Annual Report of the FEDERAL TRADE COMMISSION

For the Fiscal Year Ended

June 30, 1959

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Pennsylvania Avenue at Sixth Street Northwest,
Washington 25, D. C.

Branch Offices

Room 102, Federal Trade Commission Building, Washington 25, D. C.

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Room 3030—A, U. S. Courthouse, Philadelphia, Pa.

Letter of Transmittal

FEDERAL TRADE COMMISSION
Washington, D.C.

To the Congress of the United States:

It is pleasure to transmit herewith the Forty-fifth Annual Report of the Federal Trade Commission, covering its accomplishments during the fiscal year ended June 30, 1959.

By direction of the Commission.

EARL W. KINTNER
Chairman

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

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Chapter One

THE YEAR'S HIGHLIGHTS

The fiscal year 1959 confronted the Federal Trade Commission with greater volume of business to police than ever before in its 45-year history. It responded to the challenge by bringing a record number of formal actions against offenders and by providing more guidance to businessmen on how, by self-policing, they could assist the Commission efforts to maintain vigor and honesty in the marketplace.

Considering that the Commission's Staff of less than 735 (including clerks, typists, and messengers) had to police the bulk of the Nation's $450 billion economy stretched over 3 million square miles of territory, it is obvious that the policing could not be absolute. All that could be expected was that the Commissions efforts would prove a strong deterrent to illegal business methods. The need was to demonstrate to the defiant and to the indifferent that the laws against monopolistic practices and unfair and deceptive methods of doing business mean what they say. In addition, efforts were made to alert the public to tricky selling so that such would claim fewer victims.

In striving for these objectives, the Commission achieved notable progress during the year. Both the number of actions taken and their significance bespoke aggressive law enforcement, while at the same time the Commission greatly extended its efforts to obtain Compliance with the trade laws on a voluntary basis. Particularly revealing of the latter was a coordinated attack with better business bureaus on the evil of fictitious pricing, with the FTC striking at the problem in its interstate aspects and the better business bureaus hitting it at the local level. The same teamwork vas employed in implementing the Commission's attack on misleading advertising of automobile tires.

Fully as significant as the targets was the aggressive policy that led to their selection. In years past, the Commission might have been reluctant to tackle on so broad a scale such a ubiquitous problem as fictitious pricing. Certainly the only previous corrective actions were against a yearly handful of offenders. The result was that the evil flourished. By contrast, the commission's decision in 1959 to augment its formal casework by enlisting allies in a campaign of persuading businessmen to correct such abuses and educating the buying public

to beware of them has unquestionably effected a retreat of fictitious pricing and misleading tire advertising.

Although the broad-scale attacks proved successful in these two instances, the Commission is quite aware that many areas of law violation do not lend themselves to similar cleanup attempts, particularly when individual hard-fought cases such as antimerger actions require many thousands of man-hours of staff time. It is inevitable that as long as the Commission must so spread its forces to police the number and complexity of business under its jurisdiction, it will be possible for critics to seek out and find particular areas that could have been policed in more depth. Nevertheless, the fact that an aggressive Commission can and would concentrate its strength in any area that might threaten to get out of hand certainly is a deterrent to the defiant few who would ignore the law.

During fiscal 1959 the Commission maintained steady law enforcement pressure cross the board. The number of complaints and orders issued was impressive. Compared with as recent a year as 1956, the Commission's 79 complaints in the field of antimonopoly almost doubled the 42 complaints issued in 1956, and the 271 complaints in the antideceptive field compare with but 150 3 years before. The same stepup from 1956 to 1959 is revealed in Commission orders: 37 compared to 64 in antimonopoly, and 132 compared to 267 in deceptive practices. A comparison between 1958 and 1959 is not so striking; yet, there again, the trend is upward in cease-and-desist orders—from 273 in fiscal 1958 to 331 in fiscal 1959, including an increase, of from 45 to 64 in antimonopoly orders. Numbers, of course, are but one index of activity and taken alone can be misleading. The important thing is what kind of corrective action was taken and how much law enforcement was accomplished.

Possibly the most significant antimonopoly action taken during the year was the issuance of a complaint charging six leading makers of "wonder drugs" with attempting to monopolize the Nation's $330 million antibiotic industry. They also were charged with fixing and maintaining "arbitrary, artificial, noncompetitive, and rigid" prices for these vital drugs. One of the companies also was charged with having made false statements to the U.S. Patent Office in order to obtain a patent for a key drug in the manufacture of these antibiotics. The bringing of this case followed completion of the Commission's 2-year economic study of the antibiotic industry.

Another significant action was a complaint charging 15 tire and tube manufacturers and two trade associations with conspiracy to fix prices. The manufacturers named in the complaint account for virtually all of the Nation's annual sales volume—about $2 billion—of these products. According to the complaint, the manufacturers have adopted and maintained single-zone delivered price system for tires

and tubes, regardless of the location of their customers and differences in freight costs. Such a system deprives customers of savings which their geographical location would otherwise make possible.

Fiscal 1959 also found the Commission pushing ahead in the enforcement of section 7 of the Clayton Act, which outlaws illegal mergers. The Commission challenged two of the Nation's largest retail food chains, bringing to 22 the number of merger cases being litigated. National Tea Co. was cited for acquiring 440 stores and the Kroger Co. for its acquisition of 40 corporations with approximately 1,900 stores. Another antimerger complaint challenged Diamond Crystal Salt Co., one of the Nation's five largest salt producers, for having acquired a major competitor.

Actions to halt price and other discriminations forbidden by the Robinson-Patman Act came thick and fast. Sixty-six complaints and 61 orders were issued, with a heavy concentration of the attack in the automotive parts and food products fields. Major suppliers of automotive parts were required to stop giving discriminatory prices to major automobile manufacturers, while in the automotive replacement parts industry the Commission required scores of jobbers to stop inducing and accepting discriminatory prices from their suppliers through the operation of so-called buying groups.

In food products, the Commission attacked the alleged practice of certain dairy companies, fruit and vegetable packers, and bakeries to give lower prices to big food chains than to their independent competitors. Also challenged was price favoritism for big customers by leading manufacturers in several other industries, including hats, rugs, electrical appliances, and plumbing fixtures.

Increased emphasis was given the enforcement of the Robinson-Patman Act's requirement that if any seller of a product offers his customers advertising and promotional services and facilities, he must make them available to all competing customers on a proportionally equal basis. Also attacked was the inducement of such illegal promotional allowances. Thirteen complaints were issued challenging promotional arrangements between the country's largest newsstand chains and the publishers and distributors of many widely read magazines. The newsstand companies were charged with coercing unlawful promotional allowances, and the magazine publishers with paying them. In a score of other cases the Commission alleged similar violations had taken place in the sale of jewelry, hosiery, sportswear, electric household appliances, fabrics, and foodstuffs.

Another major area of antimonopoly work was the combating of illegal brokerage. Here competition is harmed by the payment or receipt of brokerage fees in transactions between a seller and a buyer who purchases on his own account for resale. A total of 28 orders was issued, most of them involving sellers or brokers of seafood products.

Many of these cases involved the practice of food brokers "splitting" their customary brokerage commissions with buyers.

Exclusive dealing also came under Commission fire. Among major actions was a complaint against the Nation's principal maker of molded shoes. It charged the company with selling only to those chiropodists and retailers who agreed not to use or deal in competitive products.

Restrictive practices likewise were attacked. A complaint was issued against the largest seller of photographic copying machines and supplies charging that it had illegally induced owners and operators of the machines to stop, or to reduce, purchases from competitors. It was alleged that the company had used its dominant position to monopolize the sale of photocopy paper and chemicals by imposing unreasonable tying arrangements on Photostat machine owners.

In two other cases the alleged restraint on trade involved gasoline. One major company was charged with illegally fixing and maintaining the resale prices of its products, and another was alleged not only to have illegally fixed gasoline prices but also to have followed a predatory pricing policy injurious to dealers marketing unbranded or private brands of gasoline.

Still other restraint-of-trade cases involved charges of price-fixing conspiracies in the "blackstrap" molasses industry and unlawful resale price maintenance in the sale of loudspeakers and electric organ accessories.

Cease-and-desist orders issued in this field included one requiring 17 of the Nation's leading paperbag manufacturers to stop conspiring to fix the price of multi-wall paper shipping sacks, which, incidentally, sell at a $200 million annual rate,. Another order halted an association of 4,000 retail jewelers from conspiring to fix or increase prices or profit margins in the sale of silverware.

While the Commission's antimonopoly actions require, roughly, 60 percent of its resources in manpower and money, it is the other 90 percent directed at the halting of deceptive practices that invites more public attention. The consumer who is inclined to shrug a way the distant complexities of trade restraints is indignant when confronted by false advertising or tricky sales methods, particularly if he or his family is victimized by them.

Numerically, false advertising provides the bulk of the Commission's casework, and of false advertising cases the greatest number is accounted for by fictitious pricing claims. Other deceptive practices are as varied as the ingenuity of conscienceless sellers can devise; yet all such trickery can be attacked by the Commission under its broad authority to proceed against "unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce." A partial listing of the variety of deceptive acts against which the

Commission has taken action in the past is given at the beginning of the appendix of this report.

More particularly in fiscal 1959, the Commission issued 117 complaints and 88 orders in which the charge of fictitious pricing was at issue. More than 45 types of commodities were involved, ranging from cultured pearls to prefabricated houses. In each case it was the same story—an attempt by the seller to make his selling price appear to be bargain by representing that the product's former price was higher than was the fact. One form of this chicanery is known as preticketing. This is the practice of manufactures to attach to their product an authentic-appearing price label that carries a higher price than that at which the product ever was intended to sell. This affords retailers "evidence" that the actual selling price is below the "original" price and hence is a bargain price.

One of the most important areas of Commission activity in the antideceptive field concerns honest merchandising of woolens and furs. Armed with special power under the Wool Products Labeling Act of 1939 and the Fur Products Labeling Act of 1951, the Commission requires discloser of the true content of woolens and proper identification of furs both on labels and in advertising. The scope of this policing task is tremendous; for example, nearly 3 million samples of wool products were examined during the year to see whether their labeling complied with the law, and nearly 25,000 fur advertisements were examined for deficiencies. In addition, The Commission was active in supplementing its inspections by a program of industry counseling designed to achieve a maximum of voluntary Compliance with the law. Nevertheless, it was necessary to move against offenders to the extent that 46 percent of all deceptive practice complaints issued by the Commission during the year dealt with wool or fur. Twenty-nine percent of all stipulations accepted by the Commission concerned these products. Although, 44 complaints and 48 orders were issued under the Wool Act and 83 complaints and 79 orders under the Fur Act..

Action also was taken during the year to prepare for enforcement of an even broader piece of consumer legislation—the Textile Fiber Products Identification Act, which becomes effective on March 3,1960. After a series of informal conferences with textile industry members, hearings were held commencing in March 1959 which resulted 4 months later in the rules and regulations necessary to implement the law. There, followed an intensive educational campaign by FTC staff members to assure that the farflung textile industry will have a knowledge and appreciation of the detailed requirements of the law by the time it goes into effect.

Except for a few major types of spurious selling, such as fictitious pricing and improper labeling of products, the deceptive practice field

is characterized by its lack of pattern. Apparently chicanery is willing to accept new ideas for extracting money from the gullible without relinquishing any of the time-tested methods.

For example, the Commission found it necessary to strike quick and hard at a novel adaptation of the advance-fee real estate racket. The new swindle involved a substitution of victims. Instead of the man overly anxious to sell his real estate, the new victim was too hopeful of obtaining a loan. Promoters, misrepresenting themselves as affiliated with lending institutions, told their victims that the loans they sought were too modest and that, for fees paid in advance, much larger loans could be obtained. Thus enticed, the loanseekers paid the advance fees and obtained only disillusionment for their money.

Mean while, the advance-fee real estate promoters were at work on the more conventional form of the racket. They encountered nine FTC complaints and six cease-and-desist orders.

Another time-tested form of deception that came under Commission attack was the false advertising of diet foods and drugs. Four orders were issued requiring advertisers of drug products containing phenylpropanolamine to stop claiming that the preparations were safe for use by all obese persons. The orders further prohibited them from claiming users could lose weight without dieting or that they could lose predetermined amounts of weight during a specified time period. In addition, the Commission issued complaints against sellers of "dietary" breads and macaroni w ho claimed their products will help persons to control weight or actually facilitate weight loss.

Deceptive advertising of automotive products was the subject of four complaints and one order during the year. Among the products hit by the Commission were an advertised battery which never required the addition of water, a polishing mitten which gave a 6-month shine w hen lightly rubbed over the finish, and spark plugs "guaranteed" to give service for 50,000 miles.

The Commission also moved against a wide variety of other deceptive practices. These included selling rugs of smaller dimensions than those shown on labels, unfair disparagement of aluminum cookware by a seller of stainless-steel utensils, passing off electric appliances as General Electric and Westinghouse when only thermostats used in the manufacture of the products were purchased from these companies, and falsely representing that hearing aids required no cords or buttons in the ear and were absolutely "invisible" when worn.

A conspicuous target during the year was the so-called “vanity" publishing business. Action was taken to prohibit certain publishers from falsely advertising themselves as "cooperative" publishers who would share the cost of publishing the works of unknown authors. The Commission's complaints charged, among other things, that flattery had been used to entice the authors into unknow-

ingly paying all publishing costs without receiving the advertised promotional services.

