233	10.80	93.46
Other tobacco products		8	46,037	7,706	22.50	
16. Clay products (other than pottery)	22	66,805	8,432	12.66	100. +	
17. Commercial laundry, dry cleaning and pressing machines		7	22,335	1,223	5.47	100. +
18. Copper (primary smelting and refining)	13	542,827	140,131	25.84	85.54	
19. Corn products		11	148,817	15,951	10.94	100. +
20. Cotton textiles		58	550,868	35,444	6.44	47.15
21. Cranes; dredging; excavating and road-building machinery		29	135,137	19,117	14.14	96.43
22. Distilled liquors		17	190,717	25,325	13.27	100. +
23. Drugs and medicines	27	596,263	81,370	13.65	100. +	
24. Electrical machinery and apparatus	52	1,138,612	191,261	16.80	69.86	
28. Elevators, escalators and conveyors	22	95,263	11,173	11.73	100. +	
29. Food products machinery	23	58,750	5,902	10.05	64.67	
30. Footwear (except rubber):						
Selling to nonaffiliated distributors	28	219,698	12,181	5.50	53.76	
Selling through own retail stores	10	175,228	10,081	5.80		
31. Forgings (iron and steel)	33	86,780	12,610	18.88	63.67	
32. Fruit and vegetable canning	49	\$384,506	\$38,527	10.01	65.0	
33. Furniture		71	169,573	14,946	8.81	27.2
34. Glass and glassware.	22	357,726	54,709	15.29	99.93	
35. Gray-iron and malleable iron castings	217	203,514	16,188	7.95	77.33	
38. Gypsum products	9	74,543	14,691	19.71	100. +	
37. Hardware	35	135,931	15,804	11.62	88.0	
38. Heating and cooking apparatus (except electric)		39	245,690	27,081	10.98	80.20
39. Internal combustion engine	13	60,656	7,788	12.84	54.95	
40. Lead and zinc (primary smelting and refining)		17	253,916	33,028	13.01	100. +
41. Lead and zinc (secondary) smelting and refining		30	61,119	3,414	5.58	100. +
42. Linoleum and other hard-surface floor coverings		10	102,893	9,183	8.93	100. +
43. Lumber and timber products	77	269,913	30,139	11.17	36.88	
44. Machine tool accessories and machinists' precision tools		29	136,242	37,595	27.59	100. +
45. Machine tools	40	270,673	73,019	26.98	100. +	
45. Malt beverage brewing	42	215,605	32,427	9.97	40.98	
47. Matches	9	52,673	1,975	3.75	100. +	
48. Mechanical measuring instruments	11	27,834	4,916	17.66	70.14	
49. Mechanical stokers	9	14,756	1,953	13.24	60.12	
50. Men's and boys' clothing:						
Selling through own retail stores	5	66,726	7,769	11.60		
Selling to trade	21	74,322	2,099	2.80	27.51	
Selling direct to wearer	3	6,549	*26	*.40		
51. Merchant pig iron	10	104,565	12,601	12.00	(1)	
52. Milk and milk products	129	1,124,444	48,178	4.29	(1)	
53. Mining machinery and equipment	28	96,248	19,390	20.15	100. +	
54. Motor vehicles	23	3,909,543	405,683	10.38	96.77	
55. Office and store machines	22	288,207	42,859	14.87	100. +	
56. Oil field machinery and tools	23	109,780	6,639	6.05	100. +	
57. Paints, varnishes and lacquers	40	252,777	23,577	8.97	50.65	

58. Paper and pulp

153 1,088,239

147,146

13.56

53.74

1 Census comparison not available.

\* Denotes loss.

TABLE 2.--Summary of net sales, net profit on sales, and net profit per dollar of sales for 86 major Industry groups, for 2,748 corporations in 1940--Continued

Industry and subindustry group	Num-ber of cor-pora-tions	Net sales	Net profit on sales	Net profit per dollar of sales	New sales to census or estimated value of products
		(Add 000 to amounts)	(Add 000 to amounts)	Cents	Percent
59. Paving and roofing materials	21	\$109,432	\$6,175	5.64	77.84
60. Petroleum (crude) producing	19	88,190	14,227	16.13	(1)
61. Petroleum refining and marketing	40	4,918,417	477,444	9.71	100. +
62. Plastics	20	43,966	6,706	15.25	61.15
63. Plumber's supplies	16	221,779	47,035	21.21	100. +
64. Power boilers and associated products	21	103,234	10,487	10.16	73.24
65. Pumps, pumping equipment and air compressors	21	68,420	6,520	9.53	38.17
66. Railroad equipment	32	384,783	44,331	11.52	100. +
67. Rayon and allied products	14	261,661	58,766	22.46	100. +
68. Refrigeration and air-conditioning equipment	21	106,977	10,283	9.61	38.4
69. Rubber products	29	948,917	86,352	6.99	100. +
70. Screw machine products and wood screws	23	52,816	7,282	13.79	63.8
71. Sewing machines	8	111,591	10,864	9.74	100. +
72. Shipbuilding	16	241,710	32,441	13.42	73.8
73. Smelting and refining equipment	11	24,827	2,249	9.06	(1)
74. Soap, cottonseed products and cooking fats	20	500,577	53,068	10.66	75.8
75. Special industry machinery'	100	125,106	14,165	11.32	100. +
76. Steam engines and turbines	5	15,032	3,552	23.63	89.04
77. Steel castings	39	146,683	19,565	13.34	100. +
78. Tanned curried and finished leather	37	15,252	5,992	3.76	46.0
79. Textile dyeing and finishing (except woolen and worsted)	27	104,592	4,978	4.76	35.47
80. Textile machinery	49	77,518	11,405	14.71	83.11
81. Tin cans and tin ware	9	345,462	41,160	11.91	92.71
82. Wallboard and wall plaster (except gypsum) building insulation and floor composition	15	36,817	4,490	12.20	100. +
83. Water Softening equipment	19	24,680	2,415	9.79	(1)
84. Wire and cable (electrical)	36	109,854	16,584	8.30	67.32
85. Wool carpets and rugs	21	119,158	15,170	12.73	84.9
86. Woolens and worsteds	44	369,488	23,035	6.23	50.21

1 Total of 86 industries 2,748 30,736,188 3,604,512 11.73 1 Census comparison not available.

## STUDIES OF COSTS, PRICES, AND PROFITS

### INQUIRIES FOR WAR AGENCIES RELATE TO BREAD BAKING, FLOUR MILLING, BISCUIT AND CRACKER, STEEL, AND FERTILIZER INDUSTRIES

*Bread baking industry.*--On October 23, 1942, the Director of the Office of Economic Stabilization requested the Federal Trade Commission to undertake "a quick but adequate survey" of the bread baking and wheat flour milling industries. The inquiry was planned to meet the needs of the Office of Economic Stabilization, the Office of Price Administration, the Department of Agriculture, and any other interested Government agency.

The inquiry was begun immediately by the Commission to determine what economies could be made in the industry so as to remove the need for a subsidy for wheat, to prevent an increase in bread prices, or to bring about a lowering of the price of bread to consumers.

The essential information covering the practices, costs, prices, and profits was obtained with reference to the operations of more than 600 representative bakeries. A report on the facts developed by the in-

quiry was made to the Director of the Office of Economic Stabilization on December 1, 1942, and was used as a basis for the issuance of Food Distribution Order No.1, dated December 29, 1942, by the Secretary of Agriculture. This order effected certain economies in the industry through elimination of certain practices and standardization of the formula for white bread.

Such information in greater detail, particularly in respect to prices, costs, and profits, was tabulated subsequently for the Office of Price Administration for its use in connection with its price actions. This report was furnished also to the Secretary of Agriculture and the War Production Board.

*Wheat flour milling industry.*--As in the study of the bread baking industry, the purpose of the survey of the wheat flour milling industry was to provide the Director of the Office of Economic Stabilization with facts to determine what economies could be effected in the industry so as to remove the need for a recently approved subsidy for wheat, without reducing the return to farmers, or to lower the price of bread to consumers. The Director's request for the survey provided that it should be conducted so that the results would be helpful also to the Office of Price Administration, the Department of Agriculture, the Office of Defense Transportation, the War Production Board, and other agencies.

The inquiry covered practices in the industry and indicated the costs, prices, and profits of an adequate sample of large, medium, and small-sized flour millers for each of the principal flour milling districts. The report was completed in 40 days. Subsequently, a more detailed report on unit costs of producing wheat flour was prepared for the Office of Price Administration.

*Biscuit and cracker industry.*--On March 25, 1943, a report covering the distribution methods, costs, and profits of 43 biscuit and cracker plants operated by 25 companies, including the 4 largest in the industry, was forwarded to the Office of Price Administration. The business of these 25 companies accounted for over 85 percent of the business of the entire industry. The Office of Price Administration requested the Commission to make the inquiry so that it might have basic information for determining its price policy.

The report showed the details of costs and expenses for biscuit and cracker manufacturing plants, including cost of ingredients used, cost of containers and packing materials, direct productive labor, indirect labor, all other costs of production, selling and delivery expense, and general and administrative expense. The information, given for two comparable periods in 1942, March and November, disclosed that in each the costs and expenses were generally lower for the larger companies than for the smaller companies.

The report also showed that for the years 1941 and 1942 the profits in relation to sales were considerably higher for the larger companies than for the smaller companies and that in 1942 the average profit in relation to sales for the larger companies in the industry was approximately 2 ½ times that of the smaller companies.

*Steel industry.*--The Commission completed its inquiry covering costs, prices, and profits in the steel industry. This study, begun in April 1942 at the request of the Office of Price Administration, covered 29 important steel producing companies.

Information was obtained with reference to the cost of production and distribution for each class and grade of semifinished and finished steel products, such as ingots, blooms, slabs, billets, plates, sheets, bars, rods, structural shapes, pipe, wire, and wire rope. Such information also was obtained for the particular sizes which accounted for a substantial portion of the tonnage in each of the classifications. In addition, the statistics concerning the tonnage and yields involved in each process were obtained.

The cost per ton was computed for materials used, productive labor, fuel and power, depreciation, repairs and maintenance, property taxes and insurance, other direct expenses, total material and conversion costs, shipping expense, and general selling and administrative expenses. The net operating profit was obtained by comparing the total cost of production and distribution for each class and selected item of product with the corresponding net sales realization after allowance for discounts and out-bound freight.

*Fertilizer and related products industries.*--During the fiscal year the Commission made an inquiry into costs, prices, and profits in the fertilizer and related products industries. This inquiry was made at the request of the Office of Price Administration so that it might have the factual background for its price actions.

Information as to costs, prices, and profits was obtained with reference to the operations of 12 phosphate rock mines of 11 companies, and for the sulphuric acid, superphosphate and mixed fertilizer operations of 40 plants of 24 companies. From time to time, during the course of the inquiry, reports were prepared and forwarded to the Office of Price Administration with reference to these operations for the companies included in the inquiry.

The various reports on the results of the study contain financial data for individual companies for each of the years 1936-42, including rates of profit on investment and percentage of profit on sales. For the years 1941 and 1942, they include the details of the cost of production, the cost and profit per ton of product with reference to phosphate rock, sulphuric acid, superphosphate and mixed fertilizer, and the net



realization from the sales of selected grades of fertilizer, analysis of purchases of fertilizer materials, and other related statistics.

One of the principal requirements of the inquiry was to obtain information concerning the costs, prices, and profits for selected formulas of popular-selling fertilizers during 1941 and 1942. Such information was obtained for 103 separate formulas. This involved an analysis of the cost of materials used in each formula, the determination of the processing cost, including mixing, bagging and shipping, the cost of bags and tax tags, and the portion of selling, general, and administrative expenses applicable to each formula. Unit costs per ton were computed for each formula, together with the net sales realization, f. o. b. plant, and the profit or loss per ton. Because of the change in ingredients in the formulas from time to time, particularly in 1942 when certain of the materials became difficult to obtain on account of the war, it was necessary in some instances to cost many of the formulas a number of times throughout the 2-year period to show the effect of changes in costs due to the substitution of certain materials for those customarily used.

### **OTHER WARTIME ACTIVITIES**

*Interdepartmental service.*--For almost 40 years the Commission (and its predecessor, the Bureau of Corporations) has been collecting and establishing a vast fund of information concerning the Nation's important industries. The Commission has been called upon to furnish to regular Government departments, and especially to the agencies created during the war emergency, an increasing amount of these data, and frequently it has been requested to prepare Special reports as the basis for the actions of the war agencies responsible for economic controls.

*Advertising analyzed and reported to war agencies.*--At the request of various war agencies, the Commission during the fiscal year surveyed, analyzed, summarized and periodically reported to the agencies concerned therewith, such advertising as contained any pertinent war-related references to war production, the general public health, morale, price rises or trends, rationing, priorities, and rubber and other selected materials; advertisements advising the public to "buy now" or containing statements that materials are or will be scarce, that the quality of new materials or products offered for sale is equivalent to or better than merchandise formerly offered; and other war-related subjects. Any advertisements found to contain possible violations of the 'Code of Wartime Practices for American Broadcasters and the Code of Wartime Practices for the American Press, as promulgated by the Office of Censorship, were transferred to that office for appropriate action.

The reports thus furnished were based, in large part, upon the normal survey of commercial advertising conducted by the Commission, as hereinafter described in part V.

*Trade practice rule work in wartime.*--Many industries operating under trade practice rules issued by the Commission are engaged in war production as well as production or distribution for essential civilian needs. Established rules of fair-trade practices governing such industries have an important effect in maintaining a fair competitive balance in the respective industries and trades and in affording an over-all stabilizing influence which is most helpful to advancement of the war effort and to protecting the public interest in the prevailing economy of scarcity and stress. The substantial results achieved in this respect are brought about at small cost. The waste and burdens which unfair or harmful trade practices impose upon competitive enterprise and upon the buying public are eliminated, and industry and trade are thereby freed for maximum effort in meeting the needs of the country.

The rules of fair trade practices promulgated by the Commission, covering more than 150 industries, are administered and applied by the Commission in line with maintaining effective support of the maximum war effort. Besides affording material contribution to the war program, the rules place the respective industries in an advantageous position to meet the impact of post-war conditions. Such fair trade practice provisions are designed to foster and promote free enterprise on a fair competitive basis without monopolistic or discriminatory trade restraints which stifle small businesses and suppress competition to the detriment of the public.

*Wool Act an aid to war program.*--Support of the war program, effective and of indispensable character, is afforded by the Wool Products Labeling Act which is administered by the Commission. Under the act, products containing or purporting to contain wool are required to be labeled to reveal their true content, thus protecting the consumer as well as producers, manufacturers, and distributors from the unrevealed presence of substitutes and mixtures and preventing the evils of misbranding. Wool being a critical war material and essential to the health and well-being of the entire population, it is a matter of far-reaching importance that not only shall clothing and other necessary products containing wool be equitably distributed to meet essential needs, but also that manufacturers, distributors, dealers, and the buying public shall be protected from the fraud, deception, and unfair competition flowing from misbranding, concealment, or misrepresentation of true content of product. The statute affords such protection and its operation constitutes a vital contribution to winning the war.

*Membership on war committees.*--The Chairman of the Federal Trade Commission served as a member of the Price Administration Committee of the Office of Price Administration and was the Commission representative in its continuing relationships with the Office of Economic Warfare. The Commission placed its staff of accountants, economists, and Statisticians at the disposal of the Office of Economic Warfare to make such studies and investigations as it required.

In response to a request from the Bureau of Industrial Conservation of the Office of Production Management (now the War Production Board), the Chairman of the Commission served as a member of that agency. The Chairman also was a member of a committee for the development and utilization of the country's present and future petroleum resources and facilities, of which committee the Petroleum Coordinator for National Defense is Chairman.

Members of the Commission staff served on the following committees of the Advisory Commission to the Council of National Defense: Inter-Departmental Conference Committee on National Food Resources; Subcommittee of Inter-Departmental Conference Committee on Planning and Procedure; Fruit and Vegetables Committee; Tobacco Committee; and Food Distribution Committee.

The Medical Advisory Division of the Commission served on request as advisor to the Medical and Health Supply Section of the Division of Civilian Supply, War Production Board. The Director of the Medical Advisory Division also performed liaison duties for the Commission in connection with the work of the National Research Council's Committee on Drugs and Medical Supplies, which serves in an advisory capacity to the War Production Board.

## **PART II. GENERAL LEGAL WORK**

### **DESCRIPTION OF PROCEDURE**

A case before the Federal Trade Commission may originate in any one of several ways. The most common origin is through complaint by a consumer, a competitor, or from public sources. The Commission itself may initiate an investigation to determine whether the laws administered by it are being violated.<sup>1</sup> No formality is required in making application for complaint, a letter setting forth the facts in detail being sufficient, but it should be accompanied by all evidence in possession of the complaining party in support of the charges made.

### **INFORMAL PROCEDURE**

Upon receipt of an application for complaint, the Commission considers the essential jurisdictional elements before deciding whether it shall be docketed. When docketed, it is assigned to an attorney for the purpose of developing all the essential facts. The general procedure is to interview the party complained against, advise him of the charges, and request such information as he may care to furnish in defense or in justification. It is the policy of the Commission not to disclose the identity of the complainant. If necessary, competitors of the respondent are interviewed to determine the effect of the practice from a competitive standpoint. Often it is desirable to interview consumers and members of the general public to obtain their assistance in determining whether the practice alleged constitutes an unfair method of competition or unfair or deceptive act or practice, and also to establish the existence of the requisite public interest.

After developing all the facts, the examining attorney summarizes the evidence in a report, reviews the law applicable, and makes recommendations as to what action he believes the Commission should take. The record is reviewed by the Chief Examiner and, if found to be complete, is submitted, with a statement of facts together with his conclusions and recommendations, to the Commission for its consideration.

If a published or broadcast advertisement coming under the observation of the Radio and Periodical Division appears to be misleading, that division conducts mail inquiries and reports its recommenda-

<sup>1</sup> For a brief statement of the provisions of these laws, see p. 1.

tion to the Commission under the procedure more fully explained on page 84.

The Chief Examiner or the Director of the Radio and Periodical Division may recommend to the Commission: (1) that the case be closed without further action because of lack of evidence or because the practice does not violate any law administered by the Commission; (2) disposition of the application by the respondent signing a stipulation as to the facts and an agreement to cease and desist from the practices as set forth in the stipulation; or (8) issuance of formal complaint.

If the Commission decides that a formal complaint should issue, the case is referred to the Chief Counsel for preparation of the complaint and trial of the case. Should the Commission permit disposition by stipulation, the case is referred to the Chief Trial Examiner or to the Director of the Radio and Periodical Division for negotiation and submission to the Commission for approval.

All proceedings prior to issuance of a formal complaint or stipulation are confidential.

### **FORMAL PROCEDURE**

Only after careful consideration of the facts developed by the investigation does the Commission issue a formal complaint. The complaint and the answer of the respondent thereto and subsequent proceedings are a public record.

A formal complaint is issued in the name of the Commission acting in the public interest. It names the respondent, or respondents, alleges a violation of law, and contains a statement of the charges. The party complaining to the Commission is not a party to the formal complaint and the complaint does not seek to adjust matters between parties; rather, the prime purpose of the proceeding is to prevent, for the protection of the public, those unfair methods of competition and unfair or deceptive acts or practices forbidden by the Federal Trade Commission Act and those practices within the Commission's jurisdiction which are prohibited by the Clayton Act (as amended by the Robinson-Patman Act), the Export Trade Act, and the Wool Products Labeling Act of 1939.

The Rules of Practice before the Commission provide that a respondent desiring to contest the proceedings shall, within 20 days from service of the complaint, file answer admitting or denying each allegation of the complaint.

Where evidence is to be taken either in a contested case or where the respondent has failed to file answer, the matter is set down for hearing before a member of the staff of trial examiners, which hearing may be held anywhere in the United States, the Commission being represented by one of its attorneys and the respondent having the privilege of appearing in his own behalf or by attorney.

After the submission of evidence in support of the complaint and on behalf of the respondent, the trial examiner prepares a report of the evidence for the information of the Commission, a copy being furnished counsel for the Commission and counsel for the respondent. Exceptions to the trial examiner's report may be taken by either counsel.

Briefs may be filed within a stated time after the trial examiner's report is made, and, in the discretion of the Commission, upon the written application of the attorneys for the Commission or for the respondent, oral argument may be had before the Commission. Thereafter, the Commission reaches a decision either sustaining the charges of the complaint or dismissing the complaint, or closing the case without prejudice.

If the complaint is sustained, the Commission makes its findings as to the facts and states its conclusion that the law has been violated, and thereupon an order is issued requiring the respondent to cease and desist from such violation. If the complaint is dismissed or the case closed, an appropriate order is entered.

Up to and including the issuance of an order to cease and desist, there is no difference in procedure whether the case is under the Federal Trade Commission Act, the Clayton Act, or the Wool Products Labeling Act, but the Clayton Act provides a procedure for enforcement of cease and desist orders different from the other two acts.

Under the Federal Trade Commission Act and the Wool Products Labeling Act, an order to cease and desist becomes final 60 days after date of service thereof upon the respondent, unless within that period the respondent petitions an appropriate United States circuit court of appeals to review the order. In case of review, the order of the Commission becomes final after affirmance by the circuit court of appeals or by the Supreme Court of the United States, if taken to that court. Violation of an order to cease and desist after it shall have become final and while it is in effect subjects the offender to a civil penalty of not more than \$5,000 for each violation, recoverable by the United States.

Under the Clayton Act, an order to cease and desist does not become final by lapse of time. The order must be affirmed, on application for review by the respondent or upon petition of the Commission for enforcement, by a United States circuit court of appeals. Thereafter, appropriate contempt proceedings may be brought in the particular court of appeals for violation of the court order.

Under all three acts, the respondent may apply to a circuit court of appeals for review of an order and the court has power to affirm, or to affirm after modification, or to set aside, the order. Upon such

application by the respondent and cross-application by the Commission, or upon application by the Commission for enforcement of an order under the Clayton Act, the court has power to enforce the order to the extent it is affirmed. In any event, either party may apply to the Supreme Court for review, by certiorari, of the action of the circuit court of appeals.

#### **PROVISIONS FOR PREVENTING DISSEMINATION OF FALSE ADVERTISEMENTS**

The Federal Trade Commission Act contains provisions for the prevention of the dissemination of false advertisements concerning food, drugs, devices (meaning devices for use in the diagnosis, prevention, or treatment of disease), and cosmetics. In addition to the regular proceeding by way of complaint and order to cease and desist, the Commission may, in a proper case, bring suit in a United States district court to enjoin the dissemination of such false advertisements pending issuance and final disposition of the complaint.