In the chapter of this report dealing with "Litigation," further detail on deceptive practice cases is offered. Most of these, as well as those discussed here, are of immediate interest to the public; however, it would be a mistake to judge the value of such case work solely in terms of consumer protection. Most false advertisements and deceptive practices have the effect of diverting business from honest and reputable sellers. They, as well as the misled purchaser, are victimized, and fair competition is thereby injured.

It is hardly necessary to point out that the Commission's responsibility does not end with the issuance of cease-and-desist order. The order must be policed to insure that it is not being violated. In fiscal 1959 such Compliance policing was given increased attention with the result that judgments totaling $55,660 were obtained—more than double the amount in any of the 3 preceding years. In addition, one contempt action resulted in a $40,000 fine against a major cigarette company by the Court of Appeals for the Fourth Circuit for violating the court's decree enforcing an FTC order.

In its appellate work in fiscal 1959, the Commission fared well. T he Supreme Court decided two FTC cases, both in favor of the Commission. It also denied four petitions for certiorari opposed by the Commission and granted four petitions on its behalf. At the year's end, the Commission had completed litigation in all courts in 23 cases. Twenty-nine were still pending.

In addition to its casework, the Commission also undertook an economic Investigation of trends in food marketing, with particular emphasis on the degree of concentration in this field. Prompting the study was the fact that a substantial percentage of all FTC antimonopoly investigations had arisen from alleged violations in the food industry. A first step in the Investigation was to obtain information via questionnaire from three groups of food marketers: chainstores, voluntary group wholesalers, and retailer-owned cooperative food distributors. Also the study called for a comparison of how the 3 groups fared from a competitive sales standpoint in 15 metropolitan centers during the period from 1948 to 1958. It was expected that the results of the study would be made public early in 1960.

At the year's end the Commission was supporting certain new legislation needed to strengthen its effectiveness in the antimonopoly field. A major proposal was that Commission orders to cease and desist issued under authority of the Clayton Act be made final the same as orders under the same as orders under the Federal Trade Commission Act. Passage of such legislation would eliminate an extra step in obtaining Compliance with these orders, inasmuch as the Commission no longer would

to obtain court affirmance of an order before instituting penalty action for noncompliance with it.[1]

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

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[1] This legislation was incorporated into Public Law 86-107, approved July 23, 1959.

Chapter Two

SCOPE OF AUTHORITY
Basic Functions of the FTC

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

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

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

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

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

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

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

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

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

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[2] Amendment contained in the Oleomargarine Act (64 Stnt. 20).

[3] Sec. 15, Federal Trade Commission Act.

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

The Commission is further empowered to investigate from time to time trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States and to make reports thereon to Congress with recommendations. Under those section 6 powers of Investigation and reporting, the Commission serves the executive and legislative branches of the Government, particularly in antitrust problems and in aid of legislation.

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

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

Amendment to Packers and Stockyards Act of 1921—Public Law 85-909

This act of September 2, 1958, confers upon the Commission jurisdiction over the activities of meatpackers insofar as nonmeat food products are concerned. Prior to the amendment, the law had been interpreted as precluding the Commission from exercising any authority whatsoever over meatpackers regardless of the commodity involved.

The act also gave the Commission jurisdiction over all transactions in commerce in margarine or oleomargarine and over retail sales of

meat, meat food products, livestock products in unmanufactured form, and poultry products.

It further provided, in substance, that the Commission could exercise jurisdiction over the wholesale operations of meatpackers if effective exercise of its power or jurisdiction with respect to retail sales of meat and meat food products would be impaired, and if, after notifying the Secretary of Agriculture, it was determined that the latter was not conducting an Investigation or proceeding involving the same subject matter.

A corresponding provision was made for the Secretary of Agriculture to exercise jurisdiction over the retail sales of meat, and meat food products if his authority over wholesale operations would otherwise be impaired, and if, the Commission was not investigating or proceeding with respect to the same matter.

Shortly after the enactment, of this statute, several conferences were held between officials of the two agencies to discuss the liaison arrangements which should be established under the act in order to coordinate their activities in the most efficient manner. Liaison officers were thereafter appointed for each agency and an effective system was derived for the mutual exchange of information on matters with respect to which both agencies may process concurrent jurisdiction.

As of the end of fiscal year 1959, there had been no instance in which it was necessary for either agency to invoke the provisions of, or to follow the procedures outlined in the sections of the statute referred to above. Close liaison was maintained, however, with regard to jurisdictional problems in connection with incoming complaints of a borderline character.

One concrete development resulting from the realignment of jurisdiction over meatpackers was the dismissal of a complaint, which had been filed by the Secretary of Agriculture against Swift & Co. on charges of engaging in unfair or discriminatory practices in the sale of ice cream. The complaint in this case was dismissed without prejudice on June 1,1959, and the matter was referred to the Commission for such further action as might be deemed appropriate.

The Clayton Act [4]

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

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

Section 2 of the Clayton Act, amended by the Robinson-Patman Act—Discriminatory Pricing.[5]—Subject to specified justification and defenses, this section provides that it shall be illegal to discriminate in price between different purchasers of commodities of like grade and quality sold for use, consumption, or resale within the United States, where the effect of the discrimination "may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefits of such discrimination, or with customers of either of them."

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

Quantity-Limit Provision.—This is also contained in section 2 of the amended Clayton Act. It confers authority upon the Commission, after due Investigation and hearing of all interested parties, to fix and establish quantity limits as to particular commodities or classes of commodities "where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce.

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

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

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

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[5] Approved June 19, 1930 (49 Stat. 1526).

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

Anti-Merger law.—This statute, approved December 29, 1950, [6] is in the form of a revision and restatement of section 7 of the original Clayton Act. It is specific legislation on the subject of suppression of competition through the merger of consolidation of corporations. Such conduct is prohibited, whether brought about by the direct or indirect acquisition of either stock or assets of the acquired corporation, where the effect of the acquisition or merger may be substantially to lessen competition or tend to create a monopoly in any line of commerce in any section of the country. Certain exceptions are provided, including cases in which the stock is purchased solely for investment and not used for voting or otherwise to bring about or attempt to bring about the substantial lessening of competition. The Commission is designated as having enforcement responsibility applicable to commercial enterprises generally but not including specific businesses which are under the regulatory authority of other agencies, such as banks and common carriers.

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

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

The Webb-Pomerene Export Trade Act of 1918 [7]

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

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[6] 64 Stat. 1125.

[7] 40 Stat. 516.

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

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

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

The Wool Products Labeling Act, the Fur Products Labeling Act, and the Textile Fiber Products Identification Act [8]

These three Federal statutes constitute "truth-in-fabrics" and "truth-in-furs" legislation. Under their terms the disclosure of content and other important factual information is required on labels and in advertising of textile and fur products.

Violations of these acts are classed as unfair methods of competition and unfair or deceptive acts and practices under the Federal Trade Commission Act. Mandatory labeling of textile, wool, and fur products is required. Labels on wool and textile products are required to disclose by percentages the constituent fibers contained therein. Labels on fur products as well as the advertising and invoicing of such products are required to disclose to prospective purchasers the true name of the animal from which the fur was taken. For this purpose an official Fur Products Name Guide has been issued by the Commission. The disclosure of other important information is required in order to inform the purchaser when the fur product is dyed, bleached, damaged, secondhand, or made of Scrapes or pieces. Under the Textile Act and the Fur Act, the country of origin or place of manufacture must be disclosed with regard to imported merchandise.

Under each act the Commission is specifically authorized to make inspections and tests of merchandise subject to the requirements of the acts and regulations. It is also directed and authorized to issue rules and regulations which have the force and effect of law. Under the Textile Act these regulations include the establishment of generic names for manufactured fibers for use in disclosing fiber content information.

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[8] 15 U.S.C. § 68, 12 U.S.C. § 69 and 15 U.S.C. § 70, respectively.

Under the Wool and Fur Acts, when necessary in the public interest, the Commission may institute seizure or condemnation proceedings for misbranded merchandise. Under all three acts it may apply to the Federal courts for temporary injunction pending the completion of a Commission proceeding under which a cease-and-desist order is sought. Suits to collect civil penalties for violation of Commission final orders under these acts are also available. Willful violations are punishable also by misdemeanor proceedings brought by the United States in the Federal district courts.

Manufacturers and distributors of products subject to these act may issue guaranties for the protection of their customers who rely in good faith upon representations made in connection with such guaranties.

Registered identification numbers are issued by the Commission to manufacturers and distributors for use on labels in lieu of their required name.

Flammable Fabrics Act, approved June 30, 1953, effective July 1, 1954 [9]

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

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

Manufacturers and distributors may guarantee their merchandise as having passed reasonable and representative tests for flammability. Members of the trade who rely in good faith upon these guaranties are afforded certain protection against prosecution. Willful violations of the act, whether in placing prohibited products on the market or in issuing a false guaranty, may be prosecuted by the Government as

[9] 67 Stat. 111,

misdemeanors. Upon conviction, fines up to $5,000 or 1 year's imprisonment, or both, may be imposed by the court.

Regulation of Insurance—Public Law 15, 79th Congress '˚

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

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

Lanham Trade Mark Act, approved July 5,1946 [12]

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

Defense Production Act of 1950 [13] and Small Business Act of 1953 [14]

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

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[10] Approved March 9, 1945, 59 Stat. 83. Effective June 30, 1948, see amendment approved July 25, 1947, 61 Stat. 448.

[11] United States v. Southeastern Underwriters Associations, 332 U.S. 533, June 5, 1944.

[12] 60 Stat. 427.

[13] 64 Stat. 798.

[14] 67 Stat. 232.

Chapter Three

ADMINISTRATION

The Executive Director, as the Commission's chief operating official, manages the Federal Trade Commission's activities to achieve effective and economical operations. He has responsibility for operational and administrative direction of all the Commission's bureaus and field offices. The Office of the Executive Director also includes the Office of Administration.

OFFICE OF ADMINISTRATION

The Office of Administration gives policy guidance and general supervision to the management and organization programs, administrative services activities, and personnel programs of the Federal Trade Commission. The Office plans for effective organization and administration of the Commission's management programs, formulates and puts into effect basic administrative policies, and develops long-range plans relating to needs for personnel, space, supplies, equipment, etc. The Office of Administration Includes the Division of Personnel, the Division of Management and Organization, and the Division of Administrative Services.

Division of Personnel

The Division of Personnel initiates, develops, and administers personnel policies aid programs in the spheres of recruitment, appointment and placement, training, position classification, efficiency ratings, employee relations, welfare, and health and recreation.

Division of Management and Organization

The Division of Management and Organization conducts management surveys and recommends and installs organization changes, management reports, procedures, and establishes staffing patterns that enable the Commission to operate more efficiently and effectively.

This Division also prepares analyses of the Commission operations for the use of the Commission.

Division of Administrative Services

The Division of Administrative Services is a central administrative, unit established for the purpose of publishing material made public under section 6(f) of the Federal Trade Commission Act; for the procurement of supplies and equipment; and for supplying other services essential to the functioning of the Federal Trade Commission. The Commission's Library is also located in this Division.

Publication Branch

This Branch of the Division of Administrative Services clears for format, economy of reproduction, and distribution, all material printed or duplicated by the Federal Trade Commission within the limitations of the laws and regulations as applicable thereto. This Branch also operates a class A printing plant established under the provisions of the regulations by the Joint Committee on Printing of the U.S. Congress; and provides photographic, photostat, and drafting services. These services are performed by the following sections:

The Stenographic and Composition Section edits, for format and typography, material to be printed at the Government Printing Office or printed or duplicated in the Federal Trade Commission Printing Plant, and provides stenographic services when bureau pools are over burdened. During fiscal year 1959 over 4,350 pages of copy were produced by this activity for lithographic reproduction in the printing plant.

The Photographic Section provides the Commission with photographic, Copy Flo, and Photostat services for use in connection with the Commission's legal proceedings and economic reports. Production Reports for this section show that over 242,000 photographic and Photostat and Copy Flo prints were produced during fiscal year 1959. This represents an increase of 40,000 items over 1958.

Functions of the printing plant are the printing of the Commission's orders, press releases, legal and economic reports, speeches, trade practice rules, pamphlets, forms, letters, etc. Production during the fiscal year 1958 was more than 10,330,000 lithographed impressions.

Library

The Library consists of a specialized collection of more than 100,000 bound volumes and extensive vertical files containing 35,000 to 38,000 legislative documents and statistical publications organized for easy accessibility. In addition, there are several thousand current issues of legal, economic, and technical periodicals which collect annually from the inflow of more than 200 titles on a daily, weekly, monthly, or other frequency basis. These, too, become volumes at the end of each year when single numbers of selected titles are collected and bound.

The demand for reference and research increased substantially during fiscal 1959, as did also the use of books and materials. Approximately 56,000 reference questions were answered during the year, and more than 70,000 books and other materials were loaned outside the Library. Numerous requests were received from public sources for bibliographies compiled in the Library.

Procurement and Services Branch

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

OFFICE OF THE COMPTROLLER

The Office of the Comptroller Includes the Division of Budget and Finance and the Division of Financial Statistics, thus placing all budget, fiscal, machine tabulation, and financial statistics in one office.

Division of Budget and Finance

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

Division of Financial Statistics

The primary function of the Division of Financial Statistics is to collect and summarize for each calendar quarter uniform, confidential financial statements from a probability sample of all enterprises classified as manufacturers, except newspapers, which are required to file U.S. Corporation Income Tax Form 1120. The quarterly summaries, entitled Quarterly Financial Report for Manufacturing Corporations, are published by the Government Printing Office and sold by the Superintendent of Documents.

The purpose of this sample survey is to produce, each calendar quarter, an income statement and balance sheet for all manufacturing corporations, classified by both industry and asset size. (Corporations account for more than 95 percent of total receipts from all manufacturing activity in the United States; manufacturing corporations account for approximately 60 percent of all corporate profits.)

The published quarterly summaries contain statistical tables which give profits per dollar of sales and rates of profit on stockholders' equity for each of 32 groups of manufacturing industries and 28 groups of asset sizes of corporate manufacturers. The summaries also contain quarterly estimates of 45 income statement and balance sheet items, and as many financial and operating ratios, for each industry and size group.

The quarterly summaries are used by various agencies in the executive and legislative branches of the Federal Government to analyze current business conditions, evaluate the current financial position of small business, estimate net income in national income statistics, estimate current tax liability and future tax receipts, and determine current monetary and credit policy.

The quarterly summaries are also used by thousands of non-Government subscribers, Executives for example use the quarterly summaries to measure efficiency and appraise costs by comparing a company's operating results with the average performance of companies of similar size or in the same line of business, to determine whether to undertake new ventures by comparing the profitability of various types of business activity, and as a guide to the relative movement of sales and profits in order to reduce controversies in wage negotiations.

OFFICE OF THE SECRETARY

The secretary and his immediate office receive and handle mail on all phases of the Commission's work. He signs all orders and certain other official papers. He also is responsible for liaison with the Congress and Government agencies and for decisions on informal cases not submitted to the Commission.

The assistant secretary for minutes takes the minutes of, and records the executive meetings of the Commission, prepares directives for the signature of the secretary, and keeps the calendar of pending matters.

Legal and Public Records

The Office of the Assistant Secretary for Legal and Public Records embraces the Legal Research and Reporting Section, Formal Docket Section, Public Reference Section, and the Distribution Section.

Legal Research and Reporting Section

This Section is responsible for the preparation and publication of the volumes of the Federal Trade Commission Decisions and its

Statutes and Court Decisions, the latter including court decisions in Commission cases; for the codification and editorial preparation of various Commission material published in the Federal Register; for the collection and dissemination of relevant court decisions.

Formal Docket Section

The Formal Docket Section is responsible for the establishment, management, safety, completeness and accuracy, uses and retirement of the legal and related records of the Commission.

Public Reference Section

The Public Reference Section furnishes information and assistance to the public, and to the staff of the Commission in relation to public, legal, and court proceedings, and in matters of related procedure. The Section is responsible for the custody, location, safety, conditions, etc., of dockets, files, exhibits, etc.

Distribution Section

The Distribution Section controls the supply and distribution of all publications issued by the Commission, such as economic reports, annual reports, trade practice rules, Statutes an Court Decisions, etc.

Public Information

This office issued a total of 1,309 press releases during fiscal year 1959, compared with 1,238 in fiscal 1958. They covered news of Commission complaints, answers by respondents, initial decisions, orders, and Compliance actions. In addition, many oral and written inquiries from the press and public were answered each day.

FEDERAL TRADE COMMISSION

ORGANIZATIONAL CHART - SEE IMAGE

Chapter Four

INVESTIGATION

The function of the Bureau of Investigation is to gather and analyze the facts and evidence which provide the basis for corrective action by the Commission. This task is performed under the supervision of the Bureau Director and the guidance of the Chief Project Attorney, his staff of project attorneys, and the attorneys in charge of the Commission's nine branch offices.

Specialized investigative or advisory functions are performed by the Division of Textiles and Furs, the Division of Accounting, the Division of Scientific Opinions, and the Legal Adviser in charge of the Investigation of mergers and acquisitions. The work of these groups will be discussed separately.

Most Commission cases stem from letters of complains from member of the public who feel they have been deceived or misled by unfair or deceptive acts or practices, or from businessmen who believe that their economic welfare is jeopardized by unfair or discriminatory competitive practices. Complaints are also received from individual members of Congress, congressional committees, trade associations, and other governmental agencies, both State and Federal.

In view of the Commission's broad jurisdiction, it can readily be understood that more complaints are received than can be investigated. For this reason, it is essential that all complaints be carefully evaluated to eliminate those which are of a trivial or borderline nature or which are lacking in public interest. Other factors involved in the evaluation process include the time and expense required to conduct an Investigation, whether the matter involves a purely private controversy, and the extent to which the complained of act or practice is susceptible of correction under statutes administered by the Commission.

In all restraint of trade matters, close and effective liaison is maintained with the Antitrust Division of the Department of Justice in order to avoid overlapping or duplication in matters where the two agencies may possess concurrent jurisdiction.

In some matters involving deceptive practice chargers, the necessary facts can be secured through correspondence at a substantial saving in public funds. As a general rule, however, it is necessary to obtain the relevant facts and evidence by means of interviews

with the complaining party, the proposed respondent, competitors, customers, suppliers, and other informants.

After a matter has been entered for Investigation, it is referred to one of the Commission's nine branch offices for assignment to an attorney-examiner. In many cases, work on the same case is performed simultaneously by attorneys from two or more branch offices, with one such office having responsibility for coordination of the Investigation.

Upon completion of an Investigation, the examining attorney prepares a final report, setting forth the relevant facts and making an appropriate recommendation. This report is reviewed by the attorney in charge of the branch office and is then forwarded to headquarters for study and review by the project attorney who has primary responsibility for the case from its inception to final disposition. Depending upon the conclusion reached, the case is then referred to the Bureau of Litigation for the drafting of a complaint, to the Bureau of Consultation for the negotiation of a stipulation, or to the secretary or the Commission with a recommendation for closing.

In addition to the foregoing, the various branch offices spend a substantial amount of time investigating the manner in which respondents are complying with previously issued orders to cease and desist. This work must be performed with unusual care and attention to detail, since the evidence obtained may be used in support of civil penalty or contempt proceedings.

Investigations are also conducted to assist in the litigation of pending formal cases, since defenses asserted by respondents often raise issues requiring additional facts and evidence.

Matters investigated by the Bureau fall into two broad categories— restraint of trade and deceptive practices.

Of the 4,400 applications for complaint received during the year, 884 involved alleged restraint of trade and 3,516 involved deceptive practices. Restraint of-trade investigations pending at the beginning of the fiscal year numbered 485, to which were added 211 during the year. Of these, 79 were concluded with issuance of complaints and 191 were closed, leaving 449 for Investigation at the year's end.

Under section 5 of the Federal Trade Commission Act, the Bureau investigated allegations of such unfair and restrictive practices as price-fixing, collusive bidding, resale price maintenance, interference with sources of supply, and selling below cost with the intent and probable effect of eliminating competition or destroying a competitor. Twenty-three of the complaints which were issued primarily involved such charges.

Numerous important investigations were conducted under section 2 of the Clayton Act, as amended by the Robinson-Patman Act, which

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prohibits price discrimination and discrimination in the payment of promotional allowances or in the furnishing of services or facilities. Many of these related to practices in the food industry, with particular reference to dairy products. Investigations were also made of exclusive dealing and tying arrangements under section the Clayton Act, and of interlocking directorates under section 8. Fifty- six of the complaints issued were under the Clayton Act.

The 660 deceptive practice investigations completed during the year under the Federal Trade Commission Act included 445 entailing charges of violation of section 5, and 142 entailing charges of false advertising of food, drugs, medical devices, or cosmetics in violation of section 12. The section 5 deceptive practice Investigation has resulted in issuance of 118 formal complaints, and acceptance of 94 stipulations to cease and desist. The section 12 investigations resulted in issuance of 27 complaints and acceptance of 11 stipulations. Additionally, 114 of the section 5 and section 12 deceptive practice investigations were terminated upon receipt of assurance that questioned practices had been discontinued without intent to resume, where it appeared that that method of disposition would adequately protect the public interest.

Typical of the deceptive practice charges receiving attention under section were fictitious pricing of clothing, floor coverings, electrical appliances, and cutlery; misrepresentation of correspondence courses in chemistry, detective work, airline stewardship, and real estate appraisal; misleading use of the term "Guaranteed" in connection with bedding, watches, and sewing machines; and false claims of Government approval respecting various products. Under section 12 the charges which were investigated included false claims that bread and macaroni products were low in calorie content and would effect weight reduction; that hearing aids were cordless and invisible and required nothing to be worn in the ear; that drug products would aid in preventing Asian flu or would effectively treat rheumatism or arthritis; that cosmetic products would rejuvenate the skin or cause the hair to become naturally curly; also, use of fictitious testimonials from nonexistent doctors in connection with an antibiotic preparation; and offering of oleomargarine as a dairy product.

As an adjunct to the investigative function, published and broadcast advertising is monitored on a sampling basis to detect claims which may be misleading or deceptive. Coverage was augmented during the year by establishment of a system whereby the small regular staff assigned to this work will be aided through off-duty scrutiny of advertising by the more than 350 professional members of the Commission's staff, both in Washington and at the 9 field offices. The purpose of this monitoring is not only to detect new violations of law but also to check on how advertisers are complying with existing

Commission orders, stipulations, trade practice rules, and advertising guides.

In respect of its duties under the Trade Mark Act of 1946, the Commission during the year sought cancellation of the trademark “Fiocco" which had been registered by Bart Schwartz International Textiles, Ltd., as a mark for rayon fabric. The petition for cancellation was granted by the Trade Mark Trial and Appeal Board of the Patent Office, and that decision is now undergoing review by the U.S. Court of Customs and Patent Appeals.

The Commission also obtained during the year a final order of cancellation respecting the trademark "Triumph" as a designation of wheat seed.

MERGER INVESTIGATIONS

The Commission's authority to enforce Compliance with section 7 of the Clayton Act, as amended, is derived from section 11 of the act. After vesting similar authority in the Interstate Commerce Commission, Federal Communications Commission, Civil Aeronautics Board, and Federal Reserve Board, over corporations engaged in operations in the areas of those agencies' authority, section 11 provides that the Federal Trade Commission shall have this authority " * * * where applicable to all other character of commerce * * *."

As a result, the Commission has cognizance over corporate mergers and acquisitions in widely diverse fields. In fiscal year 1959, this diversity of interest resulted in the Commission examining into mergers and acquisitions by corporations in such varied fields as foodstore chains, petroleum producers, department stores, producers of electrical products, proprietary and ethical drug manufacturers, dairies, plastics manufacturers and fabricators, bakeries, and numerous others.

Since there is no legal obligation for corporations intending to merge or make an acquisition to notify the Commission of their intention or of the accomplished fact, the Commission usually learns of a merger or acquisition from financial newspapers, trade journals, manuals of investments, and similar materials. In addition, some complaints are received against particular mergers.

Each acquisition or merger coming to the Commission's attention is made the subject of an information sheet containing such basic financial and operational data regarding the corporations involved as is readily available from recognized reference manuals. In fiscal year 1959, 980 information sheets were prepared. All mergers and acquisitions so recorded are examined by project attorneys in the Bureau of Investigation who, after evaluating readily available data, recommend whether further investigations should be undertaken. In making his determination, the project attorney usually obtains addi-

tional information from both standard and specialized sources of material regarding the corporations. He also confers with economists and other experts in the lines of commerce involved in order to make an appraisal as to the probable competitive effects of the merger.

If the conclusion is that a particular merger may have adverse competitive effects, a comprehensive investigation is initiated. One hundred and seven merger investigations were pending at the start of the year, 46 new investigations were initiated during the year, and 95 such investigations were pending at the end of fiscal year 1959.

These investigations into the competitive effects of corporate mergers and acquisitions are more time consuming, expensive, and complicated than most other investigations conducted by the Commission. Since section 7 provides that mergers or acquisitions violate the Clayton Act only if they may substantially lessen competition or tend to create a monopoly, the difficulties usually stem from the fact that it is necessary to ascertain, insofar as possible, what the future holds for competition in the relevant lines of commerce in the sections of the country involved. But, despite the difficulties inherent in conducting these investigations, they must be, and are, conducted as expeditiously as possible to minimize complications which arise when the assets and operations of the combining corporations are so intermingled as to make an effective order of divestiture difficult or impossible.

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

DIVISION OF SCIENTIFIC OPINIONS

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

Fiscal year ended June 30, 1959

Number of written opinions rendered	196
Number of oral opinions rendered	337
Number of analyses and tests	9
Number of hearings attended	8
Number of stipulation conferences attended	7
Number of expert witnesses secured	16

The written opinions rendered involved the following:

Foods	20
Drugs	90
Cosmetics	10
Devices	19
Economic poisons	13
Miscellaneous	44

On July 1, 1958, there were 52 requests for scientific and medical opinions awaiting study and report in the Division, and on June 30, 1959, the number pending was 50. On June 30, 1959, there were outstanding 18 formal complaints involving matters in which the division was expected to furnish advice to Commission attorneys and to obtain expert scientific and medical witnesses.