Further, the dissemination of such a false advertisement, where the use of the commodity advertised may be injurious to health or where the advertisement is published with intent to defraud or mis-lead, constitutes a misdemeanor, and conviction subjects the offender to a fine of not more than \$5,000, or imprisonment of not more than 6 months, or both. Succeeding convictions may result in a fine of not more than \$10,000, or imprisonment of not more than 1 year, or both.

#### **LEGAL INVESTIGATION**

##### **INQUIRIES PRIOR TO FORMAL COMPLAINT OR STIPULATION**

The Commission makes legal investigation of all applications for complaint preliminary to instituting formal action for the correction of unfair methods of competition or other acts or practices violative of the laws it administers.

During the fiscal year ended June 30, 1943, the Commission dis-posed of 186 preliminary inquires which had been docketed and 874 applications for complaint, or a total of 1,060 informally docketed matters.

Investigation of cases in preliminary stages includes the general preliminary legal investigating work of the Commission under the several acts and the continuing survey of radio and periodical advertisements with the object of correcting false and misleading representations.

Cases thus developed, unless closed without action, progress upon order of the Commission to the status either of formal complaint or stipulation.

At the beginning of the fiscal year, there were pending for investigation in the Legal Investigation Division <sup>2</sup> 285 preliminary or Un-docketed cases. Four hundred and fourteen additional applications of this character were received during the year, making a total of 699 on hand, of which 523 were investigated. Of the investigated matters, 300 were docketed and transmitted to the Commission for action and 223 closed without docketing because of lack of jurisdiction or other reasons. This left 176 preliminary cases of this type pending for investigation at the end of the fiscal year.

Five hundred and six applications for complaint, which had been docketed without preliminary investigation were pending for regular investigation at the beginning of the year. Subsequently, 329 additional cases of this type were received, making a total of 835 such cases docketed for investigation. Of these, 575 were investigated and transmitted to the Commission for action, leaving 260 cases of this character pending for investigation at the close of the year.

During the year, 415 further investigations were made, including inquiries into alleged violations of cease and desist orders and stipulations, investigations for the Chief Counsel, and others of a supplemental nature. At the end of the year, 106 such matters awaited completion of investigation.

Thus, during the year, the legal investigation staff completed 1,513 investigations under the laws administered by the Commission, and also disposed of 11,385 pieces of incoming and outgoing mail, involving varying degrees of research and study. In addition, at the request of the War Production Board, that staff conducted 10 Nationwide surveys covering the investigation of 2,485 companies engaged in the manufacture of essential war products. (For details of these wartime investigations, see p.11.)

### **PRICE FIXING AND OTHER TRADE RESTRAINTS**

One of the fundamental purposes behind the passage of the Federal Trade Commission Act in 1914 was the establishment of an agency which would detect and eliminate illegal trade restraints in their incipiency, before they had developed into monopolies. At the beginning of the fiscal year, 81 cases of this type were on the Commission calendar, either awaiting investigation or being investigated. During the year, 61 new cases were instituted, making a total of 142 restraint-of-trade matters on the calendar. In the same period, 96 investigations of this type were completed for consideration and

<sup>2</sup> Statistics hereinafter reported on pp. 32-34 concerning the general legal investigational work are the records of the Legal Investigation Division and not the consolidated record of the Commission, and therefore do not coincide with the figures reported in the tabular summary of the legal work for the entire Commission appearing on pp. 66-67.



disposition by the Commission, leaving 46 pending on the active investigational calendar as of June 30, 1943.

Price fixing continues to be the most frequently recurring charge among the restraint-of-trade cases, although the whole category of trade restraints will be found among the charges in the cases pending before the Commission during the fiscal year. These include such practices as conspiracy to boycott or threats of boycott; interference with sources of supply; threats of infringement suits not made in good faith; sales below cost for the purpose of injuring competitors; collusive bidding; intimidation of competitors; coercive practices; and commercial bribery.

The following general classifications of commodities involved are listed to convey an idea of the widespread nature of the restraint-of-trade investigations: agricultural supplies; automotive equipment; beauty and barber supplies; clothing, cloth and notions; construction materials and supplies; containers; drugs, chemicals and pharmaceuticals; electrical equipment and appliances; fertilizer; flaxseed; food products and beverages; footwear and accessories; fuel; golf clubs and equipment; hospital and surgical supplies; household wares, furnishings, and equipment; ice; insecticides; lumber and lumber products; machinery and tools; metal and metal products; minerals and mineral fibers; nursery stock; paper and paper products; photo-graphic supplies; publications; rubber products; rosin oil; school equipment and supplies; sponges; technical instruments and parts; textile fabrics; tobacco; vegetable fibers and oils; and vitrified products.

In addition to the original investigations undertaken during the year, 17 matters were completed which involved formal docketed cases. These consisted of a variety of matters, many requiring complete investigation to determine whether cease and desist orders previously issued by the Commission were being violated. Investigations of this nature are as extensive as those made in the original development of a case and in some instances more difficult. At the close of the fiscal year 6 cases of this nature were pending on the investigational calendar.

Of the 142 restraint-of-trade investigations which were active during the fiscal year, 23 resulted from applications for complaint filed by Federal, State or municipal agencies, and 31 were initiated by the Commission on its own motion. The majority, however, continued to originate among individuals and concerns whose business was being jeopardized by alleged unfair and illegal practices. The group last mentioned was responsible for 88 of these applications.

### **STOCK ACQUISITIONS, MERGERS AND CONSOLIDATIONS**

Section 7 of the Clayton Act vests in the Commission the authority to prevent mergers and consolidations by unlawful acquisition of stock

in the industrial field of commercial enterprise. During the year the Commission gave consideration to two preliminary matters, both of which were on the suspense calendar at the beginning of the year. These matters involved alleged unlawful stock acquisition by corporations respectively engaged in the production and sale of a tanning product and in the compression and storage of cotton, and were disposed of by the Commission because investigation failed to indicate violation of law. At the close of the year the Commission had for consideration no formal or docketed matters and only three applications for complaint involving alleged violation of section 7 of the Clayton Act.

#### **CLAYTON ACT SECTION 2, AS AMENDED BY THE ROBINSON-PATMAN ACT**

The Robinson-Patman Act, approved June 19, 1936, amends section 2 of the Clayton Act and restates in more inclusive form the basic principle of prohibiting price discriminations which injuriously affect competition. It also prohibits per Se certain classes of discriminations which may involve price only indirectly, without regard to their competitive effects in specific cases, thus supplementing and strengthening the previous legislation.

Matters involving possible violations of this act are generally quite complicated. An effort is made by the Commission, in the preliminary stages of an investigation, to determine not only whether the practice in question involves prima facie violation of the act, but whether the defenses available under the act are present in the particular matter. This frequently necessitates the checking of competitive prices and pricing policies and undertaking cost studies in cooperation with the parties charged with violations.

Experience in the administration of the act has made it possible for the Commission, through the development of certain information by preliminary inquiry, more readily to clear up misunderstandings among the public as to the scope of the act and its application to specific situations, as well as to make a more accurate selection for investigation of matters involving probable merit. The Commission has endeavored, in view of limited funds and personnel available, to confine investigations, in so far as feasible, to matters of substantial importance and to eliminate the expenditure of time and money in the investigation of matters which preliminary inquiry discloses to be of little practical importance. The necessary diversion of personnel for work in connection with the war program has necessitated the further emphasis of this effort.

During the year, the Commission instituted field investigations of alleged violations of the Robinson-Patman Act in 106 cases and completed investigations in 193 cases. At the beginning of the year, 117 matters were on hand for investigation, and at the close of the

year, 30. As in previous years, the administration of the statute has touched widely varied fields of industry and commerce and involved many classes of commodities. Frequently, an investigation of one member of an industry requires similar investigations of other members of the same industry in order to accomplish equitable and effective correction. The proceedings of the Commission and the decisions of the courts on these proceedings have served as useful guides for members of industries in determining their pricing and distribution policies. It is apparent that these guides have been beneficial both in effecting the voluntary elimination of unlawful or doubtful practices before they become the subjects of investigation and in discouraging the inception of such practices.

### **INVESTIGATIONS INVOLVING FOOD, DRUGS, DEVICES, AND COSMETICS**

The Wheeler-Lea amendment to the Federal Trade Commission Act of March 21, 1938, greatly enlarged the preexisting need for medical and other scientific and expert opinion and evidence. This was met in part by the establishment by the Commission of a Medical Advisory Division. In the administration of the Wheeler-Lea amendment, special attention has been given to therapeutic representations made concerning, and pharmacological actions of, medicinal preparations, the use of which might be injurious. Similarly, particular consideration has been given to devices likely to be injurious to health.

Since enactment of the Wheeler-Lea amendment, the Commission has completed 1,874 field investigations of alleged violations of section 12 of the Federal Trade Commission Act, which relates to false advertising of food, drugs, devices, and cosmetics. Of these, 230 were completed during the fiscal year. This number included new cases as well as old cases reinvestigated to determine whether Commission cease and desist orders, and stipulations executed by advertisers and accepted by the Commission, were being violated, and whether additional practices not previously prohibited were being carried on in contravention of the law.

At the close of the year, 147 applications for complaint respecting alleged false advertising of food, drugs, devices, and cosmetics were under investigation, 27 of which related to drug and cosmetic preparations and devices alleged to be injurious to health.

### **DISPOSITION OF CASES BY STIPULATIONS**

#### **PROCEDURE AFFORDS OPPORTUNITY OF DISPOSING OF SOME CASES BY AGREEMENT TO DISCONTINUE UNFAIR PRACTICES**

Under certain circumstances the Commission, instead of disposing of cases by formal complaint and trial, affords the respondent the

privilege of signing a statement of fact and an agreement to discontinue the unfair practice.

A total of 280 stipulations in which individuals, firms, and corporations agreed to cease and desist from unlawful practices were approved by the Commission during the fiscal year. These included 171 general cases and 109 cases pertaining especially to radio and periodical advertising matter (see p.84).

The policy of the Commission with respect to the circumstances under which cases may be disposed of by stipulation is set forth in the Commission's Statement of Policy, page 105.

## **COMPLAINTS**

### **ALLEGED VIOLATIONS OF FEDERAL TRADE COMMISSION ACT, CLAYTON ACT AS AMENDED BY ROBINSON-PATMAN ACT, AND WOOL PRODUCTS LABELING ACT**

The Commission during the fiscal year issued 212 complaints, of which 196 charged violation of the Federal Trade Commission Act and 17 violation of the Clayton Act.

One of the Clayton Act complaints contained a count alleging violation of the Federal Trade Commission Act and is included in the totals for both acts.

Six of the complaints charged violation of both the Federal Trade Commission Act and the Wool Products Labeling Act of 1939.

#### **I. COMPLAINTS UNDER THE FEDERAL TRADE COMMISSION ACT**

##### **A. COMBINATIONS TO FIX PRICES AND RESTRAIN TRADE**

(Complaints referred to are Identified by docket numbers. Full text of any complaint may be

obtained upon application to the Federal Trade Commission)

Thirteen complaints were issued alleging combination and conspiracy to fix prices and to restrain trade in the sale of various products. These complaints, which named 143 individuals, firms and corporations as respondents, involved the following products:

Electrical equipment, accessories and supplies (4798, 4800, and 4806); millwork and lumber (4799 and 4804); metal partitions, fire doors, and elevator entrances (4801); wire fencing and related products (4802); machine tools and pumps (4803); machine tools (4805); chain and chain products (4878); fire brick and other refractory products (4900); automatic temperature controls (4920); and steel dies (4921).

##### **B. FALSE ADVERTISING AND MISREPRESENTATION**

A total of 132 complaints issued by the Commission charged false and misleading representations in advertisements, on labels, and otherwise. They may be classified

broadly as follows:

Forty-four complaints alleged false and misleading representations concerning the therapeutic value of medicinal preparations, food products, and devices, some of these complaints also alleging that the advertisements failed to reveal the harmful effects that might result from use of the products; 34 alleged misrepresentation of Origin, composition, performance, condition, quality, ingredients, materials, price, quantity, or style of various products; 19 alleged misrepresentation as to the results effected by the use of various products or services; 7 alleged misrepresentations in the sale of cosmetics, including, in some instances, failure to disclose possible harmful effects to users; and 6 alleged misrepresentations in the sale of cigarettes and other tobacco products as to nicotine content, absence of throat irritants and quality and cost of the tobaccos.

Five complaints alleged misrepresentation in the sale of correspondence courses of instruction; four, misrepresentation as to business status, such as a retailer representing himself to be a wholesaler or manufacturer; four, misrepresentation and disparagement of competitors' products; and four, misleading use of well-known corporate or trade names in promoting the sale of products.

One complaint alleged the false and misleading representation that the product involved was made under the supervision of a doctor; one, misrepresentation of press cards and automobile press tags; one, misrepresentation of the recommendations of consumers research bodies in the sale of men's clothing; one, misrepresentation of the requirements of an order of the Federal Communications Commission relating to apparatus designed for generating radio frequency energy; and one, misrepresentation of the conditions and requirements of leases of neon signs.

### C. MISCELLANEOUS COMPLAINTS

Forty-five complaints of a miscellaneous nature were issued, charging the respective respondents with such practices as supplying dealers with lottery devices for use in the sale of merchandise; obtaining information concerning debtors through the use of questionnaires falsely indicating that they were issued by branches of the United States Government, and by other methods; using the Red Cross name and emblem in selling commercial products without disclosing that the American Red Cross has no connection with the enterprise; misrepresentation in the sale of tinted or photographic enlargements and miniatures, and frames therefor; misrepresentation in the sale of encyclopedias and books; selling diplomas and college degrees without the fulfillment of any reasonable scholastic effort or study on the part of the purchasers; and misrepresentation of marine safety equipment used on oceangoing vessels.

## II. COMPLAINTS UNDER THE WOOL PRODUCT LABELING ACT

Six complaints were issued involving violation of the Wool Products Labeling Act of 1939. They alleged that wool products sold by the respective respondents were misbranded in violation of the act and the rules and regulations promulgated thereunder in that they did not have attached thereto labels disclosing the kinds and percentages of the different fibers of which the articles were made, including the respective percentages of wool, reprocessed wool, or reused wool, and the identity of the manufacturer or the distributor or reseller of the articles. (For details concerning enforcement of the act, see p. 79.)

The complaints, which further charged that the respondents' misbranding of wool products also constituted unfair and deceptive acts and practices in violation of the Federal Trade Commission Act, were directed against a manufacturer of textile fabrics (4881); a retailer of women's ready-to-wear apparel (4892); a manufacturer of women's coats (4931); a sporting goods store selling shirts, sweaters, caps, and underwear (4932); a manufacturer of blankets sold to the United States Government and other purchasers (4946); and a seller of men's and boys' clothing (4969).

## III. COMPLAINTS UNDER THE CLAYTON ACT

### A. ALLEGED VIOLATION OF SECTION 2 (a) OF THE CLAYTON ACT AS AMENDED

#### BY ROBINSON-PATMAN ACT

Six complaints were issued involving violation of section 2 (a) through unlawful discriminations in price among various purchasers of commodities of like grade and quality. The complaints alleged that the effect of the discriminations may be substantially to lessen competition or tend to create a monopoly in some line of commerce, or injure, destroy or prevent competition either with those who engage in the discrimination, or with those who knowingly receive the benefit of the discrimination, or with the customers of either of them.

Two of the complaints were directed against companies engaged in selling fish and sea food (4841, 4833); one against a manufacturer of artificial teeth (4915); one against a manufacturer of automatic temperature controls for domestic heating plants (4920); and two against manufacturers of rubber and canvas footwear (4971, 4972).

**B. ALLEGED VIOLATION OF SECTION 2 (c) OF CLAYTON ACT  
AS AMENDED BY  
ROBINSON-PATMAN ACT**

Violation of section 2 (c) of the act, the so-called brokerage section, was alleged by the Commission in nine complaints issued against corporations, partnerships and an individual, engaged principally in buying and selling food products, including canned fruit, vegetables and sea food, and lima beans.



Seven of the complaints were directed against the respondents' practice of purchasing food products for their own account for resale and accepting from the sellers brokerage fees, or commissions or discounts in lieu thereof, on such purchases (4792, 4796, 4821, 4823, 4835, 4928, 4938). One complaint was directed against a seller alleged to be granting unlawful brokerage to purchasers (4939), and one named both seller and certain purchasers as respondents, the seller being charged with granting and the purchasers with accepting unlawful brokerage fees (4833).

**C. ALLEGED VIOLATION OF SECTION 2 (e) OF CLAYTON ACT  
AS AMENDED BY**

**ROBINSON-PATMAN ACT**

One complaint (4841), against a packer and distributor of canned fish, alleged violation of section 2 (e). The respondent was charged with discrimination by furnishing some of its customers with services and facilities which were not accorded to all of its customers on proportionally equal terms. This complaint also alleged violation of section 2 (a) of the act (see p. 37).

**D. ALLEGED VIOLATION OF SECTION 2 (f) OF CLAYTON ACT  
AS AMENDED BY**

**ROBINSON-PATMAN ACT**

The Commission issued two complaints which alleged violation of section 2 (f). In one complaint (4933) a corporation engaged in leasing automatic vending machines was charged with inducing sellers of confections used in the machines to grant it lower prices than those accorded its competitors. This complaint also charged violation of section 3 of the Clayton Act (see below).

In the second complaint (4957) a wholesale drug company and its officers were charged with inducing sellers of drugs, cosmetics and other merchandise to grant them lower prices than those accorded their competitors. The complaint alleged that numerous sellers were induced to purchase advertising space in a magazine published by the respondents and operated by them as an incident to their business and as an instrument for obtaining discriminatory prices; and that the charges for such advertisements were credited on the purchase price of merchandise bought from such sellers by the respondents.

**E. ALLEGED VIOLATION OF SECTION 3 OF CLAYTON ACT**

Under section 3 of the Clayton Act, two complaints were issued by the Commission, each referred to previously as also involving alleged violations of the Robinson-Patman Act.

Complaint 4920 charged a corporation manufacturing automatic temperature controls for heating plants with making sales and contracts for sales of its products on the condition that the purchasers should not deal in or use any automatic temperature control of a

competitor, with the effect of substantially lessening competition and tending to create a monopoly in the sale of such products.

Complaint 4933 charged a corporation with leasing and licensing its automatic vending machines on the condition or agreement that the lessees or licensees thereof would not use them to vend confections other than those purchased from the respondent, or would not acquire, lease or otherwise deal in any automatic vending machines other than those of the respondent, with the effect of tending to substantially lessen competition or to create a monopoly.

## **ORDERS TO CEASE AND DESIST**

### **UNFAIR TRADE PRACTICES PROHIBITED IN 165 CASES**

The Commission during the fiscal year issued 165 orders to cease and desist from the use of unfair methods of competition and other violations of law. The following cases are illustrative of orders issued:

#### **I. ORDERS UNDER THE FEDERAL TRADE COMMISSION ACT**

##### **COMBINATIONS TO FIX AND MAINTAIN PRICES AND RESTRAIN TRADE**

*United States Maltsters Association, Chicago, and others.*--An order was issued directing 18 producers of malt and their unincorporated trade association, United States Maltsters Association, to cease and desist from entering into, continuing, cooperating in or carrying out any common course of action or conspiracy in fixing or maintaining prices, or engaging in other practices, including discussions or exchange of price information, or quoting prices under a common basing-point system for the purpose or with the effect of making the delivered-price quotations of any two or more of the respondents the same at any given destination (3555).

*Agricultural Insecticide & Fungicide Association, New York, and others.*--This incorporated trade association and its 26 member producers and distributors of agricultural insecticides, fungicides, and related chemicals were ordered to cease and desist from entering into, continuing, carrying out, directing, instigating, or cooperating in any common course of action, mutual agreement, combination or conspiracy, for the purpose or with the effect of fixing prices; adhering to any price list; coercing any manufacturer for failure to adhere to price lists; exchanging information on future prices; and defining

and classifying customers for the purpose of fixing discounts allowed them (4145).

*The Wire Rope & Strand Manufacturers Association, Inc., of Washington, D.C., and others.*--In this proceeding the Commission

directed its order against a price-fixing combination involving the association and its 15 member manufacturers of nonpatented wire rope. Subsequently, the Commission dismissed the complaint as to the association and in its modified findings as to the facts and order directed the respondent manufacturers to cease and desist from entering into, continuing, or carrying out any agreement, understanding, or conspiracy, and from continuing or cooperating in any planned common course of action, for the purpose of fixing prices; adhering to any price-fixing formulas for applying discounts to list prices; establishing, maintaining or adhering to territorial delivered-price zones; making quotations upon a delivered-price basis under a zone system, whereby all of their quotations were made identical to all destinations within a particular zone; adopting uniform classifications of customers; filing and exchanging with each other names of their respective customers; and adopting and using arbitrary definitions and other practices to restrict the selection of and sales to distributors (4443).

*The Milk Cap Statistical Bureau, Philadelphia, and others.*--This unincorporated trade association and its member producers of paper disc milk bottle caps were ordered to cease and desist from entering into and carrying out, or aiding or abetting in the carrying out of, any agreement or concert of action for the purpose or with the effect of restricting or eliminating competition in the sale in commerce of milk container closures, and from doing, pursuant thereto, any of the following acts: fixing or maintaining prices, uniform discounts, terms or conditions of sale, uniform freight charges, uniform quantity prices or price differentials on quantity purchases; consulting or communicating in any manner relative to prices to be quoted and charged; limiting quantities to be sold under single contracts; preventing the making of sales to other than regular jobbers and dairy customers; exchanging intimate details of each other's business; compiling, publishing, or distributing a so-called dairy rating book; and holding and sponsoring meetings for the discussion and interchange of information relative to prices, discounts, conditions, charges or terms of be fixed (4448).