The opinions rendered dealt with many kinds of foods and beverages, livestock feeds, vitamin preparations, cough and cold remedies, analgesics, laxatives, diuretics, skin preparations, sunburn preventives, hair and nail preparations, feminine hygiene product; trusses, contact lenses, eyeglasses, hearing aids, shoes and wearing apparel for which health claims were made, cigarettes, insecticides, disinfectants, cooking utensils, bleaches and cleansing products, and many other preparations and devices. It was necessary to give continued attention to preparations, both external and internal, offered for the treatment of arthritis, rheumatism, and related conditions, to preparations or courses of treatment offered for the prevention and cure of baldness and to products and devices for the treatment of obesity.

Many of the matters referred to the Division for scientific opinion are complex and difficult to resolve. Increasingly the advertising under Investigation involves drugs, cosmetics, and devices regarding whose virtues and limitations the published medical and scientific literature provides, at most, only fragmentary and inconclusive information. Consequently, the Division must locate and confer with the medical specialists and other scientists who have firsthand knowledge of the therapeutic and other properties of the drugs, cosmetics, and devices. Authorities in a particular field when contacted may characterize the available scientific information as preliminary and inconclusive, but having had no actual experience with the product in question they are unable to state categorically that the advertising claims are false. In such cases the only hope of accurate appraisal and, where

necessary, effective regulation of the advertising, is to have the products tested clinically. It is becoming increasingly necessary to have such tests made in order to appraise accurately the advertising for specific products.

DIVISION OF ACCOUNTING

This Division furnishes accounting services in connection with the Investigation and trial of legal cases and in general economic investigations.

The Division prepares accounting analyses and studies of the pricing policies of respondents or proposed respondents in connection with the Commission's law enforcement work in regard to: (1) alleged price discrimination under section 2 of the Clayton Act, as amended by the Robinson-Patman Act; (2) cost data submitted by respondents in justification of alleged price discrimination under the Robinson-Patman Act; (3) alleged price fixing in cases arising under section of the Federal Trade Commission Act; and (4) alleged sales below cost in violation of section 5 of the Federal Trade Commission Act

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

During the year, accounting services were furnished in connection with 74 legal cases and investigations. These included 42 Robinson-Patman cases, 13 other Clayton Act cases, 16 section 5 Federal Trade Commission Act cases, 2 Trademark Act cases, and 1 case involving the Wool Products Labeling Act.

During the year a study was made of the profitableness of identical companies in each of 24 selected manufacturing industries for the years 1940,1947-57, and also for the 12 largest companies in each of 39 industries for the years 1950 and 1957. A report on this study was submitted to and approved by the Commission and ordered published.

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

DIVISION OF TEXTILES AND FURS

This Division is generally charged with the administration of four pieces of consumer legislation—the Wool Products Labeling Act of 1939, the Fur Products Labeling Act of 1951, the Flammable Fabrics

Act of 1953, and the recently enacted Textile Fiber Products Identification Act of 1958.

The Wool, Textile, and Fur Labeling Acts constitute "truth-in-fabrics" and "truth-in-furs" legislation. Under their terms, the disclosure of content and other important factual information is required in the labeling and advertising of textiles and furs. The Flammable Fabrics list prohibits the marketing of dangerously flammable wearing apparel and wearing apparel fabrics.

The Division drafts substantive rules, regulations and amendments thereto, as necessary, for a firm and fair enforcement of the acts. Such rules clarify and interpret the basic statutes, as well as provide for exemption of products under certain, circumstances. Where applicable, generic names for manufactured fibers are also established under these rules.

As provided for by the Fur Act, a "Fur Products Name Guide" has been established, and, when necessary, animal names are added upon recommendation by the Division. The Division maintains a public register for continuing guarantees filed with the Commission under the respective acts. Registered numbers are also issued for identification purposes in labeling products subject to the statutes.

The Division furnishes the Commission and its staff with legal and technical advice in connection with the enforcement of the respective statutes. The rendering of opinions and interpretations to industry as well as the public under the respective acts and regulations constitutes another important function of the Division.

In order to afford consumers the protection intended by Congress, each of the acts provides for inspections, analyses, tests, and examinations of products subject to their terms. Under this authorization, the Division plans and supervises nationwide inspection and industry counseling programs, carried on by Commission investigators at all merchandising levels. Where possible, investigators counsel members of industry as to their responsibilities under the respective acts, and effect on- the-spot correction of minor infractions. Where substantial or repeated violations are found, complete investigations are made, and corrective action recommended against responsible parties.

During fiscal 1959 special attention was given to the compliance under the Wool Act; of the woolen interlining and batting industries, as well as dealers in "reprocessed wool" and "reused wool fiber stocks. As result of these efforts, formal corrective actions has now been instituted by the Commission against an appreciable number of the concerns whose practices were found questionable as violating the act and regulations. One of the more common violations among the offending members of this group was the upgrading of

"reprocessed wool" an reused wool" to wool." The same was true in connection with the upgrading of reclaimed stock from the so-called specialty fiber animals, such as the cashmere goat, vicuna, and camel.

During the year the Division also worked closely with Customs officials in New York in working out a program for examining and sampling the labeling of imported wool products. As a result an increased number of corrective actions in this field have been recommended to the Commission. Attention in this area was, of course, justified by the ever-increasing volume of wool and part-wool imports into the United States from both European and Asiatic countries.

Under the Fur Act, false comparative pricing in advertising, as well as invoicing, has continued to be the chief violation uncovered through Commission inspection work. In addition, inspections during the year have uncovered various instances of imported mink being passed off as domestic mink, as well as instances of low-grade mink being tip dyed to give the appearance of high-quality mink, without disclosure of the fact that such furs were dyed.

Under the Flammable Fabrics Act, close surveillance over those segments of industry that might normally produce potentially dangerous products has been maintained. In addition to inspections among our domestic manufacturers and distributors, careful watch has been kept over potentially dangerous imports.

During the year tests conducted by the Division's textile and fur screening laboratory reached an alltime high.

Formal complaints issued under the Wool and Fur Acts during fiscal 1959 amounted to 46 percent of the total number of deceptive-practice complaints issued by the Commission. During the same period stipulations under these two acts accounted for 29 percent of the entire number of stipulations accepted by the Commission.

Immediately after enactment of the Textile Fiber Products Identification Act on September 2, 1958, the Division conducted many detailed investigations and informal conferences with representatives of various segments of the textile industry amenable to the new legislation, for the purpose of formulating necessary rules and regulations incident to its proper enforcement. A draft of proposed rules was published in February 1959 and formal hearing were held thereon beginning on March 10, 1959. Final rules and regulations were issued by the Commission on June 2, 1959, to become effective simultaneously with the statute on March 3, 1960. Since the formal hearings in March, the Division has been extensively engaged in interpreting the statute and the rules for interested parties, as well as issuing registered identification numbers under the new Act.

The following statistics reflect the workload of the Division during fiscal 1959:

Division of Textiles and Furs workload statistics for fiscal 1959

	Wool	Fur	Flammable Fabric	Textile [1]
Commercial establishments covered by industry compliance investigation	1,779	877	1,639	.....
Products examined for compliance (sampling method used in wool products)	2,924,558	74,394	5,765,164	.....
Fur advertisements examined for deficiencies		24,880	.....	.....
Matters investigated and referred for complaint	[2] 35	82	.....	.....
Matters investigated and referred for stipulation	[3] 21	18	.....	.....
Compliance investigations of concern under cease- and-desist orders of stipulation	109		.....	.....
Matters involving questionable practices which were disposed of by the acceptance of assurances of discontinuance	654		.....	.....
Interpretations and opinions rendered under the respective acts	.....	.....	17,504	.....
Registered identification numbers issued	.....	.....	1,501	.....
Continuing guaranties accepted and filed	.....	.....	2,414	.....
Laboratory tests completed	.....	484	.....	

[1] Textile Fiber Products Identification Act became law Sept. 2, 1958, and becomes effective Mar. 3, 1960.

[2] Including 4 sec. 5, FTC, cases.

[3] Including 2 sec. 5, FTC, cases.

Chapter Five

LITIGATION

The Bureau of Litigation is responsible for the preparation and trial of all types of cases brought under the trade regulation statutes administered by the Commission. It consists of a staff of trial attorneys who handle cases covering a wide range of monopolistic and deceptive practices.

For example, proceedings on the Bureau of Litigation docket may involve such monopolistic or anticompetitive practices as price fixing, boycott, exclusive clearing, mergers and discriminations in price, allowances or services, as well as misrepresentation in advertising and labeling of all sorts of products.

Bureau attorneys analyze facts developed in investigations conducted by the Bureau of investigation, research the applicable law and make recommendations to the Commission for issuance or nonissuance of formal complaints challenging a variety of law violations.

When complaints are issued by the Commission, Bureau attorneys handle the trial before hearing examiners, as well as appeal proceedings before the Commission. Their duties include the usual functions of any trial lawyer, such as legal research; preparation of trial briefs and of other necessary legal documents; participation in conferences with parties, witnesses, and attorneys; participation in settlement negotiations and other pretrial procedures; the conduct of hearings; preparation of briefs; and presentation of oral argument. The conduct of hearings involves, of course, the examination of witnesses for the purpose of presenting oral testimony and the introduction of documentary evidence, the cross-examination of defense witnesses and the presentation of rebuttal evidence. Other duties are the preparation of applications for subpoenas duces tecum and other compulsory process, as well as the necessary steps to enforce them; and preparation and filing of answers to defense motions, petitions, and appeals.

This work usually requires time-consuming studies and conferences. It necessitates intimate and detailed knowledge of the voluminous material in investigational files and reports. It frequently calls for consideration of complex legal, medical, business, and economic factors. On the trial attorney rests the responsibility of establishing during trial the factual and legal record on which cases ultimately

stand or fall. It is this record on which must be based Commission orders issued in the public interest, as well as subsequent court decrees on review.

The Bureau is headed by a Director who exercises general supervision over its work, assisted by two Assistant Directors and an assistant to the Director. In addition, there are five legal advisers—four who are specialists in field of antimonopoly law and one who specializes in the field of law dealing with misrepresentation and other deceptive practices—and also two economic advisers. They provide advice and assistance to the Director and Assistant Director, as well as the trial staff, at all stages of the litigation process. The legal advisers serve as trial attorneys in cases of major importance involving a high degree of complexity and difficulty.

As of June 30, 1959 the Bureau had a staff of 59 trial attorneys (in addition to the legal advisers), plus some 30 secretarial, stenographic, administrative, and clerical employees.

CASE WORK IN 1959

Case Work during fiscal 1959 was generally maintained at the record high levels of recent years. A slight decline in the number of complaints issued was more than offset by marked increase in the number of cease- and-desist orders issued. The following table compares fiscal 1959 with three prior fiscal years.

Statistical summary and comparison, fiscal years 1956-59

	Antimonopoly cases				Deceptive practices cases				Totals			
	1956	1957	1958	1959	1956	1957	1958	1959	1956	1957	1958	1959
Complaints issued	42	55	86	[1] 79	150	187	[2] 268	[3] 271	192	242	354	350
orders to cease and desist	37	[4] 31	[4] 45	[5] 64	132	[5] 148	[6] 228	[7] 267	169	179	273	331

[1] In addition, there was an antimonopoly charge included in a deceptive practice complaint
[2] In addition, there were deceptive practices charges included in two antimonopoly complaints.
[3] In addition, there was a deceptive practice included in an antimonopoly complaint
[4] In addition, there was 1 order partially disposing a case.
[5] In addition there were 5 orders partially disposing of cases
[6] In addition, there were 7 orders partially disposing of cases.
[7] In addition, there were 9 orders partially disposing of cases.

Following is a description of some, of the more significant cases started or completed during the year.

ANTIMONOPOLY CASES

Antimonopoly orders issued in 1969 totaled 64, an increase of more than 40 percent over the 1958 total. The number of complaints showed a slight decline.

Merger cases

Merger cases continued to represent a substantial part of the Bureau's caseload. Three new complaints issued during the year

brought to 22 the number of merger cases in litigation. These cases brought under section 7 of the Clayton Act, are designed to ban mergers, acquisitions, and consolidations which may substantially lessen competition or tend to monopoly.

National Tea Co. (Docket 7453)

The Kroger Co. (Docket 7464)

Attacking increasing concentration in the food industry, the Commission issued complaints challenging numerous corporate acquisitions by two of thee Nation's largest retail food chains.

National Tea Co. of Chicago was cited for its acquisition of 13 corporations with approximately 440 stores during a 7-year period.

The Kroger Co. of Cincinnati was charged with illegally acquiring more than 40 corporations with approximately 1,900 stores.

Each complaint alleges that the acquisitions may result in substantially lessening competition or tending to create a monopoly in the processing, manufacturing, purchasing, and distributing of grocery products and in the sale of merchandise in retail grocery stores.

In addition to charging violation of section 7 of the Clayton Antitrust Act, each complaint alleges that the acquisitions constitute an unfair method of competition and an unfair practice prohibited by section 5 of the Federal Trade Commission Act.

As to the economic significance of these cases, the complaints point, out that, the food industry is the largest segment; of the American economy. They further state:

> Concentration of grocery store sales in large corporate chains has been intensified in the United States through sustained programs of corporate acquisitions. Twenty percent of the grocery stores in the United States account for over 72 percent of the total grocery store sales in the country. From 1954 to 1957, some 36 corporations absorbed 88 grocery chains and thereby acquired, during this period, over $1 ½ billion in total sales.