*Specialty Accounting Supply Manufacturers Association, Chicago, and others.*--This unincorporated trade association and its member manufacturers of printed stationery, including sales books, continuous multiple sets of business forms for use in billing machines and typewriters, and autographic register stationery for making handwritten or machine records of various types of business transactions, were ordered to cease and desist from entering into, continuing, cooperating in or carrying out any common course of action in fixing and maintaining prices; arriving at the amounts of any bid or price quotations

submitted to the Federal Government or other buyers; exchanging or distributing among themselves information as to bid submitted or to be submitted to the Federal Government, for the purpose of eliminating competitive bidding; exchanging or circulating among themselves lists of "recognized" jobbers with a view to restricting sales; coercing, or inducing, by espionage or refusal to sell, jobbers or subjobbers for the purpose of securing their adherence to fixed prices; giving to some buyers special or valuable inducements in price which are not accorded other buyers, for the purpose of diverting trade from some sellers; allocating or dividing among themselves any given lot or piece of business; using licensing or cross-licensing arrangements in connection with patent claims for the purpose or with the effect of maintaining prices; exchanging price and statistical information in such manner as to disclose the identity of particular sellers or buyers; and operating any "reporting plan" which has the tendency or effect of depriving the public of any benefit of competition in price (4538).

*Inland Empire Bakers' Association, Inc., Spokane, and others.*--The Commission ordered this incorporated trade association and its members, consisting of bakers and distributors of bread and other bakery products, to cease and desist from entering into, continuing or carrying out, or assisting in the carrying out of, any agreement or conspiracy for the purpose or with the effect of fixing or maintaining uniform prices; and coercing or attempting to coerce any seller of bakery products into establishing or maintaining uniform prices fixed by the respondents (4550).

*Electrical Alloy Section of National Electrical Manufacturers Association, New York, and others.*--Five corporations engaged in the manufacture and distribution of electrical alloy resistance wire and their trade association were ordered to cease and desist from continuing, entering into, carrying out, cooperating or aiding in any planned common course of action or agreement to fix or maintain prices, terms, discounts or conditions of sales; to exchange or distribute among themselves information as to prices, terms or conditions of sale for the purpose of restraining competition; to fix or maintain uniform resistance standards for use in connection with the manufacture of electrical alloy resistance wire, for the purpose of fixing identical prices; and to submit uniform bids (4558).

*National Association of Sanitary Milk Bottle Closure Manufacturers, Philadelphia, and others.*--Six manufacturers of closure milk bottle caps and their trade association were ordered to cease and desist from engaging in or carrying out, pursuant to agreement, any of the following practices: fixing or maintaining uniform discounts, contract

terms, conditions of sale, quantity prices or price differentials; consulting or communicating with each other for the purpose of obtaining consent or agreement relative to prices; limiting the quantity of closure caps which may be bought under a single contract; preventing sales to cooperative buying agencies and acting to confine sales exclusively to jobbers and dairies; forwarding copies of invoices, including price information, to the association; exchanging price lists showing current or future prices with the agreement that such prices shall not be deviated from until new price lists are exchanged; holding meetings for exchange of price information; and compiling, publishing, or distributing a rating book for the purpose or with the effect of establishing ratings upon which price differentials for dairies are to be based (4565).

*Linen Supply Board of Trade of New Jersey, Newark, N.J., and others.*--This trade association and its members, engaged in leasing or renting linen supplies, were ordered to cease and desist from entering into, continuing, cooperating in or carrying out any common course of action or conspiracy to engage in the following practices: fixing or maintaining prices, discounts or other terms and conditions; reporting to the board the names of customers who have leased or rented linen supplies; refraining from soliciting business from customers of other members of the association; adopting or maintaining exclusive-dealing contracts with their customers; requiring indemnities from members who obtained business from customers of other members; setting up or maintaining an arbitration board as a punitive agency to impose fines for non-compliance with the board's regulations; establishing or operating "bogus" independents; checking and policing the prices at which respondent members lease or rent to their respective customers; and coercing or attempting to coerce any manufacturer of linen supplies into refusing to sell or extend credit to supply houses not members of the respondent board (4588).

*Uniform Manufacturers Exchange, Inc., and others, New York.*--Twenty-three manufacturers of uniforms and overcoat s worn by doormen, bellboys and porters, and their incorporated trade association, were ordered to cease and desist from entering into, continuing, cooperating in or carrying out any common course of action or conspiracy in fixing or maintaining prices, terms or conditions of sale, or schedules of costs to be used as a basis for determining any price or bid; reporting or exchanging information showing the names of any members of the exchange who fail to adhere to any schedules of fixed prices or costs; coercing or inducing members of the Uniform Manufacturers Exchange, Inc., to adhere to or maintain fixed prices or costs; and authorizing or permitting any central agency or arbitration board to impose fines or other penalties upon members for failure to maintain fixed prices or costs (4712).

*Garment Box Manufacturers Association, and others, New York.*--An order against the association and its members, engaged in the manufacture and sale of garment boxes, directed them to cease and desist from entering into, continuing, cooperating in or carrying out any planned common course of action or conspiracy in fixing or maintaining prices; adhering or promising to adhere to prices so fixed; exchanging information among themselves concerning proposed or future prices, duplicate invoices, day sales analyses, or other information which discloses to the competing respondent members prices charged or quantities sold; allocating or dividing business among the respondent members; participating in any plan which provides for a penalty for exceeding an established sales quota or provides for reimbursement for failing to sell such quota; coercing or inducing the respondent members to adhere to or maintain fixed prices or sales quotas; and refusing to sell to any buyer who has purchased garment boxes from any seller or distributor not a member of the respondent association (4777).

*Screen Broadcast Corporation, New York, and others.*--An order was issued directing five corporations engaged in the production and distribution of commercial motion picture films used by national advertisers, and two booking agencies and a trade association they organized, to cease and desist from entering into, carrying out or continuing any planned common course of action or conspiracy which has the effect of unduly restraining trade or creating in the respondents a monopoly in the sale, lease, rental, or distribution of such films. As directed against the distributing corporations and their trade association, the order prohibited them from engaging, by agreement, in the following practices, among others: fixing or maintaining screening or display rates to be charged national advertisers, or rates or other compensation to be paid booking agencies; contracting with exhibitors for the exclusive privilege of showing national advertising films in their theaters; agreeing not to accept national film advertising from any source other than the respondent booking agencies; and observing any rate card issued by a booking agency for computing the screening or display rates due a distributor or theater. The order further directed the distributors and the two booking agencies to cease and desist from any agreement whereby the latter agree to sell national film advertising according to screening or display charges cooperatively fixed by the respondent distributors (4736).

#### **FALSE ADVERTISING OF' MEDICINAL PREPARATIONS, DEVICES, AND COSMETICS**

*Purity Products, Inc., Newark, N. J., and others.*--These respondents were ordered to cease and desist from representing that the preparation known as "VBev" has any therapeutic value in the treatment



of any disease caused by or associated with a vitamin B<sub>1</sub> deficiency, or that it is anything more than a food supplement which supplies certain vitamins in quantities which can be obtained through the ingestion of ordinary foods (4021).

*Atmoray, Inc., and Atmozone, Inc., Portland, Oreg.*--Engaged in the manufacture and sale of a medical device known as "Atmoray," an ozone generator intended for use in the treatment of various ailments and diseases of the body, the respondents were ordered to cease and desist from representing that the device, or the quantity of ozone produced by it, is an effective oxidizing, germicidal or disinfecting agent, or possesses any therapeutic value in the treatment of head colds, tuberculosis, arthritis or other diseases or disorders of the body. The order further directed the respondents to cease disseminating advertisements which fail to reveal, among other things, that the safety of the device depends upon its oxygen output, the size and ventilation of the room in which it is used, and the length of time it is operated, and that the inhalation of an excessive amount of oxygen may irritate the respiratory organs (4630).

*United Diathermy, Inc., New York.*--The respondent corporation was ordered to cease and desist from representing that its electrical device designated "United Short Wave Diathermy" is safe or harmless in the treatment of any disease or condition involving an acute inflammatory process, and to discontinue disseminating any advertisement which fails to reveal that it is not safe unless a competent medical authority has determined that use of diathermy is indicated and has prescribed the frequency of application and the user has been adequately instructed by a trained technician in the operation of the device (4453).

*F. A. Stuart Co., Marshall, Mich., and others.*--In the sale of a medicinal preparation designated "Stuart's Laxative Compound Tablets," the respondents were ordered to cease and desist from representing that the product may be used without ill effects and from failing to reveal in advertisements that it should not be taken when symptoms of appendicitis are present; provided, however, that the advertisements need contain only the statement, "CAUTION; Use only as directed," if the directions for use on the label contain a warning to the same effect (4753).

*Dorothy Gray, Ltd., and Lehn & Fink Products Corporation, Bloomfield, N. J.*--An order directed the se companies to cease and desist representing, among other things, that the vitamin D content in Dorothy Gray cosmetic creams will brighten and soften the skin, smooth lines, or provide any beneficial effect whatever or that use of the preparations tightens the relaxed contour of the face, stimulates lagging circulation, and clears the pores of dirt (3447).

*Philip R. Park, Inc., San Pedro, Calif., and others.*--These respondents, engaged in the sale and distribution of a cattle feed designated "ManAmar," were ordered to cease and desist from representing the product has any therapeutic value in the treatment of any germ or infectious or breeding disorder of cattle (4504).

*Other orders involving medicinal preparations, devices, and cosmetics.*--In addition to the orders summarized above, about 35 others were directed against false and misleading advertisements of medicinal preparations, devices, and cosmetics. In some of these cases, the respondents also were ordered to cease and desist from representing their respective preparations as safe and harmless and from failing to disclose in advertisements the harmful effects that might result from indiscriminate or excessive use of the products.

#### **MISREPRESENTING A TOOTH POWDER**

*The R. L. Watkins Co., New York.*--This respondent, engaged in the sale and distribution of a dentifrice known as "Dr. Lyon's Tooth Powder," was ordered to cease and desist from disseminating advertisements containing statements such as "Do As Your Dentist Does--Use Powder," or from representing in any other manner that the product is similar to, or comparable with, the tooth powder used by dentists. The respondent was ordered further to discontinue representing that the product is an effective anti-acid, that it will correct "acid mouth," that it is free from all grit, or that it cannot injure or scratch the tooth enamel (3596).

#### **MISREPRESENTING THE QUALITY AND PERFORMANCE OF AUTOMOBILE TIRES**

*The General Tire & Rubber Co., Akron, Ohio.*--The respondent was ordered to cease and desist from representing that an automobile equipped with its tires can be stopped 50 percent quicker than a car equipped with other brands of tires and that its tires contain more plies than is actually the fact (4608).

#### **MISREPRESENTING THE FIBER CONTENT OF MEN'S CLOTHING**

*Louis A. Walton Co., and others, Chicago.*--The respondents were ordered to cease and desist from using the words "Alpaca," "Camel Hair," "Mohair," "Wool," or "Silk" to describe a garment not composed entirely of the fiber represented by such words unless there are used in immediate connection therewith other words truthfully describing all other constituent fibers or materials. The order also prohibited the respondents from representing that fabrics or garments of domestic manufacture are imported, and from advertising or selling products composed in whole or in part of rayon without clearly disclosing the rayon content (4528).

**MISREPRESENTING AN INCOME TAX SERVICE AS CONNECTED WITH THE UNITED STATES GOVERNMENT**

*Income Audit Service Corporation, and others, Mount Rainier, Md.*--The respondents were ordered to cease and desist representing that their salesmen or agents are in any way connected with the United States Government; that the use of their Income Audit Service is necessary or required under the laws of the United States, or that prospective purchasers who fail to buy and use the service are subject to arrest because of such failure (4715).

**MISREPRESENTATION OF AN ANTIFREEZE SOLUTION**

*Freedom Chemical Co., Inc., Cleveland, Ohio.*--Under the order issued in this case, the respondent, engaged in the sale of a so-called antifreeze solution designated "60 Below," advertised for use in auto-mobile radiators, was directed to discontinue representing that the product is a perfect permanent antifreeze, noncorrosive to automobile metals, nongelatinous, and superior to competing antifreeze solutions which have proved ruinous and costly in use; and that tests conducted by the United States Bureau of Standards show it to be noncorrosive to cooling systems, metals, pumps, and rubber. The respondent also was ordered to cease representing that the product is for use in cooling systems of automotive engines Without disclosing that it is highly corrosive when in contact with metals such as iron, steel, bronze, copper, brass, and aluminum (4905).

In a number of similar proceedings, the Commission has issued complaints against distributors of so-called antifreeze solutions which allegedly have been falsely represented as effective and safe for use in the cooling systems of automotive engines.

**MISREPRESENTATION IN THE SALE OF COLLECTION AGENCY LETTERS**

*Harold M. May, trading as United Inheritance Bureau and Guardian Service Bureau, Buffalo.*--The respondent, engaged in the sale of envelopes and questionnaire letters to collection agencies and creditors for use in obtaining information concerning their alleged debtors, was found by the Commission to have represented falsely that United Inheritance Bureau was engaged in locating heirs to estates, when actually he conducted the business solely to assist others in tracing debtors. The order directed him to cease and desist from using the name "United Inheritance Bureau" to refer to his business, or otherwise representing that it bears any relation to estates or the interests of heirs therein; and from selling form letters and envelopes which represent that his business is other than that of obtaining information to be used in the collection of delinquent accounts (4874).

## **SALES METHODS INVOLVING LOTTERY SCHEMES AND SALE OF DEVICES FOR CONDUCTING THEM**

About 20 orders to cease and desist were issued in cases involving lottery schemes and other games of chance used to promote the sale of candy and other merchandise to the public. Manufacturers and distributors were prohibited from selling merchandise so arranged as to involve the use of a lottery scheme or game of chance in sales of such merchandise to ultimate purchasers. In some cases, orders were issued against the manufacturers and sellers of devices such as punch boards designed for use in lottery schemes.

## **II. ORDERS UNDER THE CLAYTON ACT**

### **A. VIOLATION OF SECTION 2 (a) OF CLAYTON ACT AS AMENDED BY ROBINSON-PATMAN ACT**

Under section 2 (a), which prohibits discrimination in price between different purchasers of commodities of like grade and quality where the effect may be substantially to injure or lessen competition or tend to create monopoly in any line of commerce, the Commission issued two orders to cease and desist:

*The Sherwin-Williams Co., Cleveland, Ohio, and others.*--The order in this case prohibited three paint manufacturers, The Sherwin-Williams Co. and two subsidiary corporations, The Lowe Bros. Co., Dayton, Ohio, and John Lucas & Co., Inc., Philadelphia, from discriminating in price between dealer and dealer-distributor customers by granting to some dealer-distributor customers discounts in addition to the regular volume discounts allowed to all customers on such portion of the purchases of the favored dealer-distributor customers as is sold at retail through their wholly owned and operated retail stores. The order also forbade the respective respondents from continuing or resuming under a discount plan the practice of granting to purchasers operating a chain or retail distribution outlet certain discounts based upon quantity per order when the order is split into several shipments to various of the retail-distribution outlets. Discriminating in price, through the practice of granting to some customers in a particular locality special or additional discounts on purchases made by them and not resold to other dealers, also was forbidden (3965).

*Samuel H. Moss, Inc., New York.*--The respondent in this case, engaged in manufacturing rubber stamps, was ordered to cease and desist from discriminating in the price of rubber stamps of comparable size and of like grade and quality by selling such products to any purchaser at prices materially different from those at which sales are made to other purchasers; provided, however, that this prohibition shall not be construed as prohibiting differentials permitted by section 2 (a) of the Clayton Act (4405).

**B. VIOLATION OF SECTION 2 (c) OF CLAYTON ACT AS AMENDED BY ROBINSON-PATMAN ACT**

Under section 2 (c), which prohibits the granting or acceptance of brokerage except for services rendered in connection with the sale or purchase of merchandise, the Commission issued seven orders to cease and desist, each involving so-called resident buyers, all of New York City, engaged in purchasing furs, fur garments, millinery, women's ready-to-wear apparel, or other merchandise for retail dealers located principally in States other than New York. Respondent resident buyers named in the respective orders are:

*Harry M. Bitterman, Inc.; Isaac S. Sickler; David M. Weiss; Style & Merit Buying Service; Jack Herzog & Co.; Central Buying Service; and L. W. Powers Co.*--The respondents were ordered to cease and desist from the practice of receiving from the sellers, directly or indirectly, brokerage on purchases they make as agents or buying representatives of the purchasers and when they are acting for or in behalf, or are subject to the direct or indirect control, of the purchasers. In one case the order also was directed against several manufacturers and wholesalers of fur garments who were found by the Commission to have paid to the Bitterman firm brokerage fees on the sales prices of furs and fur garments sold by them to Bitterman's retail dealer clients (4229, 4231, 4240, 4249, 4257, 4259, 4299).

**C. VIOLATION OF SECTION 2 (d) OF CLAYTON ACT AS AMENDED BY ROBINSON-PATMAN ACT**

Section 2 (d) prohibits discrimination in the payment for services or facilities furnished by customers. Under this section the Commission issued the following order:

*Grabosky Brothers, Philadelphia.*--The respondents in this case, copartners engaged in the manufacture, sale and distribution of cigars, were ordered to cease and desist from paying or granting anything of value to a customer as compensation for counter, showcase or window displays or other services or facilities furnished by or through such customer in connection with the processing, handling, or offering for sale of the respondents' cigars, unless such payments or allowances are available on proportionally equal terms to all other customers competing with the compensated customers (4740).

**D. VIOLATION OF SECTION 3 OF CLAYTON ACT**

Section 3 prohibits the lease or sale of a commodity or the fixing of a price charged therefor on the condition, agreement or understanding that the lessee or purchaser shall not use or deal in commodities of a competitor of the lessor or seller, where the effect may be to substantially lessen competition or tend to create a monopoly. The Commission issued one order to cease and desist under this section:

*The Brunswick-Balke-Collender Co., Chicago.*--The order directed this manufacturer of bowling pins and other bowling equipment to cease and desist from selling or making any contract for the sale of such equipment on the condition that the purchaser shall not use bowling supplies other than those acquired from the respondent, and from using any sales plan which includes the promotion or operation of a bowling contest which requires a bowling alley proprietor, in order to qualify for the contest, to make purchases from the respondent on the same condition. The order also was directed against practices of the respondent found to be deceptive and to constitute unfair methods of competition in violation of the Federal Trade Commission Act (3604).

## **TYPES OF UNFAIR METHODS AND PRACTICES**

### **TYPICAL METHODS AND PRACTICES CONDEMNED IN ORDERS TO CEASE AND DESIST**

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. This list is not limited to orders issued during the fiscal year. It does not include specific practices outlawed by the Clayton Act and committed to the Commission's jurisdiction, namely, various forms of price discrimination, exclusive and tying dealing 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 names 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. 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.

3. Bribing buyers or other employees of customers and prospective customers, without the employer's knowledge or consent, to secure or hold patronage.

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

5. 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.

6. 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.

7. 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.

8. Trade boycotts or combinations of 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 to coerce the trade policy of their competitors or of manufacturers from whom they buy.

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

10. 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.

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

12. 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 contacts, such as pretended puzzle-prize contests purportedly offering opportunities to win handsome prizes; but in fact mere "come-on" schemes and devices in which the seller's true identity and interest are initially concealed.

13. Using merchandising schemes based on lot or chance, or on a pretended contest of skill.

14. Compelling resale price maintenance by cooperating with others in the use of schemes and practices for compelling wholesalers and retailers to maintain resale prices fixed by a manufacturer or distributor for resale of his product.

15. 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 markets to competitors; or use by trade associations of so-called standard cost systems, price

lists, or guides, or exchange of trade information calculated to bring about these ends, or otherwise restrain or hinder free competition.

16. 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, advertising agency, or publisher.

17. Aiding, assisting, or abetting unfair practice, misrepresentation, and deception, and furnishing means or instrumentalities there-for, 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.

18. Various schemes 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 schemes 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) The use of the "free goods" or service device to create the impression that something is actually being thrown in without charge, when it is fully covered by the amount exacted in the transaction as a whole, or by services to be rendered by the recipient.

(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 representation 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 the 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 or carrying charge on deferred payments.



19. 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.

20. 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, branches, domestic or foreign, or the dealer outlets has.

(b) Making false claim of being the authorized distributor of some concern, or failing to disclose the termination of such a relationship, in soliciting customers of such concerns, or of being successor thereto or connected therewith, or of being the purchaser of competitor's business, or falsely representing that said 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 services by, the Government or nationally known organizations, or representation that the use of such product or services is required by the Government.

(d) False claim by a vendor of being an importer, or a technician, or a diagnostician, or a manufacturer, grower, or nurseryman, 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 patent, trade-mark, or other special and exclusive rights.

(j) Misrepresentation by the publisher of the advertisers' products as compared with competing products, services or other commercial offering, by the issuance of seals of approval or other insignia of pretended tests, inquiries, investigations or guaranties, or by the publication of exaggerated claims.

21. 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 fulfillment, or falsely making promises or holding out guarantees, or the right of return, or results, or refunds, replacements, or reimbursements, or special or additional advantages to the prospective purchaser, such as extra credit, or furnishing of supplies or advisory assistance; 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 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 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 offered.

(h) Advertising a price for a product as illustrated or de-scribed 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.

22. 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 contained 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 or 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.

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

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

25. Coercing and forcing uneconomic and monopolistic reciprocal dealing.

26. 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.

27. 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.

28. 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 retailing, 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.

29. 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.

30. Inducing the shipment and sale of commodities through buyer's issuance of fictitious price lists and other printed matter falsely representing rising market conditions and demand, and leading seller to ship under the belief that he would receive prices higher than the buyer intended to or did pay.

## **CASE IN FEDERAL COURTS**

### **COMMISSION ACTIONS IN THE UNITED STATES SUPREME, CIRCUIT AND DISTRICT COURTS**

Results favorable to the Commission during the fiscal year were obtained in United States courts in 37 cases, of which 24 were before United States circuit courts of appeals and 13 before United States district courts. Two Commission orders were set aside in the circuit court of appeals.

The Supreme Court in three cases denied petitions for certiorari bought by respondents: in two instances where circuit courts of appeals had affirmed Commission orders and in one where a circuit court of appeals had affirmed the judgment of a district court imposing penalties for violation of a Commission order.

Circuit courts of appeals affirmed 16 orders to cease and desist issued by the Commission (3 with modifications) and dismissed petitions for review in 6 cases. In one case the court of appeals denied the petition of a respondent for a modification of a decree affirming a Commission order; in another it refused to enjoin penalty proceedings instituted in a district court on behalf of the Commission; and in a third it remanded the case to the Commission for further consideration.

On motion of the Commission, district courts in three instances dismissed actions instituted by respondents: in one case a petition for

review of a Commission order; in a second where an injunction was sought to prevent the trial of a Commission proceeding; and in a third a suit for a declaratory judgment.