Diamond Crystal Salt Co. (Docket 7323)

The third antimerger complaint issued during fiscal 1959 is against Diamond Crystal Salt Co., of St. Clair, Mich., one of the Nation's five-largest salt producers. The corporation is charged With illegally acquiring a major competitor, Jefferson Island Salt, Co., of Louisville, Ky.

According to the complaint, one of the effects of the merger is to increase the already high degree of concentration existing in the industry. A further charge is that the acquisition eliminated actual and potential competition between Diamond and Jefferson and enhanced Diamond's competitive position over other salt producers.

No final orders were issued under section 7 during the fiscal year, but the Commission remanded for further proceedings a major merger case which had been dismissed by the hearing examiner. This

was the Scott Paper Co. case in Which the Nation's leading seller of sanitary paper products (toilet tissue, facial tissue, paper napkins, paper towels, and household wax paper) is charged with unlawfully acquiring three corporations in the paper industry.

The Commission reversed the ruling of the hearing examiner that a prima facie case had not been established.

Of the 22 merger cases pending as of June 30, 1959, 15 were in various stages of trial; 5 had resulted in initial decisions which were being appealed to the Commission; and 2 were awaiting decisions by hearing examiners.

Robinson-Patman Act Cases

A large percentage of the Commission s antimonopoly cases involved discriminatory practices in violation of section 2 of the Clayton Act, as amended by the Robinson-Patman Act. This section is designed to safeguard the competitive order against the effects of a seller's unjustified discriminatory prices. It also prohibits a seller from discrimination in the payment for or the furnishing of services or facilities, such as advertising or promotional aids, as between competing buyers, and forbids the payment or receipt of brokerage fees or commissions under certain conditions. One subsection runs against knowing inducement or receipt by a buyer of discriminatory prices.

Violation of section 2 was alleged in 66 cases during fiscal 1959. Sixty-one cease-and-desist orders were issued.

The automotive parts field and the food products field accounted for most of the cease-and-desist orders issued.

Thompson Products, Inc. (docket 5872), was ordered to stop giving automobile makers and other original equipment manufacturers illegal price advantages over its own wholesalers of automotive replacement parts. The Commission found that Thompson's lower prices to General Motors, Ford, Chrysler, and certain other original equipment manufacturers were not cost justified, and that the discriminations may adversely affect competition.

The Thompson order was one of six cases in which automobile parts suppliers were required to stop discriminatory pricing practices.

Additionally, in a continuing attack against discriminatory pricing in the automobile replacement parts industry, the Commission issued orders in seven cases requiring scores of jobbers to stop inducing and accepting discriminatory prices from their suppliers through the operation of so-called buying groups. The cases are as follows:

Warehouse Distributors, Inc., and 28 southeastern jobber members (docket 6837).

Midwest Warehouse Distributors, Inc., and 21 jobber members (docket 6888).

Six-State Associates and 14 New York and New England jobbers (docket 6765).

Mid-South Distributors and 17 jobber members (docket 5766). Cotton States, Inc., and 8 jobber members (docket 5767).

Metropolitan Automotive Wholesalers Cooperative, Inc., and 17 jobber members (docket 5724)

Southwest Automotive Distributors, Inc., and 33 jobber members (docket 6890).

The respondents in each of these proceedings were charged with knowingly inducing and receiving unlawfully discriminatory prices in violation of section 2(f) of the Robinson-Patman amendment to the Clayton Act.

In other proceedings related to the automobile industry, The Firestone Tire & Rubber Co. (docket 7141) as ordered to stop giving illegal price concessions to a favored few of its 14,000 franchised dealers, and the Nation's largest manufacturer of automotive luggage carriers, Market Forge Co. (docket 7243), was ordered to stop discriminating in price among its customers.

Four of the Nation's leading manufacturers of electric shavers were required by Commission orders to stop discriminating among their customers in both prices and promotional allowances. The companies are:

Sperry Rand Corp. (docket 6701).

Schick, Inc. (docket 6892).

North American Philips Co., Inc. (docket 6900) .

Ronson Corp. (docket 7066).

Sperry Rand, Schick, and Ronson also were ordered to terminate illegal price-fixing agreements with distributors of their products.

Sun Oil Co. (docket 6641) was ordered to stop charging any of its service station customers less for gasoline and other petroleum products than it charges competing dealers in the same marketing area. The Commission's order also bars the company from illegally conspiring to fix the resale price of its products.

In the food products field, price discrimination orders were issued against Alton Canning Company, Inc., (docket 7265), William Freihofer Backing Co. (docket 7072), and Hudson House, Inc. (docket 7215) .

Discriminatory prices to favored customers were prohibited also in an order against three affiliated Jacksonville, Fla., distributors of drug proprietaries, toiletries, and housewares (Sav-A-Stop, Inc., docket 7317).

Among the new price discrimination cases instituted during the year were two complaints charging two of the Nation's major dairy companies with discriminating in price among their customers in the sale of fluid milk and other dairy products. Cited in separate com-

plaints were The Borden Company (docket 7474) and Foremost Dairies, Inc. (docket 7475).

Both dairies are alleged to have discriminated among retailers and consumers in various Texas cities. Borden is additionally charged with discriminations in Indiana and Michigan. Among other things, the Borden complaint alleges that A. &.P. and Kroger foodstores are granted lower prices than their independent competitors.

Also in the food products field, Tri-Valley Packing Association, Inc. (docket 7225), a cooperative canner of fruits and vegetables, and Schulze & Burch Biscuit Co. (docket 7452), a manufacturer and distributor of cookies, crackers, and other biscuit products, were charger with price discrimination. Chain stores are alleged to be among the favored customers of Schulze & Burch.

Annual quantity discount systems are challenged as discriminatory in cases against a hat manufacturer and two of the Nation's largest manufacturers of rugs and carpets.

The hat manufacturer is Hat Corp. of America (docket 7422), which makes and sells such brands as Dobbs, Knox, Champ, and Cavanagh. The two rug manufacturers are Mohasco Industries, Inc. (docket 7421), and Bigelow-Sanford Carpet Co., Inc. (docket 7420).

In each case it is alleged that annual quantity discount systems resulted in smaller customer paying higher prices than competitors who buy in greater volume. Chainstores are alleged to receive favored treatment from each of the respondents.

In the field of electrical appliances, American Motors Corp. (docket 7357) was charged With giving favored retail customers illegal price, advantages over their competitors. The products involved include Kelvinator and Leonard refrigerators, ranges, homefreezers, automatic washers, clothes dryers, and room coolers. The complaint lists among the favored customers B. F. Goodrich Co., Akron, Ohio; Consumers Power Co., Jackson, Mich.; and Alabama Power Co., Birmingham,
Ala.

Other commodities involved in price discrimination complaints are bathtubs, lavatories, and sinks (docket 7365); chocolates (docket 7447); automotive shock absorbers and seat cushions (docket 7499); and laundry bleach (docket 7527) .

Discrimination in Promotional Allowances

Increased emphasis on the enforcement of the Robinson-Patman Act's requirement that a supplier give proportionally equal advertising and promotional services and facilities to all competing customers resulted in the issuance of a large number of cases under section 2 (d) and (e) during fiscal 1959.

Thirteen separate complaints were issued attacking promotional arrangements between the Nation's largest newsstand chains and the

publishers and distributors of many popular and widely circulated magazines.

American News Co., and its wholly owned subsidiary, Union News CO., were charged with coercing suppliers into paying unlawful promotional allowances which they knew, or should have known, were not offered on proportionally equal terms to their competitors (docket 7396). Similar attempts to coerce major cigar manufacturers are also alleged. The practice is challenged as unfair under section 5 of the Federal Trade Commission Act.

Eleven magazine suppliers and one cigar manufacturer were charged with violation of section 2(d) of the Robinson-Patman Act by making discriminatory payments to Union News and others, but not making them equally available to all other competing customers (dockets 7384—7395).

In five other complaints, a coupon book promotion of a retail merchandise chain in the Portland, Oreg, area was challenged as involving unlawful discriminations.

Fred Meyer, Inc. (docket 7492), was charged with knowingly inducing discriminatory prices or promotional allowances from four suppliers:

Burlington Industries, Inc. docket 7493 (nylon hosiery) .

Cannon Mills Co., docket 7494 (towels).

Idaho Canning Co. (Ltd.), docket 7495 (canned corn) .

Tri-Valley Packing Association,, docket 7496 (canned peaches).

Each of the suppliers was charged with Robinson-Patman Act violations, and Meyer with violating the Federal Trade Commission Act.

In an analogous series of actions, the Commission prohibited large Philadelphia jewelry firm from knowingly inducing suppliers to grant it discriminatory advertising allowances. The firm, which was proceeded against under section of the Federal Trade Commission Act, was Associated Barr Stores, Inc. (docket 7118). The following suppliers were ordered to stop paying special allowances to Barr for advertising their products but not making such allowances available to Barr's competitors on proportionally equal terms:

Longines-Wittnauer Watch Co., docket 7117 (watches) .

Keystone Manufacturing Co., Inc., docket 7118 (home movie equipment) .

Trifari, Krussman & Fishel, Inc., docket 7119 (costume jewelry).

Other orders barring discriminatory promotional and advertising allowances involve the following:

Ward Baking Co., docket 6833 (bakery products).

Hafner Coffee Co., docket 6961 (coffee).

Jantzen., Inc., docket 7247 (summerwear and sweaters) .

Day's Tailor-D Clothing, Inc., docket 7228 (sportswear and work clothes) .

Additional new complaints issued under section 2(d) involved Sunbeam Corp. (docket 7049), one of the Nation's major manufacturers of electric household appliances, electric shavers, electric tools, and lawnmowers and garden equipment; Marlun Manufacturing Co., Inc,. (docket 7516), which manufactures "Black Angus" electric broiler-rotisseries; Fieldcrest Mills, Inc. (docket 7528), a large manufacturer of rugs, carpets, and "domestics" (blankets, bedspreads, sheets, pillow cases, etc.); and Oneida, Ltd. (docket 7236), a large silverware manufacturer.

Brokerage Cases

Violation of section 2 (c) of the Clayton Act was prohibited in some 28 orders issued during the year. This section of the statute prohibits payment or receipt of brokerage fees or commissions in transactions between a seller and persons or firms purchasing on their own account for resale. Most of the orders involved sellers or brokers of seafood products.

Many of these cases involved the practice of food brokers "splitting" or passing on part of customary brokerage commissions to buyers.

Numerous additional brokerage complaints were issued during the fiscal year.

Exclusive Dealing Cases

Exclusive dealing contracts and arrangements were challenged in two complaints charging violation of section 3 of the Clayton Act. One complaint is against Murray Space Shoe Co. (docket 7476), the Nation's dominant manufacturer of molded shoes, and alleges that the company sells only to those chiropodists and retailers who agree not to use or deal in competitive products.

In the second complaint, American Breeders Service (docket 7450), the Nation's largest supplier of bull semen used in artificially inseminating dairy cows, is charged with making sales on the condition that customers do not buy from competitors. Other provisions in its sales contracts are also challenged as unlawfully restrictive and oppressive, in violation of section of the Federal Trade Commission Act.

A consent order was issued requiring Judson Dunaway Corp. (docket 6925) to stop making exclusive dealing agreements with its customers. The company manufactures and sells a line of household products, including Delete, a rust and stain remover; Vanish, a bathroom cleanser and deodorizer; Elf, a drain cleaning agent; Expello, moth crystals and insect bombs; and Bug-a-Boo, moth crystals and aerosol insecticide.

Interlocking Directorates

Two competing west-coast lumber companies and a director of both Were charged with violating the interlocking directorate prohibitions

of the Clayton Act. Charged in a Commission complaint with violating section 8 were Booth-Kelly Lumber Co., Michigan-California Lumber Co, and the director, John W. Blodgett, Jr.

Section 8 prohibits any person from holding directorates in two competing companies where either one has capital, surplus, and undivided profits aggregating more than $1 million..

Other Antimonopoly Proceedings

Numerous other practices restricting and restraining competition in various areas of the economy Were proceeded against during the year under section 5 of the Federal Trade Commission Act, which outlaws "unfair methods of competition" and other "unfair" acts and practices.

Highlighting the year's activities in this type of case was a complaint charging six leading makers of "wonder drugs" With attempting to monopolize the Nations $330 million antibiotic industry and with fixing and maintaining "arbitrary, artificial, noncompetitive, and rigid" prices for these lifesaving drugs. The respondents in this case (Docket 7211) are American Cyanamid Co., Bristol-Myers Co., Bristol Laboratories, Inc., Chas. Pfizer & Co., Inc., Olin Mathieson Chemical Corp., and The Upjohn Co.

The companies are charged with conspiracy to fix and police prices of the so-called tetracyclines (such as Aureomycin and Terramycin), as well as to deny other drug manufacturers the opportunity to compete in their sale.

The complaint includes charges that Pfizer made false and misleading statements to the U.S. Patent Office in order to obtain the patent on tetracycline, a key drug among "broad spectrum" antibiotics, and that the other companies accepted licenses under the patent with knoWledge of circumstances indicating the invalidity of the patent.