District courts imposed civil penalties for violation of Commission orders in nine cases, one such suit being dismissed without prejudice.

On application of the Commission, a district court also enjoined the dissemination of false advertisements of certain medicinal preparations.

Twenty-six petitions for review of Commission cease and desist orders were filed during the year.

#### **PETITIONS TO REVIEW CEASE AND DESIST ORDERS**

Petitions in the United States circuit courts of appeals to review cease and desist orders issued under section 5 of the Federal Trade Commission Act and sections 2 and 3 of the Clayton Act are summarized below.

(Except where otherwise indicated, cases involve violations of the Federal Trade Commission Act. United States circuit courts of appeals are designated First Circuit (Boston), etc.)

#### **CASES DECIDED BY THE COURTS**

*American Medicinal Products, Inc. and others, Los Angeles.*--A Commission order directed against the nondisclosure, by petitioners, of the harmful potentialities of a flesh-reducing compound advertised and sold under the name "Reducoids", was affirmed without dissent by the Ninth Circuit (San Francisco) (136 F. 2d 426).

*Earl Aronberg, trading as Positive Products Co. and Rex Products Co., Chicago.*--The Seventh Circuit (Chicago) unanimously affirmed a Commission order directed against failure to disclose the dangerous character of emmenagogues (132 F. 2d 165). Concurring in the Commission's criticism of the petitioner's advertising, the court called attention to the fact that "the buying public does not ordinarily carefully study or weigh each word in an advertisement" and that "the ultimate impression upon the mind of the reader arises from the sum total of not only what is said but also of all that is reasonably implied." A petition for rehearing was denied.

*Associated News Photographic Service, inc., and others, New York.*--By stipulation, the petition for review was withdrawn and the proceeding dismissed by the Second Circuit (New York), the petitioners having effected a complete change in their corporate name. The Commission order forbade the use of the word "News" in such name to designate a business principally that of selling photographic prints. The petitioners were professional photographers and did not operate as the photographic department or agency of any newspaper or news agency.

*Benton Announcements, Inc. Buffalo.*--The Second Circuit (New York) affirmed a Commission order proscribing the misrepresentation of embossed printing as "engraving" (130 F. 2d 254). The court, commenting upon the practice, remarked that "It is true that few, if any, but experts in the craft can distinguish between 'engraving' as the Commission has defined it and the petitioner's stationery; nevertheless, people like to get what they think they are getting, and courts have steadfastly refused in this class of cases to demand justification for their preferences."

*J. A. Bockenstette and Rose M. Bockenstette, Sabetha, Kans.*--A unanimous decision affirming and enforcing a Commission order prohibiting exaggerated claims as to the average egg production of hens raised from chicks sold by the petitioners was handed down by the Tenth Circuit (Denver) (134 F. 2d 369). Referring to the petitioners' claims that their advertisements were not misleading and that there was no evidence that any person was actually deceived, the court stated that "words and sentences may be literally and technically true and yet be framed in such a setting as to mislead or deceive. \* \* \* It is not necessary, however, for the Commission to find that actual deception resulted. It is sufficient to find that the natural and probable result of the challenged practices is to cause one to do that which he would not otherwise do \* \* \* and that the matter is of specific public interest."

*De Forest's Training, Inc., Chicago.*--A Commission order banning advertisements exaggerating the possibilities or opportunities for the employment of students or graduates of the petitioner's home-study course in television was modified in one particular, and then affirmed and enforced by the Seventh Circuit (Chicago) (134 F. 2d 819). The court agreed with the Commission "that the statements have the tendency to, and do, mislead and deceive a substantial portion of the public." The petitioner's petition for rehearing was denied.

*John J. Fulton Co., San Francisco.*--By an undivided court (130 F. 2d 85), the Ninth Circuit (San Francisco) affirmed a Commission order outlawing what were found to be misrepresentations as to the therapeutic value of "Uvursin," a product sold as an effective treatment for diabetes. The petitioner argued that since none of the expert witnesses called by the Commission had prescribed Uvursin or observed its effects in concrete cases, their testimony was incompetent and inadmissible. The court stated: "There is no good reason to suppose them incompetent to express an opinion as to the lack of therapeutic value of petitioner's preparation merely because they had had no personal experience with it in the treatment of the disease. Their general medical and pharmacological knowledge qualified them to testify." A petition for certiorari was denied (317 U.S. 679).

*General Motors Corporation and General Motors Sales Corporation, Detroit.*--On motion of the petitioners, the Sixth Circuit (Cincinnati) entered an order permitting withdrawal of the petition for review. The Commission order proscribed coercive and monopolistic practices by the petitioners in their relations with their dealers as violations of the Federal Trade Commission Act and section 3 of the Clayton Act. Prior to the certification of the record, the petitioners proposed that if the Commission would make clarifying modifications in its order, they would withdraw their appeal and file a report of compliance. The Commission approved the proposal, with the result referred to.

*Grand Rapids Furniture Co., Inc., Passaic, N. J.*--The Third Circuit (Philadelphia) affirmed a Commission order forbidding the use of the name "Grand Rapids" in the corporate name and as descriptive of furniture (not manufactured in Grand Rapids, Mich.) sold by the petitioner (134 F. 2d.332)

*International Parts Corporation, Chicago.*--A decision vacating the Commission order in this proceeding was handed down by the Seventh Circuit (Chicago) (133 F. 2(1 883). The order was directed against what were found by the Commission to be misrepresentations concerning the efficiency of automobile mufflers sold by the petitioner and the disparagement of competitive devices.

*Jergens-Woodbury Sales Corporation, Cincinnati.*--On joint motion of the parties, the Sixth Circuit (Cincinnati) entered a consent decree modifying (clarifying) in certain respects the findings as to the facts and order to cease and desist, affirming the order so modified and commanding obedience to the terms thereof. The order prohibited what the Commission found to be misrepresentations as to the germicidal properties of cosmetic creams, face powders, and soaps.

*Koch Laboratories, Inc., and others, Detroit.*--Upon application of the Commission, the District Court for the Eastern District of Michigan (Detroit) issued a temporary injunction requiring these parties to cease disseminating false advertisements concerning medicinal preparations designated "Glyoxylyde," "B-Q," and "Malonide Ketene Solution," sold as treatments for various diseases and ailments.

*Albert Lane, Berkeley, Calif.*--Without dissent, the Ninth Circuit (San Francisco) affirmed a Commission order banning what were found to be false claims by Lane as to his status as a consumers' research organization and his affiliation with the National Bureau of Standards, the Mellon Institute of Industrial Research and the Massachusetts Institute of Technology (130 F. 2d 48).

*J. B. Lippincott Co., Philadelphia, and others.*--The Third Circuit (Philadelphia) set aside the Commission order in this case in so far as it related to the Lippincott Company (137 F. 2d 490). The order



proscribed practices found by the Commission to be in restraint of trade in the sale of medical books.

*Lottery cases.*--Six cases involving lottery methods in the sale of candy, punchboards and other merchandise were decided favorably to the Commission, as follows:

Following the denial of their petition for certiorari (317 U.S. 683), Philip Harry Koolish and Sara Allen Koolish, trading as Standard Distributing Co., Chicago, filed petition for rehearing, which likewise was denied by the Supreme Court (317 U.S. 711).

On motion of the Commission, the district court at Minneapolis dismissed the petition for review filed by Perce P. Green and Howard Rand, trading as Green Supply Co., National Merchandising Co. and National Supply Co., Minneapolis, on the ground that exclusive jurisdiction to review cease and desist orders of the Commission was conferred upon the circuit courts of appeals.

The district court at Philadelphia granted the Commission motion to dismiss the action for preliminary injunction instituted against it by the Globe Printing Co., Philadelphia, and the Globe Cardboard Novelty Co., Inc., New York, the court holding that it was "without power to enjoin the holding of hearings or the taking of testimony in the proceeding before the Commission, or to otherwise interfere with or restrain the conduct of such proceeding" (50 F. Supp. 289).

The Seventh Circuit (Chicago) disposed of three cases. On motion of the Commission, it dismissed the petition for review filed by the Boulevard Candy Co., Chicago, for failure to prosecute its appeal from the Commission order. It unanimously affirmed Commission orders directed against Louis Keller and William Carsky trading as Casey Concession Co., Chicago (132 F. 2d 59), and Alvin B. Wolf, trading as Deluxe Products Co. and Delco Novelty Co., Chicago (135 F. 2d 564). In the latter case, the petitioner complained that there was no injury to competition within contemplation of the Federal Trade Commission Act. The court, however, called attention to the 1938 amendment to the act, which was enacted to broaden the jurisdiction of the Commission, and stated that "it is no longer necessary to show competition, if there is an act or practice in commerce inimical to the public interest."

*Miles Laboratories, Inc., Elkhart Ind.*--On motion of the Commission, the United States District Court at Washington, D. C., dismissed an action for a declaratory judgment instituted by this corporation (50 F. Supp. 434).

Investigation by the Commission had led it to believe that, in connection with the advertisement and sale of Dr. Miles Nervine, Dr. Miles Nervine Tablets, and Dr. Miles Anti-Pain Pills, the plaintiff was using unfair methods of competition and deceptive acts and

practices, in that its labels and packages failed adequately to reveal the potential danger to health that might result from excessive use of the preparations. The Commission had accorded the plaintiff opportunity of disposing of the ease by signing a stipulation as to the facts and agreeing to cease and desist from disseminating advertisements which failed to reveal that excessive use of the Nervine remedies might cause mental derangement or skin eruptions, while excessive use of the Anti-Pain Pills might cause collapse or dependence upon the active ingredients contained therein. The proposed stipulation gave the plaintiff the option of including such warnings and cautions on its labels. However, it refused to sign the stipulation and filed suit for a declaration that the Commission was acting outside the scope of its jurisdiction and had no authority to determine the legality of the language used on the labeling of the plaintiff 's products or to force it to alter such language.

In dismissing the case 3, the court remarked "that the Declaratory Judgment Act \* \* \* did not enlarge the preexisting jurisdiction ,of the federal courts" and that "if the Commission erroneously assumes jurisdiction and issues an order to cease and desist, such an order and the proceedings upon which it is based are subject to review by and only by a Circuit Court of Appeals of the United States."

*Philip R. Park, Inc., Los Angeles*--The Ninth Circuit (San Francisco) unanimously affirmed a Commission order outlawing false claims for the curative properties of a dehydrated kelp product sold as "Granular Parkelp" and "Parkelp Tablets" (136 F. 2d 428).

*Perfect Voice Institute, and others, Chicago* --This petition for review was withdrawn by the petitioners in the Seventh Circuit (Chicago), the action following the acceptance by the Commission of a report showing revision of advertising literature in compliance with the Commission order, which forbade misrepresentations concerning the value of a correspondence school course in voice culture.

*Pond's Extract Co., New York*--By stipulation of the parties, the petition for review filled in the Second Circuit (New York) was withdrawn and the proceedings discontinued. The basis for this action was the acceptance by the Commission of the petitioner's report showing compliance with its order proscribing misrepresentations of the curative properties of cosmetics.

*Salt Producers Association, Detroit, and others*--The Seventh Circuit (Chicago) held that the Commission was entitled to have its order in this case affirmed and enforced after modification in certain particulars (134 F. 2d 354). The order directed the petitioners to "cease and desist from entering into, continuing, or carrying out, or

<sup>3</sup> After the court dismissed the suit, the commission, on July 6, 1943, issued its formal complaint against Miles Laboratories, Inc.

directing, instigating, or cooperating in, any common course of action, mutual agreement, combination or conspiracy, to fix or maintain the prices of salt, or curtail, restrict, or regulate the production or sale thereof." In directing a clarification of the order, the court remarked that "it is \* \* \* of the utmost importance that the petitioners know exactly what they are prohibited from doing, for their failure to comply subjects them to punishment for contempt, which punishment should, and doubtless will be, substantial."

*The Sebrone Co., and others, Chicago.*--A decision unanimously (affirming the Commission order in this case and commanding the petitioners to comply therewith was handed down by the Seventh Circuit (Chicago) (135 F. 2d 676). The order prohibited misrepresentations as to the properties of certain preparations sold as a cure for dandruff and as a deodorant.

*Signode Steel Strapping Co., Baltimore.*--The Fourth Circuit (Richmond), by an undivided court (132 F. 2d 48), affirmed a Commission order directed against what was found to be a violation of section 3 of the Clayton Act, in connection with the leasing of strapping and wire-tying machines on the condition that they be not used with strapping or wire except that supplied by the lessor.

*Clara Stanton, Druggist to Women, Denver.*--A decision affirming and enforcing a Commission order banning false and misleading advertising of "Anti-Fat Tablets" was handed down by the Tenth Circuit (Denver) (131 F. 2d 105).

*The Wire Rope & Strand Manufacturers Association, Washington, D.C., and others.*--On joint motion of the parties, the Fourth Circuit (Richmond) entered an order dismissing the petition for review filed in this case, which sought a review of a Commission order directing the discontinuance of a price-fixing combination in connection with the sale of nonpatented wire rope. A petition filed in the same court by individual members of the association is pending. (See p.39 and p. 66.)

*Zellerbach Paper Co., San Francisco.*--The Ninth Circuit (San Francisco) denied this company's petition for a modification of the court's 1927 decree (cf. 273 U. S. 52) which had affirmed a Commission order directed against price-fixing practices. The company contended that certain war legislation, and regulations, orders and directives issued by administrative bodies under Presidential authority, might be construed as requiring it to enter into voluntary price-ceiling agreements conflicting with the Commission order and the court decree affirming it. The Commission previously had assured the company that it would initiate no action and take no steps toward procuring further judicial sanctions in enforcement of the decree during the present emergency.

**CIVIL PENALTIES UNDER THE FEDERAL TRADE COMMISSION ACT**

Ten cases which had been certified to the Attorney General of the United States under section 16 of the Federal Trade Commission Act were disposed of and judgments for civil penalties in the sum of \$9,575 were entered, as follows:

*Bureau of Hygiene, Inc., New York.*--District Court for the Southern District of New York; judgment for \$500.

*Sweet Candy Co., Salt Lake City.*--District Court for the District of Utah; judgment for \$1,000.

*Sweets Company of America, Inc., New York.*--District Court for the District of New Jersey; judgment for \$1,000.

*Wilson Chemical Co., Inc., Tyrone, Pa.*--District Court for the Western District of Pennsylvania; judgment for \$1,800.

*Ink. Company of America, Chicago.*--District Court for the Northern District of Illinois; judgment for \$525:

*Midwest Sales Syndicate, Chicago.*--District Court for the Northern District of Illinois; judgment for \$750.

*Meister Candy Co., Cambridge, Wis.*--District Court for the Western District of Wisconsin; judgment for \$1,000.

*Motor Equipment Specialty Co., Beaver City, Nebr.*--District Court for the District of Nebraska; judgment for \$500.

*E. R. Page Co., Inc., Marshall, Mich.*--District Court for the Eastern District of Michigan; dismissed without prejudice.

*American Television Institute, Inc., Chicago.*--District Court for the Northern District of Illinois; judgment for \$2,500.

The Supreme Court denied petition for certiorari (317 U. S. 637) filed by Joseph A. Piuma, Los Angeles, who sought a review of the decision of the Ninth Circuit (San Francisco) (126 F. 2d 601) affirming the judgment of the district court imposing penalties of \$3,250 for violation of a Commission order.

The Second Circuit (New York) denied motion for injunction against the Commission, the Attorney General of the United States and the United States District Attorney at Chicago, sought by the Standard Education Society, and others, Chicago, for the purpose of enjoining further proceedings in connection with a suit for civil penalties instituted in the District Court for the Northern District of Illinois.

**CASES PENDING IN THE COURTS**

*Agricultural insecticide & Fungicide Association, New York.*--Second Circuit (New York), petitions filed by certain members of association, *ii e.* Phelps Dodge Refining Corporation, Tennessee Corporation, John Powell & Co., Inc., and others, and American Cyanand & Chemical Corporation. The charge: price-fixing combination.

*Associated Laboratories, Minneapolis.*--Eighth Circuit (St. Louis), false and misleading advertising of "Detoxifier" for colonic irrigation.

*Joseph G. Branch, trading as Joseph G. Branch Institute of Engineering and Science, Chicago.*--Seventh Circuit (Chicago), misrepresentation of correspondence school as properly qualified and recognized educational institution of higher learning with power to confer degrees.

*Hiram Carter, Inc., Elmhurst Long Island, N. Y.*--Court of Appeals for the District of Columbia, misrepresentation of efficacy of proprietary medicines.

*Charles of the Ritz. Distributors Corporation, New York.*--Second Circuit (New York), unwarranted claims for benefits to be derived from cosmetics.

*Corn Products. Refining Co. and Corn Products Sales Co., New York.*--Seventh Circuit (Chicago), price discriminations and restrictive-dealing contracts in violation of sections 2 and 3 of the Clayton Act.

*Fresh Grown Preserve Corporation, Lyndhurst, N.J., and others.*--Second Circuit (New York), false labeling and misbranding of preserves. This case is before the court for consideration of additional evidence it ordered taken by the Commission.

*Joan Clair Gelb, now known as Joan C. Vaughan, California, Leon A. Spilo, Stamford, Conn., and Morris Gelb, New York.*--Second Circuit (New York), misrepresentation of hair dyes.

*Greening Nursery Co., Monroe, Mich.*--Sixth Circuit (Cincinnati), false and misleading advertising concerning the bud-selection method of grafting in the propagation of fruit trees.

*Houbigant, Inc., Cheramy, Inc., and Houbigant Sales Corporation, New York.*--Second Circuit (New York) misrepresentation of domestically compounded perfumes as imported.

*Adolph Kastor & Bros., Inc., New York.*--Second Circuit (New York), passing off of name, Boy Scout knives.

*Lottery cases.*--Second Circuit (New York) : Mitchell Cinader, New York; Empire Merchandise Corporation and Sophie Rubman, New York; and Harry Froman, trading as Supreme Sales Co. and Reliable Premium House, New York. Seventh Circuit (Chicago) Eugene Russell Jaffe, alias E. J. Russell, doing business as Sterling Sales Co. and Craftsman Sales Co., Chicago.

*Lustberg, Nast & Co., Inc., New York.*--Second Circuit (New York), use of term "Buck Skein" in describing and designating sports clothes made of cotton, wool and rayon.

*Samuel H. Moss, Inc., New York.*--Second Circuit (New York), discrimination in price of made-to-order rubber stamps, in violation of section 2 of the Clayton Act.

*E. B. Muller & Co., Port Huron, Mich., and Heinr. Franck Sons, Inc., Flushing, N. Y.*--Sixth Circuit (Cincinnati), discrimination in price of granulated chicory, in violation of section 2 of the Clayton Act, and restraint of trade.

*National Press Photo Bureau, Inc., Kay Hart Studios, Inc., Bolivar Studios, Inc., New York.*--Second Circuit (New York), using the words "National Press," etc., in the corporate name to describe a commercial photographic business, or otherwise implying that petitioners are news or press photographers.

*Philip R. Park, Inc., San Pedro, Calif.*--Ninth Circuit (San Francisco), false and misleading advertising of concentrated food for cattle.

*Parke, Austin & Lipscomb, Inc., and Smithsonian Institute Series, Inc., New York.*--Second Circuit (New York), misrepresentation, in connection with the sale of books, of the respondents' relationship with Smithsonian Institution, of Washington, D. C., and with the United States Flag Association.

*Post Institute Sales Corporation, and others, New York.*--Second Circuit (New York), false and misleading advertising of hair and scalp preparations.

*Surveying-Drafting-Coaters Section of Scientific Apparatus Makers of America, Philadelphia, and others*--Seventh Circuit (Chicago), combination in restraint of trade in various products used by engineers and surveyors.

*Segal Lock & Hardware Co., Inc., Norwalk Lock Co., and Louis Se gal, New York.*--Second Circuit (New York), using such words as "pick proof" to describe petitioners' locks, or otherwise representing that they cannot be picked.

*Segal Optical Co., New York.*--Second Circuit (New York), misrepresentation of imported (Japanese) optical goods as domestic.

*Jacob Siegel Co., Philadelphia.*--Third Circuit (Philadelphia) misleading use of the name "Alpacuna" to designate overcoats and topcoats containing no vicuna fiber.

*A. E. Staley Manufacturing Co. and The Staley Sales Corporation, Decatur, Ill.*--Seventh Circuit (Chicago), discriminations in delivered price of glucose, in violation of section 2 of the Clayton Act. The case was remanded to the Commission "for further consideration and hearings, if necessary" (135 F. 2d 453).

*Standard Education Society, and others, Chicago.*--Second Circuit (New York), misrepresentations in connection with the sale of encyclopedias. The case was referred to the Commission as Special Master to take testimony and report concerning alleged violations of a Commission order previously affirmed by the court.

*Stanley Laboratories, Inc., and others, Portland, Oreg.*--Ninth Circuit (San Francisco), misleading advertisements of "M. D. Medicated Douche Powder."

*Stephen Rug Mills, Yew York.*--Second Circuit (New York), mis-leading use of word "Mills" in trade name.

*Ultra-Violet Products, Inc., Los Angeles.*--Ninth Circuit (San Francisco), misrepresentations concerning the therapeutic value of an ultraviolet ray lamp designated "Life Lite."

*United States Maltster Association, Chicago, and others.*--Seventh Circuit (Chicago), price-fixing combination.

*United States Steel Corporation, American Bridge Co., Carnegie-Illinois Steel Corporation, American Steel & Wire Co. of New Jersey, and Tennessee Coal, Iron & Railroad Co.*--Third Circuit (Philadelphia) and Fifth Circuit (New Orleans), use of "Pittsburgh plus" prices for rolled steel products, in violation of the Clayton and Federal Trade Commission Acts.

*Warner's Renowned Remedies Co., Minneapolis.*--Court of Appeals for the District of Columbia, misleading advertising of products sold for feminine hygiene.

*Wholesale Dry Goods Institute, Inc., New York, and others.*--Second Circuit (New York) restraint of trade.

*The Wire Rope & Strand Manufacturers Association, Washington, D. C.*--As previously noted (see p.62), the petition for review filed by this association was dismissed by the Fourth Circuit (Richmond) on joint motion of the parties. A petition filed at the same time in the same court by individual members of the association is pending.

*Zenith Radio Corporation, Chicago.*--Seventh Circuit (Chicago), exaggeration of range of receptivity of radio receiving sets.