Another significant action was a complaint charging 15 tire and tube manufacturers and 2 trade asscciations with conspiracy to fix prices. The manufacturers named in the complaint (docket 7505) are alleged to account for substantially all of the domestic industry's annual sales volume of approximately $2 billion.

The associations are:

The Rubber Manufacturers Association, Inc.
The Tire & Rim Association, Inc.

The manufacturers are:

The Goodyear Tire & Rubber Co.
The Firestone Tire & Rubber Co.
United States Rubber Co.
The B. F. Goodrich Co.
The General Tire & Rubber Co.
The Armstrong Rubber Co.

Cooper Tire & Rubber Co.
The Dayton Rubber Co.
Dunlop Tire & Rubber Co.
The Gates Rubber Co.
Lee Rubber & Tire Corp.
The Mansfield Tire & Rubber Co.
McCreary Tire & Rubber Co.
The Mohawk Rubber Corp.
Seiberling Rubber Co.

The complaint says that Goodyear, Firestone, United States Rubber, and Goodrich are known as the industry's Big Four and, together with General, comprise the "majors." The other manufacturers are referred to in the industry as the "minors."

A principal charge is that the manufacturers have adopted and maintained a single-zone delivered price system for tires and tubes, under which the prices quoted by the Big Four to all customers of a class throughout the entire country, regardless of location and difference in freight costs, are identical or substantially matched, and those quoted by General and the "minors" are lower by agreed upon differentials.

Restrictive practices by Photostat Corp. (docket 7349) are challenged in a complaint charging that the Nation's largest seller of Photographic copying machines and supplies has illegally induced owners and operators of the machines to stop buying from competitors or to reduce their purchases from competitors. The complaint says that Photostat has used its dominant position to monopolize the sale of photocopy paper and chemicals by imposing unreasonable tying, arrangements on Photostat machine owners.

Pricing of gasoline was the subject of two proceedings initiated during the fiscal year.

The Atlantic Refining Co., Inc. (docket 7471), one of the Nations leading producers of petroleum products, is charged with illegally fixing and maintaining the resale prices of its gasolines. The complaint challenges, among other things, "temporary consignment contracts," which it says service station dealers were pressured into signing.

The Commission also amended a previously issued complaint (docket, 6934), charging Sun Oil CO. with illegally fixing the resale price of Blue Sunoco gasoline, to include an allegation that the company and certain of its dealers have followed a predatory pricing policy injurious to dealers marketing unbranded or private brands of gasoline.

Other restraint-of-trade cases instituted during the year involved charges of illegal combination among publishers of construction industry trade papers to restrain trade and monopolize the advertising of construction equipment manufacturers (docket 7285); price-fixing conspiracies and other antitrust violations in the "blackstrap" molasses

industry (dockets 7461, 7462 and 7463); and unlawful resale price maintenance in the sale of loudspeakers and electric organ accessories (docket 7431) .

Among the orders to cease and desist issued against restrictive trade practices was 1 requiring 17 of the Nation's leading paperbag manufacturers to stop conspiring to fix the price of multiwallpaper shipping sacks. These firms are alleged to account for substantially all of the $200 million annual sales of this commodity. Multiwallpaper shipping sacks are used to transport and store feed, fertilizer, cement, sugar, flour, and other bulk products.

Conspiracy to boycott was the subject matter of a cease-and-desist order against Columbus Coated Fabrics Corp. and two of its dealers (docket 6677). The Commission found that the company conspired to boycott a New Jersey concern which cut prices on Wall-Tex, a washable fabric wall covering made by Columbus.

Another boycott case involved agreements among the Nation's four largest publishers and distributors of vocational, aptitude, and psychological tests, and related materials to prevent competitors from buying these products (docket 6967)

Five wholesale distributors of General Motors diesel engines and replacement parts were ordered to stop conspiring to fix or maintain prices for the parts (docket 7002).

Six gummed paper manufacturers and their industry trade association were ordered to stop conspiring to fix prices (docket 7079), and an association of 4,000 retail jewelers was barred from illegally conspiring to fix or increase prices or profit margins in the sale of silverware (docket 6986).

ANTI-DECEPTIVE PRACTICE CASES

Forty-five years ago, when Congress was engaged in the passage of the original Federal Trade Commission Act, the question was considered whether it would be feasible to define unfair practices. The Senate Committee on Interstate Commerce, in reporting the bill, said it had given careful consideration to this question and concluded that definitions should not be attempted because it could see that, after writing 20 definitions into the proposed law, "it would be quite possible to invent others." The House managers of the conference committee which met later reported: "It is impossible to frame definitions which embrace all unfair practices. There is no limit to human inventiveness in this field."

The cease-and-desist orders involving deceptive practices that the Commission has issued during the intervening years stand as monuments to the acuteness of Congress' perception and the wisdom of its decision not to embody definitions in the act. There are today, according to codifiers of illegal commercial practices, no less than 22 major

categories of deceptive practices and about 225 different types of specific deception falling within these categories, with hundreds of variations, of these types.

Examples of categories are false and misleading advertising, delivering short measure, falsely disparaging competitors and their products, passing off one's merchandise as that of another, removing law required markings, using contest schemes unfairly, neglecting unfairly to disclose the material fact that products are used or reclaimed, and supplying lottery devices for use in the sale of merchandise. During the past year the Commission issued complaints and orders in numerous matters involving these particular categories.

Examples of specific types of deception coming within these categories in which the Commission undertook corrective action this year are the false advertisement of earnings and profits people could make in the sale of cigarettes by purchasing the advertiser's vending machines, false representation by advance-fee advertisers that they had purchasers for business properties, selling rugs of smaller dimensions than those shown on labels, unfair disparagement of aluminum cookware by a seller of stainless-steel utensils, falsely representing to aspiring writers that their book manuscripts would be published with resultant profitable royalties, passing off electric appliances as Westinghouse or General Electric when only thermostats purchased from those companies had been used by the manufacturer in the assembly of the products, illegal removal by an intermediate seller, from interlinings used subsequently in the manufacture of garments, of tags and labels required to remain with the linings under provisions of the Wool Products Labeling Act, selection of winners of a nonexistent contest and ostensibly rewarding them with merchandise certificates purportedly of value when applied to the purchase price of fur stoles but which actually were valueless, and selling "ash can" hats to dealers without disclosing that the bodies of the hats had been reconditioned from used, discarded hats.

In all, during fiscal 1969, the Commission issued 271 complaints, 267 orders and 9 partial orders in the deceptive practice phase of its work.

A more, detailed discussion of the issues presented in some of these cases follows.

Fictitious Pricing

Implementing the Commission's drive to stamp out the widespread practice of certain merchants in overstating the regular prices of merchandise, the Commission issued during the year 117 complaints and 88 orders in which fictitious pricing was charged. More than 45 types of commodities were involved, ranging from cultured pearls to prefabricated houses, with the preponderant number of cases relating to furs.

One such case was Benrus Watch Co., Inc., docket 7352. This company and an affiliate have been charged with attaching price tickets to watches which falsely represented that the amounts shown were the regular prices charged. The complaint further alleged misrepresentation concerning the watches' quality, availability, construction, and guarantees given with them.

Advance-fee real estate advertising

This is a field which the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations earlier in the year characterized as a racket. The nub of the illegality arising in these cases consists of claims by fast-talking commission salesmen that they have a ready cash buyer available to purchase one's business. Actually, all that the customer is to receive in return for his advance payment of a fee (sometimes running into thousands of dollars) is publication of an advertisement of his property in a brochure having valueless circulation.

During the year the Commission issued cease-and-desist orders in three cases where the complaints had been issued in the preceding year, and issued nine new complaints. Of the latter, three have resulted in orders to cease and desist.

A typical case involved Charles Ford & Associates of the Midwest Inc., et al., docket 7338. The complaint charged that postcards and salesmen misinformed property owners that the company had prospective buyers. The hook was additionally baited with representations that the property owners had underpriced their property and the company would sell it at a higher price. Other false assurances given were that the advance fee collected at the time of interview was merely an advance on a sales commission which would be refunded in the event of no sale, that the company was affiliated with numerous brokers who would actively participate in moving the property, and that sales were guaranteed.

The Ford case also disclosed the introduction of a new angle to the ways in which advance fees may be obtained from unwary businessmen. Casey & Associates, Inc., one of the respondents, was charged with having untruthfully told businessmen needing financial assistance that it was affiliated with lending institutions which would make loans to anyone Casey recommended, that Casey would make a favorable recommendation for an advance fee, and that fees would be refunded if loans were not obtained.

The respondents executed an agreement containing a consent order to cease and desist engaging further in these practices.

Correspondence schools

The theme common to the advertising and oral representations made by salesmen of correspondence schools is that graduates can obtain

employment as a result of acquiring special knoWledge in the study of the subjects offered. The clincher to the sale of courses, in nearly all cases, is misrepresentation that the "school" will employ the graduate or is affiliated with or will place him with an employer in the field in which instruction allegedly is given. During the year there were 11 of these cases in litigation, the types of instruction purportedly offered being for employment with the U.S. Government, commercial airlines, detective agencies, real estate appraisers, chemical manufacturers, and reweavers. Orders to cease and desist issued in seven of the cases.

Pacific Northern Air College, Inc., et al., docket 7182, was one of four matters involving correspondence schools purportedly engaged in preparing enrollees for jobs with commercial airlines as stewards, hostesses, ticket agents, and teletype operators. After the Commission issued its complaint the respondents agreed to an order requiring them to stop representing that they were offering employment, were affiliated with commercial airlines, were adequately equipped to teach the subjects offered, provided a placement service of any significant worth, that certain positions with airlines were open, there was a demand for respondents' students to fill such positions, a majority of their graduates had been placed in airline jobs by virtue of having studied respondents' courses, and that starting salaries with airlines were greater than was the fact.

"The Vanity Press"

Many people want to write a book—especially elderly folks who want their memoirs immortalized upon a bookshelf. This vanity is thoroughly exploited by the so-called "Vanity Press." The orders of this fraternity to cooperate with prospective authors in the publication of their work are traps skillfully baited with the author's ego, sometimes thoroughly conditioned with unsuccessful efforts to find a legitimate publisher.

Contracts calling for royalties, subsequent editions, motion picture rights, autograph parties, advertising campaigns in outstanding literary magazines, etc., are merely window dressing in a scheme by which the prospective author pays dearly for the printing of his book and at a substantial profit to the publisher. Seldom, if at all, has an author received any return for his literary efforts or for his venture into the "cooperative publishing."

As usual, such a scheme numbers among its victims those who are less able to afford the losses they naturally incur—the sick, the handicapped, and the aged. Despite claims, by the "cooperative publisher" that manuscript must have merit before it will be published, the fact remains that no work, however, poor, will be rejected if the author can produce the required sum to "invest" in his work.

A consent order was approved by the Commission in Vantage Press, Inc., et al., docket 7005, one of four vanity press cases on the litigation docket during the year. The respondents agreed to stop using over 40 types of misrepresentation alleged by the complaint to have been false and deceptive.

Passing off

During the past year the Commission had in litigation nine cases in which respondents were venders of various types of merchandise advertised or labeled in such a way as to mislead customers into thinking the goods were the products of well-known and reputable manufacturers. The Commission noted an unusual amount of activity in the passing off of electric appliances as "Westinghouse" or "General Electric," issuing six complaints and six orders against the sellers of merchandise so misrepresented.

Electric trivets of American Colonial design were the interesting subject of a passing off against which the Commission acted. In Williamsburg Electric, Inc., et al., docket 6994, the complaint charged that respondents, a Michigan corporation and individuals residing in Michigan, had nationally advertised their trivets to be "authentic Williamsburg." The complaint pointed out that many years ago the Commonwealth of Virginia had chartered Colonial Williamsburg, Inc., as a nonprofit educational corporation for the purpose of acquiring, restoring, and preserving historical buildings and objects in the State. In pursuance of these objectives, the complaint stated, a colonial crafts program had been inaugurated in 1935, a feature of which was the fabrication and sale of authentic reproductions of trivets used in Colonial Virginia and on exhibition in Williamsburg.

Not only were the respondents not affiliated with or licensed by the Virginia corporation to manufacture Williamsburg reproductions, the complaint stated, but the imitations were not even wrought iron as claimed.

The respondents have consented to the entry of an order forbidding a continuance of the practices.

Dietary foods and drugs

A weight-control-conscious America appears to be a growing targets for vendors of foods and drugs claimed to be of aid in controlling and reducing body weight.

Advertisers of drugs containing an ingredient identified as phenylpropanolamine have represented that the preparations were safe to use by all obese persons, that fat people could lose weight without dieting, and that they could lose predetermined amounts of weight in specific time periods. Four orders issued during the year required that dissemination of such claims be stopped, and disposition of a related case is pending.

Sellers of bread and macaroni have recently been noted to be claiming that their products will help control weight or actually facilitate a reduction, and the Commission has issued complaints alleging deception. In Prince Macaroni Manufacturing Co., et al., docket 7513, the respondents have been charged with publishing misleading advertisements that Prince Macaroni is a low-calorie food and its consumption will result in a loss of weight.

Vending machines

The increasing popularity among the public of self-serve stores and machinery appears to have provided an impetus to the promotional activities of certain vending machine sellers who operate under the guise of offering employment. The grossness of exaggeration indulged in by these companies reached a point where, in April 1959, it vas deemed advisable to alert the people through the public press of the nature of the activities Which had caused the Commission to issue 14 orders over a 21-month period.