## TABLES SUMMARIZING WORK OF THE LEGAL DIVISIONS AND COURT PROCEEDINGS, 1915-43

TABLE 1.--*Preliminary inquiries*

FISCAL YEAR ENDED JUNE 30, 1943		CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1943	
Pending beginning of year	85	Inquiries instituted	28,974
Instituted during year	186	Consolidated with other proceedings	51
Total for disposition	271	Closed after investigation	20,793
		Docketed as applications for	
Consolidated with other proceedings	17	complaint	8,045
Closed after investigation	140		
Docketed as applications for complaints	29	Total disposition	28,889
Total disposition during year	186	Pending June 30, 1943	85
Pending end of year	85		

TABLE 2.--*Applications for complaints*

FISCAL YEAR ENDED JUNE 30, 1943		CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1943	
Pending beginning of year	1,032	Applications docketed	18,373
Applications docketed	783	Rescissions:	
Rescissions:		To complaints	10
To complaints	0	Settled by stipulations to	
Settled by stipulation to cease and		cease and desist	222
desist	4	Settled by acceptance of	
Settled by acceptance of TPC		TPC rules	6
rules	0	Consolidated with other	
Consolidated with other pro-		proceedings	0
ceedings	0	Dismissed for lack of	
Dismissed for lack of merit	0	merit	81
Closed for other reasons	2	Closed for other rea-	
		sons <sup>1</sup>	42
Total for disposition	1,821	Total for disposition	18,734
To complaints	170	To complaints	4,543
Settled by stipulation to cease and		Settled by stipulations to	
desist	260	cease and desist	5,942
Settled by acceptance of TPC rules	0	Settled by acceptance of TPC	
Consolidated with other proceedings	17	rules	97
Dismissed for lack of merit	0	Consolidated with other pro-	
Closed for other reasons	427	ceedings	122
Total disposition during year	874	Dismissed for lack of merit	3,883
Pending end of year	947	Closed for other reasons <sup>1</sup>	3,220
		Total disposition	17,787
		Pending June 30, 1943	947

<sup>1</sup> This classification includes such reasons as death, business or practices discontinued, private controversy, controlling court decisions, etc.

TABLE 3.--*Complaints*

FISCAL YEAR ENDED JUNE 30, 1943		CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1943	
Pending beginning of year	371	Complaints	4,990
Complaints docketed	212	Rescissions:	
Rescissions:		Orders to cease and desist	63
Orders to cease and desist	3	Settled by stipulations to	
Settled by stipulations to cease and		cease and desist	1
desist	0	Settled by acceptance of	
Settled by TPC rules	0	TPC rules	0
Dismissed for lack of merit	1	Dismissed for lack of	
Closed for other reasons <sup>1</sup>	0	merit	11
Total for disposition	587	Closed for other reasons	1
Complaints rescinded	0	Total for disposition	5,066
Orders to cease and desist	165	Complaints rescinded	12
Settled by stipulations to cease and de-		Orders to cease and desist	3,482
sist	1	Settled by stipulations to cease	
Settled by acceptance of TPC rules	0	and desist	57
Dismissed for lack of merit	10	Settled by acceptance of TPC	
Closed for other reasons <sup>1</sup>	7	rules	23
Total disposition during year	183	Dismissed for lack of merit	909
Pending end of year	404	Closed for other reasons <sup>1</sup>	179
		Total disposition	4,662
		Pending June 30, 1943	404

<sup>1</sup> This classification includes such reasons as death, business or practices discontinued, private controversy, controlling court decisions, etc.





68 ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION

TABLE 4.--*Court proceedings-orders to cease and desist-petitions for review lower courts*  
 FISCAL YEAR ENDED JUNE 30, 1943 CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1943

Pending beginning of year	37	Appealed	322
Appealed	22	Decisions for Commission	138
		Decisions for others <sup>1</sup>	96
Total for disposition	59	Petitions withdrawn	53
Decisions for Commission	16		
Decision's for others	2	Total disposition	287
Petitions withdrawn	6	Pending June 30, 1943	35
Total disposition during year	24		
Pending end of year	35		

<sup>1</sup> This table lists a cumulative total of 96 decisions in favor of the respondent in Commission cases before the United States Circuit Courts of Appeals. However, the Grand Rapids furniture (veneer) group (with 25 different docket numbers) was in reality i case, with 25 different subdivisions. It was tried, briefed, and argued as i case and was so decided by the court of appeals. The same held true of the curb-pump group (with 12 different subdivisions), the Royal Milling Co. group (with 6 different subdivisions), and the White Pine cases (12 subdivisions). In reality, therefore, these 55 docket numbers mean but 4 cases; and, if cases and not docket numbers are counted, the total decisions in favor of the respondents would be 45.

NOTE.--During the period 1919-38, inclusive, 58 petitions by the Commission for enforcement of orders to cease and desist were passed upon by courts. Of these proceedings, 54 were decided in favor of the Commission ; 4 in favor of adversaries. Petitions for enforcement were subsequently made unnecessary by amendment of the Federal Trade Commission Act making orders finally effective unless review is sought by respondents within 60 days after service of an order.

TABLE 5.--*Court proceedings-orders to cease and desist-petitions for review--Supreme Court of the United States*  
 FISCAL YEAR ENDED JUNE 30, 1943 CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1943

Pending beginning of year	0	Appealed by Commission	46
Appealed by Comission	0	Appealed by others	37
Appealed by others	2		
Total for disposition	2	Total appealed	83
Decisions for Commission	0	Decisions for Commission	27
Decisions for others	0	Decisions for others	13
Petitions withdrawn by Commission	0	Petitions withdrawn by Commission	2
Certiorari denied Commission	0	Certiorari denied Commission	9
Certiorari denied others	2	Certiorari denied others	32
Total disposition during year	2	Total disposition	83
Pending end of year	0	Pending June 30,1943	0

TABLE 6.-*Court proceedings--mandamus, injunction, etc.--lower courts*  
 FISCAL YEAR ENDED JUNE 30, 1943 CUMULATIVE SUMMARY, 1915 To JUNE 30, 1943

Pending beginning of year	1	Instituted by Commission	71
Instituted by Commission	0	Instituted by others	35
Instituted by others	3		
Total for disposition	4	Total instituted	106
		Decisions for Commission	80
		Decisions for others	17

Decisions for Commission	4	Petitions withdrawn by Commission	4
Decisions for others	0	Petitions withdrawn by others	5
Petitions withdrawn by Commission	0		
Petitions withdrawn by others	0		
		Total disposition	106
Total disposition during year	4	Pending June 30, 1943	0
Pending end of year	0		

TABLE 7.-*Court proceedings--mandamus, injunction, etc.--Supreme Court of the United States*

FISCAL YEAR ENDED JUNE 30, 1943		CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1943	
Pending beginning of year	0	Appealed by Commission	8
Appealed by Commission	0	Appealed by others	2
Appealed by others	0		
		Total appealed	10
Total for disposition	0	Decisions for Commission	2
		Decisions for others	5
Decisions for Commission	0	Certiorari denied Commission	1
Decisions for others	0	Certiorari denied others	2
Certiorari denied Commission	0		
Certiorari denied others	0	Total disposition	10
		Pending June 30, 1943	0
Total disposition during year	0		
Pending end of year	0		

## **PART III. TRADE PRACTICE CONFERENCE RULES**

### **CODIFIED RULES OF FAIR COMPETITION FOR INDUSTRIES**

Effective and economical means of preventing the use of unfair competitive methods or the growth of monopolistic restraints and abuses in industry is provided by fair trade practice conference rules, codified to meet the needs of the respective industries covered. Under these rules as promulgated by the Commission from time to time, the voluntary cooperation of members of industries is enlisted and utilized to effectuate the abandonment of unfair methods and practices and the maintenance of competition which is free and constructive. Such rules are established through trade practice conferences of all members of the respective industries under the auspices of the Commission and upon due hearing and collaboration of the various parties in interest, including representatives of the purchasing public. The rules, when so codified by the Commission for an industry, become, in a sense, the law merchant in that industry on the subject of maintaining free and fair competition and the prevention of the growth of practices which are harmful to sound business and the public interest. More than 150 industries are operating under such established rules which, in codified form, are published as part of the United States Code of Federal Regulations.

Perhaps the simplest and most economic method known for the elimination and prevention of competitive abuses is provided by the established trade practice conference method. By means of such rules the different competitive practices or methods, which under the statutes and the various decisions of the courts or the Commission are considered to fall within the inhibitions of the law, are clarified and listed in the form of specific rules applicable to the particular conditions existing in the industry concerned. Such clarification and codification of legal requirements and the organization of cooperative endeavor under supervision of the Commission in the elimination of undesirable practices and the maintenance of fair competitive conditions are vastly important to industry, to the public, and to the Government. It leads to the wholesale elimination and abandonment of unfair and illegal methods of competition, thereby bringing to legitimate business and the purchasing and consuming public relief and protection from harmful exploitation and the waste and burdens of such methods. Voluntary cooperation in the elimination of harmful

practices also results in substantial saving to the Government and to business in the expense which otherwise would necessarily be incurred in instituting a multiplicity of compulsory legal proceedings against individual offenders to require cessation of the practices in question.

Rules appropriate for the approval or sanction of the Commission may include not only provisions for the elimination of practices which are illegal per se, or are contrary to the general public interest, but also provisions for fostering and promoting practices which are designed to aid fair competition and to elevate the standards of business ethics in harmony with public policy.

*Procedure for establishing industry rules.*--The procedural steps applicable to industry proceedings for establishment of trade practice rules, including the filing of application for holding of industry conferences and public hearings, and the promulgation of industry rules, are covered in the Commission's Rules of Practice (see p. 105). Any interested party or any group in an industry, large or small, may apply to the Commission for conference proceedings to establish rules in the industry. No special formality is required in making application; a letter or other communication requesting that the Commission undertake conference proceedings in the industry will suffice.

*Trade Practice Conference Division.*--This division is charged with the duty of conducting the various activities relative to trade practice rules, the holding of industry conferences in such matters, administration, compliance work, and all other staff duties incident to the trade practice conference procedure. The division also is charged with the various duties relating to administration of the Wool Products Labeling Act and the rules and regulations promulgated thereunder (see p. 77).

## **GROUP I AND GROUP II RULES DEFINED**

Trade practice rules as finally promulgated are classified by the Commission as Group I and Group II rules, respectively:

*Group I rules.*--The unfair trade practices which are embraced in Group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission, as construed in the decisions of the Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in commerce.

*Group II rules.*--These rules embrace the wholly voluntary or recommended industry practices as distinguished from mandatory requirements. No such industry rule is received by the Commission

unless the provision is in harmony with law and the public interest and is constructively in support of the maintenance of fair competitive conditions in the industry.

### INDUSTRY RULES AND THEIR OPERATION

Industries thus far placed under fair trade practice rules are of great variety, embracing heavy industries as well as so-called consumer goods industries. The practices treated and the products of the different industries are likewise of great variety (see pp.73 to 75, inclusive). Active operations during the fiscal year were concerned with more than 150 industries. Work in connection therewith covered necessary compliance activities, interpretation of the rules, and their application to specific situations arising in respective industries. The codified provisions aggregate many hundreds of rules. For example, the last 50 industries on the list embrace a total of 884 rules, of which 773 are in Group I and 111 in Group II. <sup>1</sup>

In addition to various conferences held with business groups throughout the year, necessary contact with the industries was maintained, particularly as to effecting compliance with the provisions and in affording assistance to industry members in proper application and observance of the rules in order to promote the use of fair practices and protection of the public interest. In cases of alleged objectionable practices in conflict with the rules, correction or adjustment was accomplished through cooperative effort in nearly all instances. A primary objective of the trade practice rules was demonstrated in the results obtained, namely, the wholesale elimination and abandonment of unfair competitive methods without the expense of litigation. In the few instances where compulsory proceedings were necessary to effect correction, appropriate action to that end was taken. Throughout the year widespread compliance with the rules was manifested by members of industry, the approved rules thus providing a constructive influence and very substantial benefit to the public and to business, as well as aiding in the war effort.

### TYPES OF PRACTICES COVERED IN APPROVED RULES

Following are illustrations of the variety of subjects covered by trade practice rules now in effect:

Misbranding; misrepresentation in various forms, including false or misleading advertising; deceptive packaging; defamation of com-

<sup>1</sup> Rules when promulgated for an industry are issued in pamphlet form and are available to interested parties upon application to the Commission. A 1-volume compilation (287 pp.) of the various sets of rules promulgated for different industries from September 1, 1935, to August 31, 1939, may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D. C., for 30 cents a copy.

petitors or disparagement of their products; impersonation or misrepresentation to obtain competitors' trade secrets; harassment of competitor's by circulation, in bad faith, of threats of infringement suits; price discriminations to injure, prevent, or destroy competition; discriminations and harmful practices in matters of rebates, refunds, discounts, credits, brokerage, commissions, services, etc.; commercial bribery; inducing breach of competitor's contract; false invoicing; imitation of competitor's trade-marks, trade names, brands, etc.; substitution and "passing off"; deceptive use of so-called "free goods" deals; lottery schemes; use of consignment distribution to close competitors' trade outlets; use of deceptive types of containers simulating standard and generally recognized types; use of deceptive depictions (photographs, engravings, cuts, etc.) in describing industry products; cost with selling below the purpose and effect of suppressing competition, restraining trade, or creating a monopoly; and use of "loss leaders" as a deceptive or monopolistic practice.

Other subjects embraced in the rules are: enticing away employees of a competitor; use of misleading guarantees, price quotations, price lists, terms of sale, etc.; full-line forcing as a monopolistic weapon; combinations or conspiracies to fix prices, suppress competition, or restrain trade; unfair bidding methods; misrepresentation as to possible earnings or opportunities afforded on completion of correspondence school courses, or as to Government connection with, or endorsement of, any school, or respecting any training or services offered by such school; falsely representing offers as "special" or "limited"; deceptive sales of regular lines as "close-outs" to induce belief bargains are available; representing products as conforming to recognized industry standards when such is not the fact; misuse of such words or terms as "perfect," "perfect cut," "commercially perfect," "real," "genuine," "natural," etc., in describing precious stones or their imitations; misuse of term "Crookes" as applied to sun glasses; misrepresenting kind, quality, thickness, or backing of mirrors; use of fictitious animal designations in description of furs; misrepresenting character, extent, or type of business engaged in; representing retail prices as wholesale; use of false or deceptive testimonials; misuse of terms "pullorum tested," "blood tested," etc., as applied to baby chicks; deceptive use of the terms "waterproof," "water repellent," "dustproof" or "warpproof," as applied to luggage or related products; false representations respecting tube capacity of radio sets and their range or receptivity; misuse of such terms as "all-wave," "world-w ave," "world-wide wave," etc.; misuse of words or terms "bristle," "pure bristle," etc., in sale of toilet brushes; deceptive use of "help wanted" or other employment columns in publications; interfering with competitor's right of purchase or sale; representing domestic products as imported, or imported products as



domestic; use of misleading or deceptive representations in procuring sales representatives; use of deceptive titles or names in selling books under the subscription plan; misusing terms relating to types of construction or weave of textiles; misuse of terms "extra fancy," "extra select," "extra quality," "de luxe," "choice," etc., to describe tuna fish products; misuse of the words or terms "lisle cotton," "cotton lisle," "crepe," etc., to describe hosiery products; deceptive use of terms "hand spun," "hand woven," "hand loomed," "hand printed," and "hand embroidered" in describing linen products; and various other forms of misrepresentation, including false or misleading advertising and deceptive labeling respecting the quantity, quality, grade, size, material, content, composition, origin, use, manufacture, preparation, or distribution of any industry product; and aiding or abetting another in the use of an unfair trade practice.

Various other rules provide for disclosure of fiber content and proper marking of textile merchandise made of rayon, silk, or linen, or of two or more fibers containing either rayon, silk, or linen; disclosure as to remaining shrinkage in so-called preshrunk merchandise; disclosure of fact that apparently new products are not new, but are second-hand, rebuilt, or renovated; disclosure that products are artificial or imitations and not real or genuine; disclosure of country of origin of imported products; prevention of marketing of substandard or imitation products as and for the standard or genuine, and the specification of minimum requirements for standard or genuine products; proper nomenclature for industry products; and disclosure as to true composition of paint and varnish brushes, as to imperfect or defective merchandise, as to use of adulterant or substitute for linseed oil in respect to putty products, as to presence of metallic weighting in silk or silk products, as to minimum yardage of ribbons, as to true functions of radio parts and accessories, and as to quality, quantity, and size of ripe olives packed in cans and other opaque containers.

### **INFORMATIVE LABELING**

Informative labeling enters extensively into the work of the Commission under the trade practice conference rules. It is also a primary objective of the Wool Products Labeling Act, which is administered by the Commission (see p. 77). Fiber identification, or what is generally referred to as "Truth in Fabrics," forms a large part of such informative labeling work. While consumer goods containing or purporting to contain wool are subject to such Wool Act labeling, similar fiber identification of other textiles, and informative labeling of various lines of merchandise outside the field of textiles, are covered by trade practice conference rules.

The objective of informative labeling is twofold (1) To aid intelligent purchasing and to prevent deception by informing consumers as to what they are to receive for their money, thus enabling them to be in a better position to judge quality and to buy according to their needs or preferences; and (2) to protect business from the unfair commercial practices attendant upon the sale of competing articles under conditions of misleading representations or deceptive concealment of the facts.

Constructive results of far reaching character flow from the informative labeling rules established under trade practice conference procedure.

Products containing rayon in whole or in part are covered by the rules for the rayon industry, promulgated October 26, 1937. Those containing silk in whole or in part are covered by the trade practice rules for the silk industry, issued November 4, 1938. Corresponding rules for linen and part linen merchandise were promulgated February 1, 1941.

Informative labeling for all types of hosiery is the subject of the trade practice rules for the hosiery industry, issued by the Commission on May 15, 1941. Similar rules covering fur garments, and fur products generally, were promulgated June 17, 1938. Informative labeling provisions on the subject of shrinkage of woven cotton merchandise were put into effect June 30, 1938. Other textile provisions are found in the rules promulgated for the infants' and children's knitted outerwear industry, June 28, 1939; uniform industry, May 18, 1940; and ribbon industry, June 30, 1942.

Established informative labeling provisions also are found in the different sets of trade practice rules promulgated for the following industries on the dates mentioned:

Putty manufacturing, June 30, 1939; mirror manufacturing, July 19, 1939; luggage and related products, September 17, 1941; paint and varnish brush manufacturing, January 14, 1939; wholesale jewelry, March 18, 1938; curled hair, January 12, 1940; toilet brush manufacturing, December 31, 1937; rubber tire, October 47, 1936; and sun glass, December 23, 1941.

Rules providing for informative disclosure in advertising and selling methods also have been issued for such industries as tomato paste manufacturing, September 3, 1938; sardine, March 5, 1940; tuna fish, August 27, 1940, and macaroni, noodles, and related products, July 7, 1938.

## **PART IV. WOOL PRODUCTS LABELING ACT**

### **INDUSTRY AND PUBLIC PROTECTED FROM MISBRANDING AND DECEPTIVE CONCEALMENT OF CONTENT**

The Wool Products Labeling Act, approved by the President October 14, 1940, became effective July 14, 1941. Administration and enforcement of the act is committed to the Commission. The statute provides for the labeling of products which contain, purport to contain, or are represented as containing "wool," "reprocessed wool," or "reused wool" and which are manufactured for, or introduced in, "commerce" as defined in section 2.

Disclosure of the kinds and percentages of the different fibers of which the article is made, including the respective percentages of "wool," "reprocessed wool," and "reused wool," are required in respect of woolen clothing, blankets, and other wool products, excepting carpets, rugs, mats, and upholsteries exempted by section 14 of the act. The label affixed to the product is also required to be identified with the name of the manufacturer or the name of the qualified distributor or reseller. Maximum percentage of loading and adulterating material is likewise to be disclosed on the label, if any has been placed in the goods. The required label or mark or a proper substitute specified by the statute is to remain on the merchandise until it reaches the consumer.

Protection of honest business and of the consuming public through safeguarding of fair practices in merchandising is a primary objective of the law. Its provisions are directed against the evils of nondisclosure of fiber content, of misinformation and misbranding, of irresponsible labeling, and the like, with the purpose of eliminating the economic waste, harmful exploitation, and unfair competitive effects of such evils. In short, the act brings to the public, to business and to all concerned the benefits of informative labeling or what is commonly referred to as "Truth in Fabrics."

The products to which the act applies are of essential character, embracing all articles of clothing or wearing apparel made or purporting to be made in whole or in part of wool; also blankets, household textiles, and other essentials. Such clothing and woolen merchandise generally are indispensable to the daily needs of the entire population and essential to the health and well-being of men, women, and children in civilian life, as well as to millions in our armed forces. Honesty and fair dealing in the production and distribution of such

vital commodities is necessarily a matter of prime importance to the public interest. Besides the billions of yards of woolen fabric, the woolen clothing and blankets manufactured for the armed forces, wool products for the civilian population normally aggregate in excess of 8 billion dollars annually at wholesale or factory prices. These products come from approximately 70 industries and are marketed through distributor and dealer outlets estimated to number in excess of 250,000.

*Wool act rules and regulations.*--Under the Wool Products Labeling Act the Commission is authorized and directed to issue rules and regulations necessary and proper for its administration and enforcement. Pursuant thereto, a comprehensive set of rules and regulations was issued by the Commission, effective July 15, 1941. These have been published in booklet form and are available to all concerned. They afford instruction and guidance as to how those subject to the act may proceed in various situations and assure themselves of being within the requirements of the law in applying the proper label to their respective wool products.

Collaboration of industry members and other interested parties was brought to bear in the preparation of the rules and regulations. Hearings were held and opportunity afforded to all concerned to contribute their views and suggestions in arriving at rules which would be of maximum assistance to business and consonant with law, and would also afford full protection of the public interest. The cooperation of members of industry and others, and their suggestions, were of material assistance to the Commission.

*Manufacturers' registered identification numbers.*--The Commission, in rule 4 of the regulations, affords manufacturers of wool products residing in the United States opportunity to have assigned to them manufacturers' registered identification numbers. Such a number may be used upon the manufacturer's label in lieu of his name as a means of identifying the manufacturer when the label carries the name of the retailer or dealer. At the close of the fiscal year and pursuant to their applications duly filed under this rule, 4,508 manufacturers had been assigned such registered identification numbers.