An order of June 20, 1959, against Midwest Industrial Supply, Inc., and all its officers as individuals, docket 7413, is typical. They were required to stop representing that they were offering employment to readers of their advertisements, that an investment; in their cigarette and coffee vending machines was "secured," that exclusive territories were furnished purchasers, that routes for the placement of machines had been established in advance, that they would repurchase the machines from their customers, and from holding out estimates of prospective earnings not based on proved actual earnings by other purchasers.

Hearing aids

With the development of transistors to replace bulkier vacuum tubes, and by using miniature batteries, many manufacturers of hearing aids have created devices of considerable inconspicuousness. These devices are far from being invisible however. Nevertheless, the Commission has found that some manufacturers have had difficulty in admitting in advertising that their merchandise does have quite visible tubes, ear inserts, and other parts that cannot be concealed. There were six cases in litigation during the year in which the propriety of advertising invisibility was in issue. In two of the matters the respondents consented to the entry of orders.

In a pending matter, The Dahlberg Co. et al., docket 7455, a corporation and its three officers individually have been charged with falsely advertising that various models of hearing aids made by them had no wires, buttons, or cords; were invisible or concealed within eyeglass temples or in the ear; provided the same degree of good hearing from all directions; were the only types having full transistor power; and cost no more than battery powered hearing aids.

Automotive Products

A nation which has 70 million automotive vehicles on-its highways is a receptive audience for the good news that it now can buy batteries that never require the addition of water, a 6-month wax job by lightly rubbing a mitten over the finish, spark plugs guaranteed to give service for 50,000 miles, and battery additives and oil filters that have been approved by the National Bureau of Standards. The Commission, however, does not concede the validity of these tidings, and has issued four complaints and an order halting further spreading of the allegedly grossly exaggerated claims.

In one of the cases, Kaiser Rand Corp. et al., docket 7433, six corporations and an individual have been charged with misrepresenting the qualities and performance capabilities of batteries, battery additives, and oil filters, inventing reports of tests made on them, and offering fictitious guarantees.

Miscellaneous Cases

Other deceptive practice cases in which complaints and cease-and-desist orders were issued included the following:

Five matters involving the sale of used radio and television tubes, vacuum cleaners, and hats as new; six matters involving the sale of military uniforms, skip-tracing forms, group buying privileges, and civil service correspondence instruction where U. S. Government connection had been claimed; three where rugs, sleeping bags, and television picture tubes were alleged to be smaller than represented; and one where the manufacturer of a major brand cigarette was required to stop falsely claiming that the cigarette would have no adverse effect on the nose, throat, or accessory organs; soothed and relaxed the nerves; and was less irritating than other cigarettes.

In addition, 44 complaints and 48 orders (2 partial orders) relating to an assortment of labeling and invoicing practices coming under the Wool Products Labeling Act were entered, as were 83 complaints and 79 orders pertaining to practices governed by the provisions of the Fur Products Labeling Act.

Court Cases

On three occasions during the year trial attorneys of the Bureau of Litigation filed petitions in the U.S. district courts seeking preliminary injunctions which were granted against the continuance of flagrant misbranding of Wool products.

Additionally, a respondent in a lottery case who refused to testify in a Commission proceeding on the ground of self-incrimination after being granted immunity was arraigned in a U.S. district court following the filing of a nine-count criminal information by the U.S. attorney. The disposition of the case awaits resumption of the fall term of court. This is the first time in the Commission's

history that recourse has been had to the criminal provisions of the Federal Trade Commission Act for refusal of a witness to testify in obedience to the Commission's subpena.

In two other cases, Bureau attorneys petitioned district courts for orders enforcing subpoenas calling for the production of documents from respondents. Company officials had refused to comply with the subpoenas at hearings in support of antimerger complaints. The cases were pending in U.S. district, courts in Chicago and New York as the year ended (dockets 6652 and 6653).

Chapter 6

HEARING EXAMINERS

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

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

The principal duty of the hearing examiner, however, is to make and file an initial decision in each proceeding which, under the Administrative Procedure Act, becomes the decision of the Commission if no appeal is made from it by either of the parties or if the Commission itself does not enter a stay order or put the case on its own docket for review. In any event, the decision of the hearing examiner becomes a part of the formal record and is taken into consideration by the court in any review of the case. This was not true prior to the passage of the Administrative Procedure Act. The reason the Federal courts at the present time give serious consideration to the decisions of the hearing examiner is because he is the man who under the law has the duty of listening to the witnesses and rendering his decision based upon their sworn testimony. The Commission may adopt in whole or in part the decision of the hearing examiner or may

set it aside completely. As a matter of practice, however, since 1953 there have been very few instances where the decisions of the hearing examiners have been completely reversed or set aside.

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

Performance during fiscal 1959 furnishes evidence that the Commission's hearing examiners have continued their efficient handling of cases. The following table illustrates this:

Fiscal Year	On Hand	Received	Total Handled	Disposed of	On Hand	Hearing Days
1955	126 (July 1, 1954)	165	291	124	167 (June 30, 1955) .	611
1956	167 (July 1, 1955)	201	308	187	181 (June 30, 1956) .	670
1957	181 (July 1, 1956)	250	431	232	199 (June 30 1957) . .	733
1958	199 (July 1, 1957)	377	575	328	248 (June 30 1958) . .	783
1959	248 (July 1, 1958)	376	624	392	232 (June 30 1959) . .	779

Chapter Seven

OFFICE OF THE GENERAL COUNSEL

In cases advancing beyond the agency to the courts, the General Counsel and the attorneys of his staff represent the Commission as its counsel. All litigation to which the Commission is a party in the Federal district courts and the courts of appeals is handled by the Office of the General Counsel. When cases reach the Supreme Court the legal services devolving upon the Commission are performed by this Office in collaboration with the Solicitor General of the United States, who represents the Government in that Court.

The General Counsel functions as the Commission's chief law officer and principal legal adviser. In addition to the court work, his office administers the Webb-Pomerene Export Trade Act; passes upon all trade practice rules before their approval and promulgation by the Commission; gives informal advice to businessmen on trade regulation matters involving laws administered by the Commission; reviews, analyzes' and prepares reports of the Commission on new legislation; polices Commission's cease-and-desist orders for compliance purposes; initiates penalty suits and contempt actions in their enforcement and integrates the order compliance with work programs for securing obedience to voluntary stipulations and trade practice rules.

The General Counsel also supervises the special legal assistants to the Commission and represents the Commission in hearings before congressional committees. He likewise reports upon and advises the Chairman of the Commission respecting clearance of industry voluntary agreements and programs utilized under the Defense Production Act, also respecting production pools, research and development programs and related agreements under the Small Business Act. Review by his office of these industry agreements, programs, and pools is directed to such purposes as aiding small business and eliminating or minimizing anticompetitive effects that may run counter to the basic policies of the Federal Trade Commission Act and the antitrust laws. As further service, legal studies and manuals for guidance of the Commission's professional staff are prepared under supervision of the General Counsel.

Fiscal 1959 Highlights

Commission case does not end when an order to cease and desist has been issued. Constant compliance policing shows how and if it is being obeyed and violators are subject to court proceedings.

During the fiscal year 1959 the Compliance Division secured total judgments of $55,650 in civil penalty suits, more than double the amount obtained by such suits in either of the 3 preceding years.

In addition, one contempt action resulted in $40,000 being paid into the U.S. Treasury. This was the fine imposed upon P. Lorillard Co. by the U.S. Court of Appeals for the Fourth Circuit upon a criminal contempt conviction of Lorillard for violating the court's 1950 decree enforcing a Commission order to cease and desist from using certain representations in advertising Old Gold cigarettes.

The Supreme Court decided two Commission cases during fiscal 1959, both in favor of the Commission. It also denied four petitions for certiorari opposed by the Commission and granted four petitions on its behalf.

During the year the Appellate Division represented the Commission in 46 cases in 10 of the 11 Circuits of the U.S. court of appeals and the U.S. Court of Customs and Patent Appeals, also in 4 U.S. district courts. It completed court litigation in 23 cases, and had 29 pending at the close of the year.

At the year's end 35 export trade associations comprising 428 American corporations were registered with the Commission under the Webb-Pomerene Act. Their business transactions and activities in foreign commerce fall within the supervision of the Office of Export Trade.

DIVISION OF SPECIAL LEGAL ASSISTANTS

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

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

During fiscal 1959 the Division prepared drafts of 402 cases dispositions, of which 101 were final decisions and 301 were interlocutory. Division attorneys also prepared 36 miscellaneous reports and recommendations, and replies to 13 items of legal correspondence. This total of 451 documents represents an increase of 108 over the number prepared in the preceding year.

APPELLATE DIVISION

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

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

The Division represents the Commission in such litigation and in other proceedings involving the Commission that may arise in the Federal courts. With the Office of the Solicitor General it participates in the preparation and presentation of Commission cases in the Supreme Court of the United States.

In addition to the courtwork, personnel of the Division assist in preparing drafts of reports upon legislative proposals, for use by the Commission in response to requests from congressional committees and the Bureau of the Budget. The Division prepares opinions and makes recommendations on questions of substantive and administrative law and procedure arising in the work of the Commission and its staff, and in court proceedings.

During fiscal 1959 the Division completed litigation in 23 cases, 3 of which were antimonopoly proceedings, 14 involved deceptive practices, 4 concerned the Commission's subpena powers, 1 was an action for contempt of a court which had enforced a Commission subpena, 1 was a proceeding for contempt of a court which had enforced a Commission order to cease and desist, and 1 was a suit to enjoin the Commission from proceeding with a case before it.

Two cases were decided by the Supreme Court, both in favor of the Commission. The Court denied the one pending petition for certiorari to review a court of appeals decision in favor of the Commission, and also denied three such petitions filed during the year. It granted all four petitions filed on behalf of the Commission to review unfavorable decisions by courts of appeals.

Cases open for further action at the close of the fiscal year comprised in the Supreme Court and 24 in courts of appeals. These included 8 antimonopoly matters, 18 deceptive-practice matters, 1 subpena, 1 contempt, and 1 trademark cancellation appeal.

The Division filed 24 briefs and memoranda upon the merits, participated in the preparation of 4 petitions for certiorari, presented 28 arguments, initiated 3 proceedings to obtain court orders, and filed 63 other papers in cases in litigation. It represented the Commission in 10 of the 11 U.S. courts of appeals, in the U.S. Court of Customs and Patent Appeals, and in 4 U.S. district courts.

Antimonopoly Cases in Federal Courts

In the Supreme Court

Decisions

No antimonopoly case was pending at the start of the year. The Court granted certiorari on behalf of the Commission in Simplicity Pattern Co., Inc., New York, N.Y. (restraint of trade and discriminatory services in connection with dress pattern sales), reversed the court of appeals (which had set aside the Commission's order and remanded for further evidence and consideration), and in a unanimous decision held that "neither absence of competitive injury nor the presence of ‘cost justification' defeats enforcement of the provisions of § 2 (e) of the [Clayton] Act."

Pending case

Henry Broch & Co., Chicago, Ill. (unlawful sharing of brokerage with customer), is pending on certiorari granted to review a decision by the Seventh Circuit setting aside the Commission's order.

In Courts of Appeals

Decisions

Five of the six antimonopoly cases pending at the beginning of the year reached decision before its close.

Standard Motor Products, Inc., New York, N.Y. (Second Circuit), price discrimination in the sale of automotive products. The Commission's order was affirmed.

Asheville Tobacco Board of Trade, Asheville, N.C. (Fourth Circuit), restraint of trade in raw tobacco. The case was remanded to the Commission for further proceedings

Atalanta Trading Corp., Nev York, N.Y. (Second Circuit), discriminatory promotional allowances in the sale of canned meat products. The Commission's order was set aside.

Anheuser-Busch, Inc., St. Louis, Mo. (Seventh Circuit), area price discrimination in sale of beer. The Commission's order was set aside. (The Solicitor General has been asked to petition for certiorari.)

Henry Broch & Co., Inc., Chicago, Ill. (Seventh Circuit), unlawful sharing of brokerage with customer. The Commission's order was set aside. (Petition for certiorari has been granted.)

Three cases were appealed and decided during the year.

Crosse & Blackwell Co., Baltimore, Md. (Fourth Circuit), discriminatory advertising allowances. The Commission's order was affirmed.

P. Lorillard Co., New York, N.Y., and General Foods Corp., White Plains, N.Y. (Third Circuit), discriminatory advertising allowances to chainstores through broadcasting company intermediaries. The Commission's orders were affirmed. (Petitions for rehearing were filed after the close of the year.)

Pending cases

Crown Zellerbach Corp., San Francisco, Calif. (Ninth Circuit), unlawful acquisition of competing paper company, remained pending throughout the year.

Sun Oil Co., Philadelphia, Pa. (Fifth Circuit), price discrimination in gasoline sales, and American, Motor Specialties Co., Inc., et al., New York, N.Y. (Second Circuit), unlawful receipt of price discriminations, arose during the year.

Anti-Deceptive-Practice Cases in Federal Courts

In the Supreme Court

Decision

No anti-deceptive-practice cases were pending at the start of the year. The Court granted cross-petitions for certiorari in Mandel Bros., Inc., Chicago, Ill. (misbranding and false advertising and invoicing of furs in retail sales), affirmed the Commission's order in its entirety (the court of appeals had set it aside in part), and unanimously held that the Fur Products Labeling Act applies to sales slips given in retail sales transactions.