*Continuing guaranties.*--As a means of protecting distributors, dealers, and other resellers from the charge of misbranding when relying in good faith upon the manufacturer's statement of content, provision is made in section 9 of the act whereby such protection may be afforded by a guaranty on the part of the supplier. Such guaranty may be either (1) a separate guaranty specifically designating the wool product guaranteed, or (2) a continuing guaranty filed with the Commission applicable to all products handled by a guarantor and in such form as the Commission may prescribe. The form pre-

scribed by the Commission is set forth in rule 33 of the rules and regulations. At the close of the fiscal year, 3,319 continuing guaranties had been properly filed with the Commission under the provisions of the act and the regulations. These have been duly recorded and are maintained as documents open to public inspection.

*Enforcement.*--The Commission has employed in the enforcement of the act the well-known preventive action which has been long established under its organic act and repeatedly sanctioned by the courts. Such procedure, which is remedial rather than punitive; has proved adequate and effective without the necessity of resorting, to any large extent, to the supporting peremptory remedies which are available. Under the terms of the act and the rules of the Commission, there is assured fair and impartial treatment with full opportunity for hearing and court review. In cases of deliberate or wilful violations, penal or misdemeanor proceedings may be applied.

Administrative compliance work involves inspections, examinations, and correction of labeling practices of specific concerns. During the fiscal year inspections have been made of the labeling of upwards of 5,600 manufacturers, resulting in numerous corrections of labels involving various deficiencies. For the most part, compliance in cases of labeling deficiencies was effected through cooperative effort and voluntary action on the part of the respective concerns involved, thus avoiding the necessity of resorting to compulsory remedy to protect the public interest. Relatively few cases have arisen thus far in which voluntary cooperative action has not been sufficient to effect correction and where it has been necessary to invoke mandatory relief.<sup>1</sup>

Other duties covered in the administration of the statute concerned consideration and disposition of a large number of questions respecting interpretation and statutory construction; also questions arising relative to the clearance of importations of wool products for sale within this country; and consideration and disposition of applications for rulings in cases of wool products having, or claimed to have, inconsequential or insignificant textile content under the provisions of section 4 (d);

<sup>1</sup> For complaints alleging violation of the wool Products Labeling Act, see p. 37.

## **PART V. RADIO AND PERIODICAL ADVERTISING**

### **SPECIAL PROCEDURE PROVIDES CONTINUOUS SURVEY OF PUBLISHED AND BROADCAST MATTER**

The Commission maintains its Radio and Periodical Division to provide a direct and expeditious handling of certain cases involving false and misleading advertising, violative of the provisions of the Federal Trade Commission Act.

Advertisers, publishers, broadcasting stations, and advertising agencies are accorded the privilege of dealing directly with the Director of the Division, with a view to reaching an agreement in such cases as are appropriate for negotiating a stipulation, thereby disposing of the issues involved and obviating the necessity of formal trial.

When the survey of advertising was inaugurated by the Commission in 1929, it was limited to magazines and newspapers. Expanded in 1934 to cover commercial continuities broadcast by radio, the survey since 1939 also has included mail-order catalogs, almanacs, and foreign-language newspapers. Questioned advertisements noted in these surveys form the bases of prospective cases not previously investigated and also provide a means of determining whether advertisers who have been ordered by, or have stipulated with, the Commission to discontinue false and misleading representations are complying with such orders or stipulations.

In cases where the advertising is determined by the Commission to be false or misleading and circumstances so warrant, the advertisers are extended the privilege of disposing of the matters through an informal procedure, more fully explained on page 106, which permits their executing stipulations to cease and desist from the use of the acts and practices involved. A large majority of the cases are adjusted in this manner.

In certain cases involving drugs, devices, and cosmetics, the Commission negotiates stipulations inhibiting the publication of advertisements which do not disclose the probable harmful effects which may be experienced from the use of the products. In lieu of the publication in the advertising of a full statement of such harmful effects, these stipulations permit the publication of the statement, "CAUTION: Use Only As Directed," if and when the directions for use which appear on the label or in the labeling carry an adequate disclosure of the probable harm.

In cases where advertising agencies have prepared or participated in the preparation of advertisements found objectionable, they are included as parties to the stipulation.

In this phase of its activity, the only object of the Commission is to prevent false and misleading advertisements. It does not undertake to dictate what an advertiser shall say, but merely indicates what he may not say under the law. The Commission believes its work in this field has contributed substantially to the improvement that has been evident in recent years in the character of all advertising.

*Newspaper and magazine advertising.*--In examining advertisements in current publications, it has been found advisable to call for some newspapers and magazines on a continuous basis, due to the persistently questionable character of the advertisements published. However, as to publications generally, of which there are some 20,000, it is physically impossible to survey continuously all advertisements of a doubtful nature; also, it has been found unnecessary to examine all the issues of publications of recognized high ethical standard whose publishers carefully censor all copy before acceptance.

Generally, copies of current magazines and newspapers are procured on a staggered monthly basis, at an average rate of three times yearly for each publication, the frequency of the calls for each publication depending upon its circulation and the character of its advertisements.

Through such systematic calls during the fiscal year ended June 30, 1943, the Commission procured 2,291 editions of representative newspapers of established general circulation and 1,452 editions of magazines and farm and trade journals of interstate distribution. Among these periodicals were included 257 issues of farm journals, 179 issues of trade journals and specialty publications, and 117 issues of domestic foreign-language publications.

In these newspapers, magazines, and farm and trade journals, 339,246 advertisements were examined, of which 25,949 were noted as containing representations that appeared to be false or misleading.

*Almanac advertising.*--The Commission examines almanacs of wide distribution which are used as advertising media by distributors of drugs, devices, and other commodities sold for the treatment of various ailments. This survey covered the examination of 1,206 advertisements, 509 being set aside as warranting further investigation.

*Mail-order advertising.*--The Commission procured mail-order catalogs and circulars containing an aggregate of 13,211 pages, examination of which resulted in 746 advertisements being marked as containing possibly false and misleading representations. Of the 46 mail-order houses included in the survey, 5 had combined annual sales in excess of \$1,662,280,078.

*Radio advertising.*--The Commission issued calls to individual radio stations generally at the rate of four times yearly for each station. National and regional networks respond on a continuous weekly basis, submitting copies of the commercial advertising parts of all programs wherein linked hook-ups are used involving two or more stations. Producers of electrical transcription recordings each month submitted typed copies of the commercial portions of all recordings produced by them for radio broadcast. This material was supplemented by periodic reports from individual stations listing the programs of recorded commercial transcriptions and other data.

During the fiscal year the Commission received copies of 940,750 commercial radio broadcast continuities and examined 1,045,484 continuities. The continuities received amounted to 1,980,524 typewritten pages and those examined totaled 2,108,289 pages, consisting of 591,470 pages of network script, 1,496,089 pages of individual station script, and 20,730 pages of script re presenting the built-in advertising portions of transcription recording productions destined for radio broadcast through distribution of multiple pressings of such recordings to individual stations. An average of 6,920 pages of radio script was read each working day. From this material, 22,329 advertising broadcasts were marked for further study as containing representations that might be false or misleading.

*Cooperation of radio and publishing industries.*--In general, the Commission has received the cooperation of the 4 Nation-wide network chains, 19 regional network groups, and transcription producers engaged in preparing commercial radio recordings, in addition to that of 853 commercial radio stations, 507 newspaper publishers, and 486 publishers of magazines, farm journals, and trade publications. It has observed a desire on the part of these broadcasters and publishers to aid in the elimination of false and misleading advertising.

*Sources of radio and periodical cases.*--During the fiscal year, 88 percent of the radio and periodical cases resulted from the routine survey of advertising material as described above and 12 percent from complaints by or information received from other Government agencies, competitors, and other members of the public.

*Analysis of questioned advertising.*--An analysis of the questioned advertisements, which were assembled by cases and given legal review, discloses that they pertained to 2,362 commodities in the proportions indicated below:

Commencing July 1, 1943, and for the duration of the war, these calls will be made twice yearly.



## CLASSIFICATION OF PRODUCTS

<i>Commodity</i>	<i>Percent</i>
Food, drugs, devices, and cosmetics:	
Food (human)	9.7
Food (animal)	4.1
Drugs	48.0
Cosmetics	17.1
Devices	2.0
	80.9
Other products:	
Specialty and novelty goods	2.6
Automobile, radio, refrigerator, and other equipment	.5
Home study courses	.7
Tobacco products	.9
Gasoline and lubricants	.9
Miscellaneous, including apparel, fuels, house furnishings, and building materials	13.5
	19.1
Total	100.0

*Number of cases handled.*--The Commission during the fiscal year sent contact letters to advertisers in 307 cases and to advertising agencies in 22 cases, and accepted 109 stipulations involving radio and periodical advertising, of which 8 were amended, substitute or supplemental stipulations.

A total of 327 cases were disposed of by various methods of procedure. Of this number, 155 were considered settled upon receipt of reports or other evidence showing compliance with previously negotiated stipulations, 35 supplemental investigations were filed without action for various reasons, and 137 cases were closed without prejudice to the right of the Commission to reopen if warranted by the facts, 82 of them for lack of jurisdiction or lack of evidence sufficient to establish a violation of law, 50 because of discontinued practices or insufficient public interest, 2 because of corrective action by the Post Office Department, and 3 because of the death of the respondents.

In addition, the Commission in 42 cases directed issuance of complaints, 29 because advertisers failed to stipulate, 9 because of violations of previous stipulations, and 4 because the privilege of stipulation was not extended to the advertisers. Field investigations were ordered in 17 cases.

At the close of the year, 639 cases were pending as compared with 726 at the close of the previous fiscal year.

*Procedure in advertising cases.*--If it appears to the Commission that a published advertisement may be misleading, a contact letter is sent to the advertiser and request is made for a sample of the product advertised, if this is practicable, and the quantitative formula if

the product is a compound. Copies of all advertisements disseminated by press or radio during a specific period also are requested, together with copies of all booklets, folders, circulars, form letters, and other advertising literature used.

Upon receipt of these data, the sample and formula are referred to an appropriate technical agency of the Government for a scientific opinion. Upon receipt of the opinion, a list of such claims as then appear to be false or misleading is sent to the advertiser, along with pertinent portions of the opinion. The advertiser is invited to submit informally any evidence he chooses in opposition thereto. He may answer by letter or, upon request, may confer with the Radio and Periodical Division in person or through counsel.

If, after a consideration of all available evidence at hand, including that furnished by the advertiser, the questioned claims appear not to be false or misleading, the division reports the matter to the Commission with the recommendation that the case be closed. If it appears from the weight of the evidence that the advertising is false or misleading, the matter is referred to the Commission with recommendation either that complaint issue or that the case be stipulated, provided it is one appropriate for stipulation procedure and the advertiser desires to dispose of it by such voluntary agreement to cease and desist from the use of the acts and practices involved.

If the Commission so authorizes, a stipulation is prepared and forwarded to the advertiser for execution. Should he object to any of its provisions, he may discuss them by mail or in person. If and when he agrees to the terms of the stipulation and signs and returns it, the matter is again reported to the Commission with recommendation that the stipulation be accepted and the case closed without prejudice to the right of the Commission to reopen the matter at any time the facts so warrant. If the Commission accepts and approves the stipulation, the advertiser is required to submit within 60 days from the date of acceptance a report in writing showing the manner and form in which he is complying with the provisions of his agreement.

## **PART VI. MEDICAL ADVISORY DIVISION**

### **FURNISHES MEDICAL OPINIONS AND SCIENTIFIC INFORMATION IN MATTERS INVOLVING FOOD, DRUGS, DEVICES, AND COSMETICS**

The Medical Advisory Division provides facts and opinions with respect to the medical sciences in connection with the investigation of complaints and the trial of cases before the Commission. One of the most important phases of this work is to advise the Commission with respect to medical, chemical or scientific questions relating to food, drugs, devices, and cosmetics. A substantial amount of the division's time has been devoted to assisting the legal staff of the Commission at hearings where the nature of the scientific problems involved makes technical help necessary.

Because of the wide, direct influence of advertising on the public health, many outstanding experts in the medical sciences are interested in the advertising claims made for food, drugs, devices, and cosmetics. They serve without compensation as expert witnesses at Commission hearings, their testimony being essential to a determination of the facts.

Through its Medical Adviser the Commission maintains contact with other Government agencies concerned with food, drugs, devices, and cosmetics. Included among these are the Food and Drug Administration, the National Bureau of Standards, the United States Public Health Service, the Bureau of Animal Industry, and the Agricultural Marketing Service.

The division's responsibilities in connection with the wartime activities of the Commission are discussed on page 26.

## **PART VII. FOREIGN TRADE WORK**

### **THE EXPORT TRADE ACT**

The Federal Trade Commission is charged with administration of the Export Trade Act (Webb-Pomerene Law) of April 10, 1918, which authorizes the organization of cooperative associations in export trade.

The law provides that these associations shall be engaged solely in export, and that they shall not restrain the trade of domestic competitors, artificially or intentionally enhance or depress prices in this country, substantially lessen competition, or otherwise restrain trade in the United States.

Organization papers and current reports are required to be filed with the Commission. At the close of the fiscal year, 49 associations were on file, representing companies producing and exporting a variety of products, including lumber, plywood, insulation and wallboard, box shooks, iron and steel products, metal tires and springs, pipe fittings, screws, lath, wire rope, electrical apparatus, copper, cement, phosphate, sulphur, potash, alkali, soda pulp, carbon black, rubber, abrasive materials, flints, glass, textiles, typewriters, pencils, meat, milk, flour, rice, fruit, wine and brandy.

The associations have been especially active during the year in representing their members before the Government offices administering war control. In March 1943 the Board of Economic Warfare (now the Office of Economic Warfare) announced a plan under which an export association may file a combined BEW-138 application for shipment and will be allotted a "block of tonnage" to be divided among the members. The board considered that this procedure would result in an equitable distribution of the shipping space, in a reduction of excessive paper work, and in the exporter receiving advance notice of what he may reasonably expect to ship (B. E. W. Current Export Bulletin No.84, March 15, 1943).

Substantial shipments have been made during the past year, but due to war conditions no statistics will be published at this time.

**ASSOCIATIONS ON FILE WITH THE COMMISSION**

The following associations were on file with the Commission at the close of the fiscal year:

- American Box Shook Export Association, 307 Barr Building, Washington, D.C.
- American Hardwood Exporters, Inc., 901 Carondelet Building, New Orleans.
- American Provisions Export Co., 80 East Jackson Boulevard, Chicago.
- American Soda Pulp Export Association, 230 Park Avenue, New York.
- American Spring Manufacturers Export Association, 30 Church Street, New York.
- American Tire Manufacturers Export Association, 30 Church Street, New York.
- California Alkali Export Association, 609 South Grand Avenue, Los Angeles.
- California Dried Fruit Export Association, 1 Drumm Street, San Francisco.
- California Prune Export Association, 1 Drumm Street, San Francisco.
- California Raisin Export Association, 1 Drumm Street, San Francisco.
- Carbon Black Export, Inc., 500 Fifth Avenue, New York.
- Cement Export Co., Inc., c/o M. S. Ackerman, Treasurer, 150 Broadway, New York.
- Copper Exporters, Inc., 50 Broadway, New York.
- Douglas Fir Export Co., 530 Henry Building, Seattle.
- Durex Abrasives Corporation, 63 Wall Street, New York.
- Easco Lumber Association, 216 Pine Street, San Francisco.
- Electrical Apparatus Export Association, 70 Pine Street, New York.
- Electrical Export Corporation, 122 East Fifty-first Street, New York.
- Export Screw Association of the United States, 23 Acorn Street, Providence, RI.
- Flints Export Agency, 50 Broad Street, New York.
- Florida Hard Rock Phosphate Export Association, 1403 Savannah Bank & Trust Building, Savannah, Ga.
- Flour Millers Export Association, 859 National Press Building, Washington, D.C.
- General Milk Co., Inc., 19 Rector Street, New York.
- Goodyear Tire & Rubber Export Co., The, 1144 East Market Street, Akron, Ohio.
- Metal Lath Export Association, The, Room 1504, 205 East Forty-second Street, New York.
- Pacific Forest Industries, Washington Building, Tacoma, Wash.
- Pacific Fresh Fruit Export Association, 333 Pine Street, San Francisco.
- Pencil Industry Export Association, 37 Greenpoint Avenue, Brooklyn.
- Phosphate Export Association, 393 Seventh Avenue, New York.
- Pipe Fittings and Valve Export Association, The, 1421 Chestnut Street, Philadelphia.
- Plate Glass Export Corporation, 2000 Grant Building, Pittsburgh.
- Potash Export Association, Inc., c/o Maj. Fred N. Oliver, secretary., 110 East Forty-second Street, New York.
- Redwood Export Co., 405 Montgomery Street, San Francisco.
- Rice Export Association, 1103 Queen & Crescent Building, New Orleans.
- Rubber Export Association, The, 1185 East Market Street, Akron, Ohio.
- Steel Export Association of America, The, 75 West Street, New York.
- Sulphur Export Corporation, 420 Lexington Avenue, New York.
- Texas Rice Export Association, 407 Jensen Drive, Houston, Tex.
- Textile Export Association of the United States, 40 Worth Street, New York.
- Typewriter Manufacturers Export Association, 1611 Forty-fourth, Street NW., Washington, D. C.
- United States Alkali Export Association, Inc., 11 Broadway, New York.

United States Export Wallboard Association, 55 West Forty-second Street, New York.

United States Insulation Board Export Association, 55 West Forty-second Street, New York

Walnut Export Sales Co., Inc., Twelfth Street and Kaw River, Kansas City, Kans.

Walworth International Co., 60 East Forty-second Street, New York.

Washington Evaporated Apple Export Association, 709 North First Avenue, Yakima, Wash.

Wesco Lumber Association, Room 500, 2 Pine Street, San Francisco.

Wine and Brandy Export Association of California, 85 Second Street, San Francisco.

Wire Rope Export Trade Association, The, c/o Mr. Paul, Hotel Roosevelt, Madison Avenue, New York.

### REGULATION OF TRADE AND INDUSTRY ABROAD

Under section 6 (h) of the Federal Trade Commission Act, the Commission follows developments in trust laws and regulation of competition abroad.

War acts in England and the British colonies covered in Federal Trade Commission annual reports of previous years have been continued with administrative orders during the past year. In South America defense laws have been replaced by more stringent war legislation. Drawn together by the war effort, the United Nations have entered into various agreements for defense and the development of strategic materials. Development corporations have been created in several Latin American countries to undertake new projects in agriculture, mining, industrial plants and public utilities. These will be financed through the United States Export-Import Bank and appropriations within the interested countries.

In all parts of the world there is interest in post-war planning. Reconversion of industry, reconstruction necessary after the war, readjustment of foreign trade and shipping facilities, reemployment of men released from the war service, and problems of financing; all of these must be planned for in advance. Numerous committees and agencies, national and international, are therefore at work on these subjects.

As in previous years, detailed information has been compiled by the Commission covering the more important measures passed during the year in foreign countries. That material is available in the Export Trade Section, but shortage of space has made it impossible to include it in this report.

## PART VIII. FISCAL AFFAIRS

### APPROPRIATION ACT PROVIDING FUNDS FOR COMMISSION WORK

The Independent Offices Appropriation Act, 1943 (Public Law 630, 77th Cong.), approved June 27, 1942, provided funds for the fiscal year 1943 for the Federal Trade Commission as follows:

#### FEDERAL TRADE COMMISSION

For five Commissioners, and for all other authorized expenditures of the Federal Trade Commission in performing the duties imposed by law or in pursuance of law, including secretary to the Commission and other personal services, contract stenographic reporting services; supplies and equipment, lawbooks, books of reference, periodicals, garage rentals, not to exceed \$124,380 for traveling expenses, including not to exceed \$900 for expenses of attendance, when specifically authorized by the Commission, at meetings concerned with the work of the Federal Trade Commission, for newspapers not to exceed \$500, foreign postage, and witness fees and mileage in accordance with section 9 of the Federal Trade Commission Act; \$2,000,000: *Provided*, That no part of the funds appropriated herein for the Federal Trade Commission shall be expended upon any investigation hereafter provided by concurrent resolution of the Congress until funds are appropriated subsequently to the enactment of such resolution to finance the cost of such investigation.

For all printing and binding for the Federal Trade Commission, \$50,250.

Total, Federal Trade Commission, \$2,050,250.

#### APPROPRIATIONS FOR FISCAL YEAR

Appropriations available to the Commission for the fiscal year ended June 30, 1943, under the Independent Offices Appropriation Act approved June 27, 1942, amounted to \$2,050,250. This sum is made up of three separate items: (1) \$50,000 for salaries of the Commissioners, (2) \$1,950,000 for the general work of the Commission, and (3) \$50,250 for printing and binding.

#### WAR WORK

Expenditures by the Commission for duties connected with the war effort amounted to a total of \$389,918 during the fiscal year, of which amount \$166,927 represented expenditures by the Legal Division of the Commission, and \$222,991 represented expenditures by the Division of Accounts, Statistics, and Economic Investigations.

*Appropriations, allotments, expenditures, liabilities, and balances for the fiscal year ended June 30, 1943*

	Amount available	Amount expended	Liabilities	Expenditures and liabilities	Balances
Federal Trade Commission 1943-- salaries, Commissioners and all other authorized expenses	\$2,000,000.00	\$1,869,593.05	\$22,651.85	\$1,892,244.90	\$107,755.10
Printing and binding, Federal Trade Commission, 1943	50,250.00	14,848.60	17,362.15	32,210.75	18,039.25
Working fund, Federal Trade Commission, 1943	237,705.00	203,340.66	5,197.53	208,538.19	29,166.81
Total fiscal year 1943	2,287,955.00	2,087,782.31	45,211.53	2,132,993.84	154,961.16
Unexpended balances:					
Working fund, Federal Trade Commission (emergency management), 1942 and 1943	41,419.44	37,076.46	25.50	37,101.96	4,317.48
Federal Trade Commission, 1942	85,726.82	12,790.10	2,874.35	15,664.45	70,002.37
Printing and binding, Federal Trade Commission, 1942	53,101.89	34,739.44		34,739.44	18,362.45
Federal Trade Commission, 1941	71,601.49	1 167.95		1 167.95	71,769.44
Printing and binding, Federal Trade Commission, 1941	8,818.52	7,818.52		7,818.52	1,000.00
Federal Trade Commission, 1940		1 6.70		1 6.70	6.70
Federal Trade Commission, 1937	1.26				1.26
Total	2,548,624.42	2,180,032.18	48,111.38	2,228,143.56	320,480.86

1 Denotes red figure.

*Detailed statement of costs for the fiscal year ended June 30, 1943*

	Salary	Travel expense	Other	Total
Commissioners	\$49,999.20	\$91.15		\$50,090.35
Office of the Secretary	33,157.13			33,157.13
Attorneys to Commissioners	41,491.35			41,491.35
Clerks to Commissioners	16,306.67			16,306.67
Messengers to Commissioners	5,611.39			5,611.39
Detail: Other Government agencies	3,012.67			3,012.67
Total	149,578.41	91.15		149,669.56
Administration:				
Budget and Finance Division	23,831.62			23,831.62
Personnel Supervision and Management Division	23,289.72			23,289.72
Records Division	63,820.65			63,820.65
Research and Library Division	29,649.74			29,649.74
Publication and Procurement Division	88,778.15			88,778.15
Information Service	15,167.83			15,167.83
Stenographic Section	61,942.58			61,942.58
Communications			\$10,463.59	10,463.59
Contract Service			87.03	87.03
Equipment			10,432.50	10,432.50
Rents			312.50	312.50
Supplies			9,682.07	9,682.07
Transportation of things			360.99	360.99
Details: Other Government agencies			346.36	346.36
Total	306,826.65		31,338.68	338,165.33
Legal:				
Applications for complaints	323,903.38	34,615.90	870.75	359,390.03



Complaints	519,493.85	46,282.29	14,159.12	579,935.26
Export trade	8,201.76			8,201.76
Preliminary inquiries	152,360.29	7,803.46	222.63	160,392.38
Trade practice conferences	81,341.26	252.98	23.56	81,617.80
Total	1,085,306.54	88,954.63	15,276.06	1,189,537.23

	Salary	Travel expense	Other	Total
General Investigations:				
Accounting methods and practices	\$995.37			\$995.37
Industrial corporation financial reports	50,064.01	\$290.01	\$486.41	50,840.43
Methods and costs of distribution	687.84			687.84
Resale price maintenance investigation (1939)	2,595.65			2,595.65
Details: Other Government agencies	215.85			215.85
Total	54,558.72	290.01	486.41	55,335.14
War work	326,370.05	63,071.56	476.75	389,918.36
Printing and binding			57,406.56	57,406.56
Summary:				
Commissioners and Secretary	149,578.41	91.15		149,669.56
Administration	306,826.65	31,338.68		338,165.33
General investigations	54,558.72	290.01	486.41	55,335.14
Legal	1,085,306.54	88,954.63	15,276.06	1,189,537.23
Warwork	326,370.05	63,071.56	476.75	389,918.36
Printing and binding			57,406.56	57,406.56
Total	1,922,640.37	152,407.35	104,984.46	2,180,032.18

*Recapitulation of costs by divisions*

Commissioners and Secretary	\$152,007.04	\$91.15		\$152,098.19
Administrative	310,261.88	102.58	\$31,597.58	341,962.04
Chief Counsel	289,385.11	26,806.54	3,356.24	319,547.89
Chief Examiner	510,863.09	67,828.95	11,807.89	590,499.93
Accounts, statistics, and economic investigations	304,663.43	42,341.15	645.51	347,650.19
Medical advisory	23,919.10	2,311.86	100.00	26,330.96
Radio and periodical	138,604.77		38.82	138,643.59
Trade practice conferences	80,489.48	214.48	23.56	80,727.52
Trial examiner	112,446.47	12,710.64	8.30	125,165.41
Total	1,922,640.37	152,407.35	47,577.90	2,122,625.62

### APPROPRIATIONS AND EXPENDITURES, 1915-43

Appropriations available to the Commission since its organization and expenditures for the same period, together with the unexpended balances, are:

Year	Nature of appropriations	Appropriations and liabilities	Expenditures	Balance
1915	Lump sum	\$184,016.23	\$90,442.05	\$93,574.18
	Printing and binding	12,386.76	9,504.10	2,882.60
1916	Lump sum	430,964.08	379,927.41	51,636.67
	Printing and binding	15,000.00	14,997.55	2.45
1917	Lump sum	542,025.92	448,890.66	93,135.26
	Printing and binding	25,000.00	23,610.54	1,389.48
1918	Lump sum	1,578,865.92	1,412,280.19	166,585.73
	Printing and binding	30,000.00	11,114.06	18,885.94
1919	Lump sum	1,693,622.18	1,491,637.39	201,984.97
	Printing and binding	14,934.21	14,934.21	0
1920	Lump sum	1,206,587.42	1,007,593.30	198,994.12
	Printing and binding	28,348.97	28,348.97	0
1921	Lump sum	938,609.94	842,991.24	95,618.70
	Printing and binding	37,182.56	37,182.56	0
1922	Lump sum	952,505.45	878,120.24	74,385.21
	Printing and binding	22,801.73	22,801.73	0
1923	Lump sum	952,020.11	948,293.07	3,727.04
	Printing and binding	22,460.21	22,400.21	0
1924	Lump sum	990,000.00	900,020.93	29,979.07
	Printing and binding	20,000.00	19,419.25	580.75
1925	Lump sum	990,000.00	988,082.37	1,917.63

	Printing and binding	20,000.00	19,866.14	133.86
1926	Lump sum	990,000.00	976,957.02	13,042.98
	Printing and binding	18,000.00	18,000.00	0
1927	Lump sum	980,000.00	943,881.99	36,118.01
	Printing and binding	17,000.00	17,000.00	0

Year	Nature of appropriations	Appropriations and liabilities	Expenditures	Balance
1928	Lump sum	967,850.00	951,965.15	15,884.85
	Printing and binding	16,500.00	16,500.90	0
1929	Lump sum	1,135,414.83	1,131,521.47	3,893.36
	Printing and binding	27,777.69	27,777.69	0
1930	Lump sum	1,440,971.82	1,430,084.17	10,887.65
	Printing and binding	35,363.58	35,363.58	0
1931	Lump sum	1,932,857.81	1,808,463.35	124,454.46
	Printing and binding	39,858.73	39,858.73	0
1932	Lump sum	1,808,097.19	1,749,484.00	58,612.59
	Printing and binding	30,000.00	30,000.00	0
1933	Lump sum	1,421,714.70	1,378,973.14	42,741.56
	Printing and binding	30,000.00	20,000.00	10,000.00
1934	Lump sum	1,273,763.49	1,273,006.38	157.11
	Printing and binding	40,250.00	40,250.00	0
1935	Lump sum	2,063,398.01	1,922,313.34	141,084.67
	Printing and binding	34,000.00	34,000.00	0
1936	Lump sum	1,998,665.58	1,788,729.76	209,935.82
	Printing and binding	36,800.00	32,996.05	3,803.95
1937	Lump sum	1,895,571.94	1,850,673.82	44,898.12
	Printing and binding	43,353.95	43,353.95	0
1938	Lump sum	1,950,000.00	1,895,519.47	54,480.35
	Printing and binding	46,000.00	46,000.00	0
1939	Lump sum	2,236,795.00	2,150,474.40	86,320.60
	Printing and binding	46,700.00	46,709.00	0
1940	Lumpsum	2,285,500.00	2,214,889.07	70,610.93
	Printing and binding	60,000.00	60,000.00	0
1941	Lump sum	2,240,000.00	2,167,256.24	72,743.76
	Printing and binding	60,000.00	59,000.00	1,000.00
1942	Lump sum	2,373,822.00	2,296,921.13	76,900.87
	Printing and binding	60,000.00	42,000.00	18,000.00
1943	Lump sum	2,237,705.00	2,100,783.09	138,921.91
	Printing and binding	50,250.00	32,210.75	18,039.25

## APPENDIXES

### FEDERAL TRADE COMMISSION ACT

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

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

*Sec. 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a commission is hereby created and established, to be known as the Federal Trade Commission (hereinafter referred to as the Commission) , which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from the date of the taking effect of this Act, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed : *Provided, however,* That upon the expiration of his term of office a commissioner shall continue to serve until his successor shall have been appointed and shall have qualified. The Commission shall choose a chairman from Its own membership. 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, payable in the same manner as the salaries of the judges of the courts of the United States. The commission shall appoint secretary who shall receive a salary of \$5,000 a year, 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 be from time to time 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. <sup>2</sup>

<sup>1</sup> The salary of the secretary is controlled by the provisions of the Classification Act of 1923, approved March --49-, 1923, 42 Stat. 1488.

<sup>2</sup> Auditing of accounts was made a duty of the General Accounting Office by the Act of June 10, 1921, 42 Stat. 24.

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 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, and for other purposes,” approved August 27, 1894; also the Act entitled “An Act to amend sections 73 and 76 of the Act of August 27, 1894, entitled ‘An Act to reduce taxation, to provide revenue for the Government, and for other purposes,’” approved February 12, 1913; and also the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,” approved October 15, 1914.

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

The Commission Is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers, subject to the Acts to regulate commerce, air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938, <sup>3</sup> 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

<sup>3</sup> By subsection (f), Section 1107 of the “Civil Aeronautics Act of 1938,” approved June 23, 1938, Public No.706, 75th Congress, Ch. 601, 3d Sess., S. 3845, 52 Stat. 1028, Section 5 (a) of the Federal Trade Commission Act was amended by inserting before the words “and persons” (and following the words “to regulate commerce”), the following: “air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1918.”

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 days<sup>4</sup> 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 there-upon 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

4 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.

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 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 of 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.

(l) Any person, partnership, or corporation who violates an order of 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.

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 either 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 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 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

<sup>5</sup> See footnote on p. 2.

<sup>6</sup> See footnote on p. 2.

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 willfully 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 purposes 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 restrain

ing 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 news-paper, 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. 14.7 (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 purposes of section 12, 13, and 14--

(a) 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.

<sup>7</sup> 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.

(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 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.

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.

## **OTHER ACTS ADMINISTERED BY THE COMMISSION**

In addition to the Federal Trade Commission Act, the Commission also administers section 2 of the Clayton Act (15 U. S. C., sec. 13), as amended by the Robinson-Patman Antidiscrimination Act, and sections 3, 7, and 8 of the Clayton Act (15 U.S. C., secs. 14, 18, and 19); the Export Trade Act (15 U.S. C., secs. 61-65) ; the Wool Products Labeling Act (15 U. S. C., sec. 68).

## **RULES OF PRACTICE**

Annual reports of proceeding years have carried at this point the text of the Rules of Practice before the Commission. The rules have been omitted from this report in order to conserve paper and reduce the size of the report. However, they are included in a publication entitled Federal Trade Commission Rules, Policy, and Acts, which may be obtained from the Commission by persons who have a need for the rules.

## STATUS OF APPLICANT OR COMPLAINANT

The so-called “applicant” or complaining party has never been regarded as a party in the strict sense. The Commission acts only in the public interest. It has always been and now is the rule not to publish or divulge the name of an applicant or complaining party, and such party has no legal status before the Commission except where allowed to intervene as provided by the statute.

## POLICY AS TO PRIVATE CONTROVERSIES

It is the policy of the Commission not to institute proceedings against alleged unfair methods of competition or unfair or deceptive acts or practices where

the alleged violation of law is a private controversy redressable in the courts, except where said practices tend to affect the public. In cases where the alleged injury is one to a competitor only and is redressable in the courts by an action by the aggrieved competitor and the interest of the public is not involved, the proceeding will not be entertained.

#### SETTLEMENT OF CASES BY STIPULATION

Whenever the Commission Shall have reason to believe that any person has been or is using unfair methods of competition or unfair or deceptive acts or practices in commerce, and that the interest of the public will be served by so doing, it may withhold Service of complaint and extend to the person opportunity to execute a stipulation satisfactory to the Commission, in which the person, after admitting the material facts, promises and agrees to cease and desist from and not to resume such unfair methods of competition or unfair or deceptive acts or practices. All such stipulations shall be matters of public record, and shall be admissible as evidence of prior use of the unfair methods of competition or unfair or deceptive acts or practices involved in any subsequent proceeding against such person before the Commission. It is not the policy of the Commission to thus dispose of matters involving intent to defraud or mislead; false advertisement of food, drugs, devices, or cosmetics which are inherently dangerous or where injury is probable; suppression or restraint of competition through conspiracy or monopolistic practices; violations of the Clayton Act; violations of the Wool Products Labeling Act of 1939 or the rules promulgated thereunder; or where the Commission is of the opinion that such procedure will not be effective in preventing continued use of the unlawful method, act, or practice. The Commission reserves the right in all cases, for any reasons which it regards as sufficient, to withhold this privilege.

#### REPORTS OF TRIAL EXAMINERS

The policy of the Commission is that reports of trial examiners shall not be open to public inspection or to publication until after the publication of the Commission's decisions in the cases in which such reports are made. During this time they are open only to the Commission, to counsel and to parties respondent in such cases.

#### WOOL PRODUCTS LABELING ACT

In the handling of cases before the Commission arising under this act, the practice and procedure of the Commission, insofar as applicable, will be as provided in cases arising under the Federal Trade Commission Act.

#### INVESTIGATIONS BY THE COMMISSION, 1915-45

##### DESCRIPTIONS OF INQUIRIES INCLUDING TITLES OF PUBLISHED REPORTS

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 under more than 125 different headings.<sup>1</sup> They were made at the request of the President, the Congress, the Attorney General, establishments such as

the War Production Board, the Office of Price Administration, or other 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, <sup>2</sup> 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 below. For wartime inquiries, 1917-18 and 1941-45, see paragraphs headed "Wartime."

<sup>1</sup> The wartime cost-finding inquiries, 1917-1918 (p. 109), include approximately 370 separate investigations

<sup>2</sup> documents out of print (designated "o. p.") are available in depository libraries.

**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., 7/1/10) and *A System of Accounts for Retail Merchants* (19 p., o. p., 7/15/16).

**Accounting Systems**--See Distribution Cost Accounting, and Production Cost Accounting.

**Agricultural Implements**--See Farm Implements.

**Agricultural Implements and Machinery (Congress)**.<sup>3</sup>--Prices of farm products reached record lows in 1932 but prices of many farm implements, machines, and repair parts maintained high levels resulting in widespread complaints in the next few years. The Commission investigated the situation (Public Res. 130, 74th, 6/24/36) and, following submission of its report, *Agricultural Implement and Machinery Industry* (H. Doc. 702, 75th, 1,176 p., 6/6/38), the industry made substantial price reductions. The report criticized certain competitive practices on the part of the dominant companies which the companies later promised to remedy. It showed, among other things, that a few major companies had maintained a concentration of control which resulted in large part from their acquisition of the capital stock or assets of competitors prior to enactment of the Clayton Antitrust Act in 1914 and thereafter from their purchase of assets of competitors rather than capital stock. <sup>4</sup>

**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, 8/27/25), 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; unbalanced agricultural-industrial relations; cooperative associations; production financing; transportation; and terminal markets. Its recommendations for improvement of the Perishable Agricultural Commodities Act were adopted by Congress in amending that act (Public 828, 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 recommendation, S. Doc. 54, 75th, 40 p.); *Part II, Fruits, Vegetables and Grapes*, 906 p., 6/10/37; *Part III, Supplementary Report*, 154 p., 11/8/37; and interim reports of 12/26/35 (H. Doc. 380, 74th, 6 p.), and 2/1/37 (S. Doc. 17, 75th, 16 p.)]

**Agricultural Prices**--See Price Deflation.

**Aluminum, Foundries Using (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.

**Bakeries and Bread**--See Food.

**Beet Sugar**--See Food--Sugar.

**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., 3/3/23).

**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



rerated by the latter to secure capital equipment or wheter orders that had been rerated had been extended for the purpose of obtaining capital equipment in violation of priorities regulations. (See p. 13.)

<sup>3</sup> Inquiries desired by either House of Congress are now undertaken by the Commission as a result of concurrent resolutions of both Houses. For further explanation, see footnote on p.2.

<sup>4</sup> F. T. C. recommendations that section 7 of the Clayton Act be amended to declare unlawful the acquisition of corporate assets under the same conditions that acquisition of corporate stock has been unlawful since 1914, are discussed in *Chain Stores--Final Report on the Chain Store Investigation* (S. Doc. 4, 74th, 12/14/34), p.96; *Summary Report on 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; 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.

<sup>5</sup> See footnote 4, above.

**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 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., 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. O. Annual Report, 1941, p.201.)

In the *Final Report on the Chain-Store Investigation* (S. Doc. 4, 74th, 110 p., o. p., 12/14/34), legal remedies available to combat monopolistic tendencies in chain-store development were discussed.<sup>7</sup> 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.

**Chromium, Processors of (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-18-a, issued 2/4/42. The Investigation was conducted concurrently with a survey of nickel processors.

**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 the 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, 6/22/16; 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., S. Doc. 207, 67th)--pursuant to F. T. C. motion; and *Report of the F. T. C. on Premium Prices of Anthracite* (97 p., 7/0/25)--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 (*Cost Reports of the F. T. C. Coal*, 6/30/19, summarized

for principal coal-producing States or regions: (1) Pennsylvania, bituminous, 103 p.; (2) Pennsylvania, anthracite, 145 p., o. p.; (3) Illinois, bituminous, 127 p.; (4) Alabama, Tennessee, and Kentucky, bituminous, 210 p.; (5) Ohio, Indiana, and Michigan, bituminous, 288 p.; (6) Maryland, West Virginia, and Virginia, bituminous 286 p.; and (7) trans-Mississippi States, bituminous, 459 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 seven years later) led to their abandonment.

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

<sup>7</sup> See footnote 4, p. 107.

**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).

**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 stocks of critical materials involved in the operation of major plants devoting their efforts to war production were inquired into for the informatibn of the War Production Board. Items such as accounting, inventory, control, purchase, practices, etc., formed a part of the inquiry.

**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, 202p.,o.p., 11/29/24), recommending further development of cooperation in the U. S.

**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 com p arative 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 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).

**Corporation Reports.**--See Industrial Corporation Reports.

**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.).

**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 confidential report to the President.

**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 refiners 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, 71st,

4 p., o. p., 2/28/30, and final report, 207 p., with 11 vols. testimony, S. Doc. 209, 71st, 5/19/33.)

**Distribution Cost Accounting (F. T. C.).** --To provide a guide for current legislation and determine ways for improving accounting methods, the Commission studied distribution cost accounting in connection with selling, warehousing, handling, delivery, credit and collection (*Case Studies in Distribution Cost Accounting for Manufacturing and Wholesaling*, H. Doc. 287, 77th, 215 p., 6/23/41).

**Distribution.**--See Foods-Mass Foods Distributors.

**Distribution.**--See Millinery Distribution.

**Distribution Methods and Costs (F. T. C. and O. P. A.), Wartime, 1941-45.**--Involving methods and costs of interstate distribution of certain commodities, this inquiry (F. T. C. Res., 6/27/40) was completed and will be reported in published form, although special reports of the 1941 study of distribution of some 20 commodity groups were made for the confidential use of O. P. A. and other war agencies. (See p. 15.)

**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., processed, 2/1/29) discussed reported acquisitions 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.

**Electric Lamps, Manufacturers of (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. (See p. 13.)

**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.**--See Agricultural Implements and Machinery, and Independent Harvester Co.

**Feeds (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 law violations (*Report of the F. T. C. on Commercial Feeds*, 206 p., 3/29/21).

**Fertilizer (Senate).**--Begun by the Commissioner of Corporations (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 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. (See p. 23.)

**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

<sup>8</sup> 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.”

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 Packers 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),<sup>9</sup> which had substantially the effect of Federal legislation in restricting their future operations to certain lines of activity. As a further result of the investigation, Congress enacted the Packers and Stockyards Act (1921), adopting the Commission’s recommendation that the packers be divorced from control of the stockyards. (The meat-packing industry is further referred to under Meat Packing Profit Limitations, p.112).

**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.); and *VII. Effects of Future Trading* (6/25/26, 419 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, p. 112; Grain Exporters, p.112; and Grain Wheat Prices, p.112.)

**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 U.S., pp.5-13, o. p., 11/3/17.*) 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,<sup>10</sup> 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, 103 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--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. (See p. 22.)

<sup>9</sup> The legal history of the consent decree and a summary of divergent economic interests involved in the question of packer 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.

<sup>10</sup> In connection with its wartime cost finding inquiries, 1917-18. p.109 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).

**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 was tabulated for O.P. A. (See p. 21.)

**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--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., 1/11/28); and *Conditions in the Flour Milling Business*, supplementary (S. Doc. 96, 72(1, 26 p., 5/28/32).

**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 (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.

**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 (see p. 111).

**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., 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., 12/13/20).

**Food--Mass Foods Distributors (F. T. C.).**--The system of delivering foods to

large chain store warehouses and the older system of delivery to individual retail stores were compared from an economic viewpoint (F. T. C., Res., 4/20/41).

**Food--Meat Packing Profit Limitations (Senate), Wartime, 1917-18.**--Following an inquiry (S. Res. 177, 66th, 9/3/19) involving the 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 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.) 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 Milk-*

*sheds* (H. Doc. 152, 74th, 901 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., 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., 6/74/36); *Twin City Sales Area* (H. Doc. 506, 74th, 71 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 only be dealt with 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., 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., 11/15/20).

**Food--Sugar, Beet (F. T. C.).**--Initiated by the Commissioner of Corporation,<sup>11</sup> 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., 6. 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., 1/11/34; supplemental report, 111 p., processed, 6/27/38).

**Foreign Trade--Cooperation in American Export Trade (F. T. C.).**--This inquiry related to competitive conditions affecting Americans in international trade. The Export Trade Act, also known as the Webb-Pomerene Law, authorizing the association of U. S. manufacturers for export trade, was enacted as a result of Commission recommendations (*Cooperation in American Export Trade*, 2 vols., 984 p., o. p.,

6/30/16; also summary, S. Doc. 426, 64th, 7 p., o. p., 5/2/16; and conclusions, 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.

**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.

**Gasoline.**--See Petroleum.

**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

<sup>11</sup> See footnote 8, p. 99.

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.

**Grain.--**See Food.

**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., 5/27/20).

**House Furnishings (Senate).--**This inquiry (S. Res. 127, 67th, 1/4/22) resulted in three volumes showing concerted efforts to effect uniformity of prices in some lines (*Report of the F. T. C. on House Furnishing Industries*, 1018 p., 1/17/23, 10/1/23, and 10/6/24).

**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.

**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 Corporation Reports (F. T. C.), Wartime, 1941-43.--**The Commission obtained corporation financial reports for 1939 and 1940. It published in combined form significant economic facts developed in the 1939 series relating to 76 industries which embraced 780 corporations (*Industrial Corporation Reports*, 77 vols., incl. summary, 10/15/40 to 6/30/41, approximately 1,500 pp., processed; titles listed in F. T. C. Annual Report, 1941, p. 24). In 1939 these corporations had an average total investment (after deduction of reported appreciation of assets) of more than \$28,000,000,000. The 1940 series, coordinated with wartime work for other Government agencies, was expanded to cover 4,500 corporations representing consolidated operations of more than 7,000 corporations operating in 86 principal strategic materials industries and to provide O. P. A. with approximately 12,000 annual reports of earlier years and quarterly reports of subsequent operations. The 1940 series was prepared for the confidential use of war and other agencies of the Government. (See p. 16.)

**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.

**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., 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., 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., 1/24/23), also known as *Activities of Trade Associations and Manufacturers of Posts and Poles in the Rocky Mountain and Mississippi Valley Territory* (S. Doc. 293, 67th, o. p.); and *Report of the F.T.C. on Northern Hemlock and Hardwood Manufacturers Association* (52 p., 5/7/23).

**Lumber Trade Associations (F. T. C.).--**Activities of five large associations were investigated in connection with the Open-Price Associations inquiry (p.104) to bring down to date the 1919 lumber association inquiry (Chap. VIII of *Open-Price Trade Associations*, S. Doc. 226, 70th, 516 p., 2/13/29).

**Mass Foods Distributors.**--See Food.

**Meat--Packing Profit Limitations.**--See Food.

**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.

**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 lease 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).

**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., 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).

**Nickel, Processors of (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. (See p. 108.)

**Open-Price Associations (Senate).**--An investigation (S. Res. 28, 69th, 3/17/25) to ascertain the number and names of so-called open-price associations their importance in industry and the extent to which members maintained uniform prices, was reported in *Open-Price Trade Associations* (S. Doc. 226, 70th, 516 p., 2/13/29).

**Packer Consent Decree.**--See Food (President) Continued--Meat Packing.

**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--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., 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. 6/30/30).

**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.

**Peanut Prices.**--See Food.

**Petroleum and Petroleum Products, Prices (President and Congress).**--At different times the Commission has studied prices of petroleum and petroleum products and issued reports thereon as follows: *Investigation of the Price of Gasoline*, preliminary (S. Doc. 403, 64th, 15 p., o. p., 4/10/16) and *Report on the Price of Gasoline in 1915* (H. Doc. 74, 65th, 224 p., o. p., 4/11/17)--both pursuant to S. Res. 109, 63d, 6/18/13<sup>12</sup> 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., 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. Record, 2/28/25, p. 5158)--pursuant to request of President Coolidge, 2/7/24; *Petroleum Industry--Prices, Profits and Competition* (S. Doc. 61, 70th, 360 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., 5/10/34)--pursuant to S. Res. 166, 73d, 2/2/34.

**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.

**Petroleum--Foreign Ownership (Senate).**--Inquiry was made (S. Res. 311, 67th, 6/29/22) into acquisition of extensive oil interests in the U. S. by the Dutch-Shell organization, and into discrimination allegedly practiced in foreign countries against American interests (*Report of the F. T. C. on Foreign Ownership in the Petroleum Industry* 152 p., o. p., 2/12/23).

**Petroleum Pipe Lines (Senate).**--Begun by the Bureau of Corporations,<sup>13</sup> 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 pipe-line 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.)--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., 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. 2/8/28)--pursuant to F. T. C. motion, 10/6/26 (in response to requests of producers of crude petroleum).

**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., 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 superposing 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., 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

<sup>12</sup> See footnote 8, p. 99.

<sup>13</sup> See footnote 8, p. 99. Conditions in one of the midcontinent fields were discussed by the Bureau of Corporations in *Conditions in the Healdton Oil Field* (Oklahoma) (116 p., 3/15/15).

lines and used for development of power or light, or both (*Interstate Movement of Electric Energy*, S. Doc. 238, 71st, 134 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 of 1933, the Public Utility Holding Company Act of 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) included 95 volumes.<sup>14</sup>

**Price Bases (F. T. C.).**--More than 3,500 manufacturers representing practically every industrial segment furnished data for this study (F. T. C. motion, 7/27/27) of methods used for computing delivered prices on industrial products and of the actual and potential influence of such methods on competitive markets and price levels. In the cement industry the basing-point method<sup>15</sup> was found to have a tendency to establish unhealthy uniformity of delivered prices and cross-haul 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., 3/26/32). Illustrating the use in a heavy commodity industry of both a modified zone-price system and a uniform delivered-price system, the Commission examined price schedules of the more important manufacturers of range boilers, 1932-36, disclosing that the industry operated under a zone-price formula, both before and after adoption of its N. R. A. code (*Study of Zone-Price Formula in Range Boiler Industry*, 5 p., processed, 3/30/36, a summary based on the complete report which was submitted to Congress but not printed).

**Price Deflation (President).**--To an inquiry (3/21/21) of President Harding, the Commission made prompt reply (undated) presenting its views of the causes of a disproportional decline of agricultural prices compared with consumers' prices (*Letter of the F. T. C. to the President of the U. S.*, 8 p., o. p.).

**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, Manufacturers 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. (See p. 11.)

**Production Cost Accounting (F. T. C.), Wartime, 1941-42.**--This investigation covered production cost accounting methods and systems used in the bread baking, paperboard, steel and other industries during wartime.

**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., 6/29/18).

<sup>14</sup> 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.

<sup>15</sup> Basing-point systems are also discussed in the published reports listed under "Cement," "Steel Code." and "Steel Sheet Piling" herein.

**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.

**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., 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.

**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 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., 6/22/31).

**Salaries (Senate).**--The Commission investigated (S. Res. 75, 73d, 5/29/33) salaries of executives and directors of corporations (other than public utilities) engaged in interstate commerce, such corporations having more than \$1,000,000 capital and assets and having their securities listed on the New York stock or curb exchanges. The *Report of the F. T. C. on Compensation of Officers and Directors of Certain Corporations* (15 p., processed, 2/26/34) explained the results of the inquiry. 16 The facts developed focused the attention of Congress on the necessity of requiring listed corporations to report their salaries.

**Silverware, Manufacturers of (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, all 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. (See p. 13.)

**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.

**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., 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., 11/30/34).<sup>17</sup> 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).

<sup>16</sup> The salary lists do not appear in the report but are available for inspection.

<sup>17</sup> 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.

**Steel Costs and Profits.**--See Wartime Cost Finding, 1917-18.

**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.

**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) demonstrated the existence of collusive bidding because of a continued adherence to the basing-point system and provisions of the steel industry's code.

**Stock Dividends (Senate).**--The Senate requested (S. Res. 304, 69th, 12/22/26) the names and capitalizations of corporations which had issued stock dividends, and the amounts thereof, since the Supreme Court decision (3/8/20) holding that such dividends were not taxable. The same information for an equal period prior to the decision was also requested. The Commission submitted a list of 10,245 corporations, pointing out that declaration of stock dividends at the rate prevailing did not appear to be a result of controlling necessity and seemed questionable as a business policy (*Stock Dividends*, S. Doc. 26, 70th, 273 p., 12/5/27).

**Sugar.**--See Food.

**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. (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.; Parts II and III, o. p. (Part IV, processed, 21 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; *Textile Industries in the Last Half of 1935*, Parts I to III, 11/20/36 to 1/6/37, 155 p., processed; and *Textile Industries in the First Half of 1936*, Parts I to III, 1/21/37 to 2/11/37, 163 p., processed.

**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 Cotton Yarns*, 94 p., o. p., 4/14/21).

**Textiles--Cotton Growing Corporation.--**See Foreign Trade.

**Textiles--Cotton Merchandising (Senate)--**Investigating abuses in handling consigned cotton (S. Res. 252, 68th, 6/7/24), the Commission made recommendations designed to correct or alleviate existing conditions (*Cotton Merchandising Practices*, S. Doc. 194, 68th, 38 p., 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,

<sup>18</sup> See footnote 17, p. 98.

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.

**Textile--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.

**Tin, Consumers of (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.

**Tobacco (Senate).**--Inquiry (S. Res. 329, 68th, 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., 12/23/25).

**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., 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 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, Chile, Bolivia, and Peru* (246 p., o. p., 6/30/16).

**Twine.**--See Sisal Hemp and Textiles.

**Utilities.**--See Power.

**War Material 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 Cost Finding (President) 1917-18.**--President Wilson directed the Commission (7/25/17) to find the costs of production of numerous raw materials and manufactured products. The inquiry resulted in approximately 370 wartime cost investigations. At later dates reports on a few of them were published,<sup>19</sup> 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., 2/18/25). The unpublished reports<sup>20</sup> cover a wide variety of subjects. On the basis of the costs as found, prices were fixed, or controlled in various degrees, by Government agencies such as the War and Navy Departments, War Industries Board, Price Fixing Committee, Fuel Administration, Food Administration, and Department of Agriculture. The Com-

<sup>19</sup> See footnote 10, p.100.

<sup>20</sup> 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).

mission 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 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, Flax, Food, Farm Implements, Independent Harvester Co., Leather and Shoes, Paper--Book, Paper--Newsprint, Profiteering, and Textiles--Woolen Rag Trade.

**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 Corporation Reports; Metal--Working Machines; Paperboard; Priorities; Production Cost Accounting; Steel Costs and Profits; and War Material Contracts.

## INDEX

[Index does not include names or items in alphabetical lists, tables, or appendixes. For names of export trade associations, see page 90; for appropriation Items see page 93; and for titles and summaries of general investigations, 1915-43, see page 106]

	Page
Advertising, false and misleading:	
Almanac	82
Complaints alleging	35
Food, drugs, devices, cosmetics	30, 34, 87
Injunctive proceedings	30
Mail-order catalog	82
Newspaper and magazine	82
Orders directed against	43
Radio commercial	83
Stipulations involving	81, 84
Advertising, survey of war-related	4, 11, 24
Agricultural Insecticide & Fungicide Association, New York	39, 63
Agricultural Marketing Service	7
Agriculture, Department of	7, 21, 22
Agriculture, Secretary of	4, 22
Aluminum foundries, investigation of	3, 12
American-Bridge Co	66
American Cyanamid & Chemical Corporation	63
American Medicinal Products, Inc., Los Angeles	57
American Steel & Wire Co. of New Jersey	66
American Television Institute, Inc., Chicago	63
Aronberg, Earl, trading as Positive Products Co. and Rex Products Co., Chicago	57
Associated Laboratories, Minneapolis	64
Associated News Photographic Service, Inc., New York	57
Atmoray, Inc., Portland, Oreg	44
Attorney General of the United States	63
Ayres, William A., Commissioner	5
Benton Announcements, Inc., Buffalo	58
Biscuit and cracker industry, investigation of	4, 22
Bitterman, Harry M., Inc., New York	48
Bockenstette, J. A. and Rose M., Sabetha, Kans	58
Boulevard Candy Co., Chicago	60
Branch, Joseph G., Institute of Engineering and Science, Chicago	64
Bread-baking industry, investigation of	4, 21
Brunswick-Balke-Collender Co., The Chicago	49
Bureau of Animal Industry	87
Bureau of the Budget	16
Bureau of Corporations	24
Bureau of Hygiene, Inc., New York	63
Capital equipment users, investigation of	3, 13
Carnegie-Illinois Steel Corporation	66



	Page
Carter, Hiram, Inc., Elmhurst, Long Island, N.Y.	64
Casey Concession Co., Chicago	60
Central Buying Service, New York	48
Charles of the Ritz Distributors Corporation, New York	64
Cinader, Mitchell, New York	64
Clayton Act ( <i>see</i> also Robinson-Patman Act)	1, 28, 29, 32, 33, 37, 47, 57
Civil penalties under	29
Complaints issued under	35, 37
Orders issued under	47
Section 2	1, 4, 33, 37, 47, 57
Section 3	1, 38, 48, 57
Section 7	1, 9, 32
Section 8	1
Complaints, formal	2, 35
Contractors, prime, investigation of	3, 12
Cooking equipment manufacturers, investigation of	3, 13
Corn Products Refining Co., New York	64
Costs, prices and profits, investigations of	4, 21
Council of National Defense, Advisory Commission to	26
Court cases	2, 56
Decided	57
Judgements for civil penalties	63
Pending	63
Davis, Ewin L., Commissioner	5
De Forest's Training, Inc., Chicago	58
Deluxe Products Co., Chicago	60
Distribution methods and costs of important commodities, investigation of	3, 11, 15
Electric fuse manufacturers, investigation of	3, 13
Electric lamp manufacturers, investigation of	3, 13
Electrical Alloy Section of National Electrical Manufacturers Association, New York	41
Empire Merchandise Corporation, New York	64
Executive orders	11
Export Trade Act (Webb-Pomerene Law)	1, 3, 4, 6, 28, 89
Export Trade Associations	3, 89, 90
Federal Trade Commission:	
Acts administered by	1
Administrative divisions	5, 7
Appropriations, expenditures and fiscal affairs	93
Cases in Federal courts	2, 56
Chairman	5, 26
Chief Counsel	6, 28
Chief Examiner	6, 27, 28
Chief Trial Examiner	6, 28
Commissioners	5
Decisions (printed volumes)	8
Director, Division of Trade Practice Conferences	6
Director, Medical Advisory Division	12, 26, 87
Director, Radio and Periodical Division	6, 28
Division of Accounts, Statistics and Economic Investigations	5, 7
Duties	1, 5
Export Trade Section	6, 91

	Page
Federal Trade Commission--Continued.	
Foreign trade work	91
Interdepartmental service	24
Investigations, general	1, 2, 4, 106
Investigations, wartime	1, 3, 11
Legal activities	1, 27
Legal Investigation Division	5, 6, 12, 31
Medical Advisory Division	5, 7, 26, 87
Membership on wartime committees	26
Organized	1
Personel	6
Procedure	27
Publications	7
Radio and Periodical Division	5, 6, 7, 28, 81
Recommendation to Congress	9
Rules of practice	28, 105
Secretary	5
Statement of Policy	35, 105
Trade Practice Conference Division	5, 6, 72
Trial and Appellate Division	5
Trial Examiners Division	5, 6
Wartime activities (other than investigations)	24
Federal Trade Commission Act:	
Amended	1, 34
Approved	1
Civil penalties under	29, 63
Complaints issued under	35
Orders issued under	39
Procedure under	28
Provisions covering false advertising of food, drug devices, and cosmetics	30
Section 5	57
Section 6	2, 8, 15, 16, 91
Section 9	93
Section 12	34
Section 16	63
Text of	97
Types of practices in violation of	49
Wheeler-Lea Amendment	34
Ferguson, Garland S., Chairman, Federal Trade mission	5
Fertilizer industry, investigation of	4, 23
Food and Drug Administration	7, 87
Foreign trade work	6, 91
Freedom Chemical Co., Inc., Cleveland	46
Freer, Robert E., Commissioner	5
Fresh Grown Preserve Corporation, Lyndhurst,	64
Fulton Co., John J., San Francisco	58
Garment Box Manufacturers Association, New	43
Gelb, Joan Clair, California	64
General Motors Corporation, Detroit	59
General Tire & Rubber Co., The, Akron, Ohio	45
Globe Cardboard Novelty Co., Inc., New York	60



Globe Printing Co., Philadelphia  
Glycerin consumers, investigation of

60  
3,12

	Page
Grabosky Brothers, New York	48
Grand Rapids Furniture Co., Inc., Passaic, N.J.	59
Gray, Dorothy, Ltd	44
Greening Nursery Co., Monroe, Mich	64
Herzog & Co., Jack, New York	48
Houbigant, Inc., New York	64
Household organization, investigation of	3, 14
Income Audit Service Corporation, Mount Rainier, Md	46
Independent Offices Appropriation Acts	2, 93
Industrial corporation reports project	3, 11, 16
Ink Company of America, Chicago	63
Inland Empire Bakers' Association, Inc., Spokane	41
International Parts Corporation, Chicago	59
Investigations, general	1, 2, 4
Investigations, wartime:	
Costs, prices and profits	4, 11, 21
Biscuit and cracker industry	4, 22
Bread baking industry	4, 21
Fertilizer industry	4, 23
Steel producing industry	4, 23
Wheat flour milling industry	4, 22
Household organization	3, 14
Industrial corporation reports	3, 11, 16
Methods and costs of distribution of important commodities	3, 11, 15
Priority orders, compliance with	3, 11
Aluminum foundries	3, 12
Capital equipment users	3, 13
Contractors, prime	3, 12
Cooking equipment manufacturers	3, 13
Electric fuse manufacturers	3, 13
Electric lamp manufacturers	3, 13
Glycerin consumers	3, 12
Quinine manufacturers and wholesalers	3, 12
Silverware manufacturers and suppliers of silver	3, 13
Tin consumers	3, 12
Jergens-Woodbury Sales Corporation, Cincinnati	59
Kastor & Bros., Adolph, Inc., New York	64
Koch Laboratories, Inc., Detroit	59
Lane, Albert, Berkeley, Calif	59
Lippincott Co., J. B., Philadelphia	59
Lustberg, Nast & Co., Inc., New York	64
March, Charles H., Commissioner	5
Melster Candy Co., Cambridge, Wis	63
Methods and costs of distributing important commodities, investigation of	3, 11, 15
Midwest Sales Syndicate, Chicago	63
Miles Laboratories, Inc., Elkhart, Ind	60
Milk Cap Statistical Bureau, The, Philadelphia	40
Moss, Samuel H., Inc., New York	47, 64
Motor Equipment Specialty Co., Beaver City, Nebr	63
Muller & Co., E. B., Port Huron, Mich	65
National Association of Sanitary Milk Bottle Closure Manufacturers, Philadelphia	41

	Page
National Bureau of Standards	87
National Merchandising Co., Minneapolis	60
National Press Photo Bureau, Inc., New York	65
Natural Gas Act of 1935	4
Navy Department	17
Office of Censorship	24
Office of Defense Transportation	22
Office of Economic Stabilization	1, 3, 4, 11, 21, 22
Office of Economic Warfare	26, 89
Office of Price Administration	1, 3, 4, 11, 15, 16, 17, 21, 22, 23, 26
Office of Production Management	26
Orders to cease and desist	2, 39
Packers and Stockyards Act	4
Page Co., E. R., Inc., Marshall, Mich	63
Park, Philip R., Inc., Los Angeles	45, 61, 65
Parke, Austin & Lipscomb, Inc., New York	65
Perfect Voice Institute, Chicago	61
Petroleum Coordinator for National Defense	26
Pheips Dodge Refining Corporation	63
Piuma, Joseph A., Los Angeles	63
Pond's Extract Co., Inc., New York	61
Post Institute Sales Corporation, New York	65
Post Office Department	84
Powell & Co., John, Inc	63
Powers Co., L. W., New York	48
President, Executive Office of The	16
Price-fixing cases	31, 35, 39
Priorities investigations	3, 11
Public Utilities Holding Act of 1935	4
Purity Products Co., Inc., Newark, N. J	43
Quinine manufacturers and wholesalers, investigation of	3, 12
Restraint-of-trade cases	31, 35, 39
Robinson-Patman Act ( <i>see also</i> Clayton Act, section 2)	1, 4, 28, 33, 37, 38, 47, 48
Salt Producers Association, Detroit	61
Screen Broadcast Corporation, New York	43
Sebrone Co., The, Chicago	62
Securities Act of 1933	4
Segal Lock & Hardware Co., Inc., New York	65
Segal Optical Co., New York	65
Sherwin-Williams Co., The, Cleveland	47
Sickler, Isaac S., New York	48
Siegel Co., Jacob, Philadelphia	65
Signode Steel Strapping Co., Baltimore	62
Silverware manufacturers, investigation of	3, 13
Specialty Accounting Supply Manufacturers Association, Chicago	40
Stacy Manufacturing Co., A. E., Decatur, Ill	65
Standard Distributing Co., Chicago	60
Standard Education Society, Chicago	63, 65
Stanley Laboratories, Inc., Portland, Oreg	66
Stanton, Clara, Druggist to Women, Denver	62
Steel producing industry, investigation of	4, 23



	Page
Sterling Sales Co., Chicago	64
Stipulations	2, 34, 84
Stuart Co., F. A., Marshall, Mich	44
Style & Merit Buying Service, Inc	48
Supreme Court of the United States	3, 30, 56, 60, 63
Supreme Sales Co., New York	64
Surveying-Drafting-Coating Section of Scientific Apparatus Makers of America, Philadelphia	65
Sweet Candy Co., Salt Lake City	63
Sweets Company of America, Inc., New York	63
Temporary National Economic Committee	9
Tennessee Coal, Iron & Railroad Co	66
Tennessee Corporation	63
Tin consumers, investigation of	3, 12
Trade practice conference rules	3, 6, 25, 71
Group I and Group II rules defined	72
Informative labeling provided by	75
Procedure for establishing	72
Purposes of	71
Types of practices covered in	73
Wartime operation of	25
Ultra-Violet Products, Inc., Los Angeles	66
Uniform Manufacturers Exchange, Inc., New York	42
United Diathermy, Inc., New York	44
United Inheritance Bureau, Harold M. May trading as, Buffalo	46
United States Circuit Courts of Appeals	2, 29, 57
United States Code of Federal Regulations	71
United States District Courts	30, 56, 57
United States Maltster Association, Chicago	39, 66
United States Public Health Service	7, 87
United States Steel Corporation	66
Walton Co., Louis A., Chicago	45
War Department	17
War Production Board	1, 3, 4, 11, 12, 13, 14, 17, 22, 26
Warner's Renowned Remedies Co., Minneapolis	66
Watkins Co., The R. L., New York	45
Webb-Pomerene Law ( <i>see</i> Export Trade Act).	
Wheat flour milling industry, investigation of	4, 22
Wheeler-Lea Amendment	34
Wholesale Dry Goods Institute, Inc., New York	66
Wilson Chemical Co., Inc., Tyrone, Pa	63
Wire Rope & Strand Manufacturers Association, The, Inc., Washington, D. C	39, 62, 66
Wool Products Labeling Act	1, 3, 11, 25, 28, 29, 37, 77
Civil penalties under	29
Complaints issued under	35, 37
Enforcement of	79
Rules and regulations issued under	78
Wartime administration of	25
Zellerbach Paper Co., San Francisco	62
Zenith Radio Corporation, Chicago	66