Petitions for certiorari denied

R. B. James et al., Chicago, Ill. (distribution of lottery merchandising devices). Review of the court of appeals decision, affirming and enforcing the Commission's order, was denied.

American Life & Accident Insurance Co., St. Louis Mo., and Automobile Owners Safety Insurance Co., Kansas City, Mo. (deception in insurance advertising). Review of court of appeals decision, affirming and enforcing the Commission's orders, was denied. A later motion for permission to file petitions for rehearing out of time was also denied.

Wm. T. Loesch et al., Houston, Tex (deception in sale of hair and scalp preparations). Review of the court of appeals decision, affirming and enforcing the Commission's order, was denied.

Pending cases

Travelers Health Association, Omaha, Nebr. (misrepresentation of insurance polices). Certiorari has been granted to review the court of appeals decision setting aside the Commission's order.

Mohawk Refining Corp. et al., Newark, N..J., and Frank A. Kerran et al. (sub nom. Double Eagle Refining Co. et al.), Oklahoma City, Okla. (deceptive concealment in sale of used motor oils). Pending

upon petitions for certiorari to review courts of appeals decisions affirming and enforcing the Commission's orders.

ln Courts of Appeals

Decisions and other disposition

Eleven cases pending at the start of the year reached decision before its close.

Carter Products Inc., Nev York, N.Y. (Ninth Circuit), false advertising of a drug product. The Commission's order was affirmed and enforced.

Better Living, Inc., Philadelphia, Pa. (Third Circuit), false advertising of aluminum doors, windows, and awnings. Affirmed and enforced.

Bernard Rosten, Chicago, Ill. (Second Circuit), and Surf Sales Co. et al., Chicago, III. (Seventh Circuit), sale and distribution of lottery merchandising services. Affirmed and enforced.

Shafe et al., Flint, Mich. (Sixth Circuit), false advertising of a drug product. Affirmed and enforced.

Harsam Distributors, Inc., et at., Nev York, N.Y. (Second Circuit), deception in sale of perfume. Affirmed and enforced.

Frank A. Kerran et al., Oklahoma City, Okla. (Tenth Circuit); Mohawk Refining Corp. Et al., Newark, N.J. (Third Circuit); and Royal Oil Corp. Et al., Baltimore, Md. (Fourth Circuit), deceptive concealment in sale of used motor oil. Affirmed and enforced.

Travelers Health Association, Omaha, Nebr. (Eighth Circuit), misrepresentation of insurance policies. The Commission's order was set aside. (Review of the decision is pending in the Supreme Court.)

North American Accident Insurance Co., Chicago, Ill. (Fifth Circuit), misrepresentation of insurance policies. Petition dismissed by stipulation after the Commission vacated its order to cease and desist

Three cases arose and reached decision during the year.

Wybrant Systems Products Corp. et al., New York, N.Y. (Second Circuit), and Leo 0. Johnson, New Orleans, La. (Fifth Circuit), false advertising of hair and scalp preparations. The Commission's orders were affirmed and enforced, and petitions for rehearings were denied.

Elliot Knitwear, Inc., et al., New York, N.Y. (Second Circuit), deceptive fabric trade name. Remanded to the Commission for further proceedings.

Michigan Bulb Co. et al., Grand Rapids, Mich. (Sixth Circuit), deception in sale of nursery stock. Dismissed by stipulation.

Nine cases Were pending at the end of the year.

Bantam Books, Inc., New York, N.Y. (Second Circuit), deception in sale of reprints and abridgements.

David W. Erickson., Chicago, Ill. (Seventh Circuit); Ward Laboratories, Inc., New York, N.Y. (Second Circuit); and George M.. Voss, Atlanta, Ga. (Fifth Circuit), false advertising of hair and scalp preparations.

Evis Mfg. Co. et al., San Francisco, Calif. (Ninth Circuit), false and deceptive representations in sale of "water conditioner."

The Fair, Chicago, Ill. (Seventh Circuit), misbranding and false advertising of fur products.

Holland Furnace Co., Grand Rapids, Mich. (Seventh Circuit), unfair and deceptive practices in sale of furnaces and parts.

Mitchell S. Mohr et al., Los Angeles, Calif. (Ninth Circuit), deceptive practices in obtaining of credit information.

Renaire Corp. (Pennsylvania) et al., Springfield, Pa. (Third Circuit), price deception in sale of food freezer plan.

Subpena Cases in Federal Courts

In Courts of Appeals

Decisions

Hallmark, Inc., Chicago, Ill. (Seventh Circuit), appeal from district court enforcement of a Commission subpena. Affirmed.

Waltham Watch Co., New York, N.Y. (Second Circuit), appeal from district; court enforcement of a Commission subpena. Appeal dismissed.

In District Courts

Decisions

Gadget-of-the-Month Club, Inc., Los Angeles, Calif. (U.S. District Court, Southern District of California); Hallmark, Inc., Chicago, Ill. (U.S. District Court, Northern District of Illinois); Lifetime, Inc., Philadelphia, Pa. (U.S. District Court;, Eastern District of Pennsylvania); Waltham Watch Co., New York, N.Y. (U.S. District Court, Southern District of New York); applications for Court orders enforcing Commission subpoenas. All enforced.

No subpena cases were pending at the close of the year.

Contempt Proceedings in Federal Courts

In the Supreme Court

Certiorari denied

Scientific Living, Inc., Scranton, Pa. (civil contempt conviction for violation of district court order enforcing Commission subpena).

In Courts of Appeals

P. Lorillard Co., New York, N.Y. (Fourth Circuit), criminal contempt conviction for violation of court's 1950 decree enforcing Commission order prohibiting certain representations in the sale of Old Gold cigarettes. The company was fined $40,000, which was paid to the clerk for deposit in U.S. Treasury.

Whitney & Co. Et al., Seattle, Wash. (Ninth Circuit), criminal contempt for violation of court decree enforcing Commission's order pro-

hibiting unlawful sharing of brokerage with customers. Order to show cause issued by court.

Trademark Cancellation Proceeding in Federal Court

Bart Schwartz International Textiles, Ltd., New York, N.Y. (U.S. Court of Customs and Patent Appeals), appeal from a decision of the Trademark Trial and Appeal Board granting the Commission's petition to cancel a fabric trademark registration obtained by fraud.

Suit Against the Commission in Federal Court

Allen V. Tornek, New York, N.Y. (District of Columbia Circuit), petition for a temporary restraining order and mandatory injunction to enjoin the Commission from proceeding with a case before it. Petition dismissed and motion to reconsider denied.

DIVISION OF COMPLIANCE

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

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

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

Collaborates with U.S. attorneys at their request for prosecution in district courts of the United States in civil penalty suits based on violation of Commission orders.

Works out acceptance voluntary compliance programs.

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

NOTE.—Violation of a cease-and-desist order makes a respondent liable to civil penalty up to $5,000 for each violation. Where the violation continues' each day of its continuance is a separate offense.

Penalty proceedings during fiscal 1959

Pending July 1, 1958	13
Filed during year	6
Total for disposition	19
Disposed of during year	8
Pending June 30, 1959	11
Certified, not yet filed	8

Summary of civil suits since 1947 [1]

Fiscal Year	Total Judgement	Suits certified to the Attorney General	Fiscal Year	Total judgement	Suits certified to the Attorney General
1947	$38,00.00	1	1955	40,132.69	11
1948	. . . . .	0	1956	19,342.70	9
1949	16,000.00	0	1957	24,704.60	12
1950	7,000.00	9	1958	21,557.38	11
1951	80,000.00	1	1959	55,650.00	10
1952	11,600.00	5			
1953	59,538.20	3	Total	383,375.57	. . . . .
1954	8,9500.00	2			

[1] This Division was established in May 1947

Civil Penalty Cases Concluded

Snappy Fashion Inc. et al. (E.D. N.Y.). Misbranding of Wool products. Judgment for $5,200.

Muller Hair Experts (Fifth Circuit). Misrepresentation of the merits of a drug preparation designed for use in the treatment of hair and scalp conditions. Judgment of $8,000 entered in the Southern District of Texas affirmed.

Paul R. Dooley, Inc., et al. (S.D. Calif.). Misrepresentation of the merits of a drug preparation designed for use in the treatment of hair and scalp conditions. Judgment for $ 1,500.

Harry A. Burch (W.D. Wash.) . Misrepresentation of correspondence courses. Judgment for $10,200 and permanent injunction compelling future obedience to the order to cease and desist.

American Seal-Kap Corp., Sealright Co., Inc., and Smith-Lee CO., Inc. (N.D.N.Y.). Conspiracy to fix prices and restrain trade in connection with the sale of closure milk bottle caps. Judgment for $12,000.

Larry M. Deeter (E.D. Wash.). Misrepresentations made in connection with the sale of encyclopedias and other Books. Judgement for $650.

Edward Lowenthal (Ariz.). Sale and use of deceptive "skiptrace" materials designed to obtain by subterfuge information concerning alleged delinquent debtors. Judgement for $2,500 and permanent injunction compelling future compliance with the order to cease and desist.

General Products et al. (N.D. III.). Misrepresentations and unfair methods of competition in connection with the sale of photograph albums and certificates for photographs. Judgement for $ 5,000.

Civil Penalty Cases Pending

American Greetings Corp. (Sixth Circuit). Unfair methods of competition in connection with the sale of greeting cards. On appeal from judgement of $10,600 entered in the Northern District of Ohio.

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

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

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

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

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

Maurice J. Lenett (Mass.). Failure to disclose former use of parts contained in automobile springs.

American Corp. (Md.). Misrepresentations made in connection with the sale of encyclopedias and other books.

Fong Poy (N.D. Calif.). False representations concerning the value of a drug preparation designed for use in the treatment of various conditions.

Vulcanized Rubber & Plastics Co. (E.D. Pa.). Misrepresentations as to the rubber content of combs designed for use on human hair.

Seymour S. Hindman (N.J.). Misrepresentation of military clothing.

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

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

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

Most orders involving restraints of trade are issued under the Clayton Act, and until July 23, 1959, when the President signed Public Law 86-107 amending section 11 of that act, had no finality unless enforced by decree by the U.S. Court of Appeals after proof of violation, and proof of a further violation was necessary for a fine in contempt. As amended, the same finality and penalties for violations apply to Clayton Act orders as apply to Federal Trade Commission Act orders, exempting only court proceedings initiated under section 11 prior to the date of the enactment of the amendment. During fiscal 1959 formal investigational hearings looking toward enforcement of Robinson-Patman Act orders were completed in eight cases and are pending for hearing in three cases.

During fiscal 1959 the Commission directed that full supplemental reports of compliance be filed by the respondents in the case of American Iron and Steel Institute, Docket 5508, in which order to cease and desist issued in 1951 involving originally 89 respondents. This Division has secured from each of the steel manufacturers subject to this order detailed information and data on price lists, trade practices and policies, uniform standards, terms and conditions of sale, discounts and allowances, competitive bidding practices, and exchange of data among respondents which is being analyzed and evaluated in order to make a determination as to compliance.

Also, in the case of Cement Institute et al., Docket 3167, an industry-wide price-fixing conspiracy matter in which final decree of enforcement entered July 27, 1948, by the Court of Appeals for the Seventh Circuit, the manner and form of compliance by the cement manufacturing respondents is continuing to receive attention by this Division.

The Division has initiated, during fiscal 1959, and has outstanding, eight investigations of compliance with Clayton Act orders.

A total of 139 compliance investigations were instituted and supervised by the Division, 30 of which were in connection with antimonopoly matters.

Current Order Compliance

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

Statistics on Matters and Cases Handled in Fiscal 1959

"Matters" consist of (a) reports of compliance for processing; (b) complaints of alleged violation of orders; (e) conferences and opinions

regarding compliance; and (d) initiating and processing preliminary inquiries into compliance. Each category of these "matters" is a distinct operation requiring substantial man-hours. In other words, the same case often requires handling several times, as is apparent from the following table showing the number of "matters" and the number of "cases" handled, and disclosing that 1,501 “matters” handled involved but 504 cases.

Matters

	Fiscal 1959
Total pending July 1, 1957	1,274
Received during year	1,946
Total for disposition during year	3, 220
Disposed of during year	1, 501
Total pending June 30, 1959	1,719

Cases

Cases pending July 1, 1957	449
Received during year.	592
Total for disposition during year	1,041
Disposed of during year	504
Cases pending June 30, 1959	537

OFFICE OF EXPORT TRADE

The Office of Export Trade performs legal and executive services in the administration of the Webb-Pomerene (Export Trade) Act (15 U.S.C. §§ 61-65).

American businessmen serving or seeking foreign markets as outlets for their products are confronted with practical -problems in managing export trade. Tariffs, taxes, licenses, and currency controls are among the obstacles encountered. The measure of profit in foreign sales is often scaled to the ability to meet these discriminatory and restrictive policies prevailing in many countries. This is attempted by various methods, one way being the formation of an export trade association.

The provisions of the Export Trade Act permit American business competitors to organize a trade association to engage in export trade exclusively. Every association thus created and registered with the Commission is granted freedom from civil and criminal prosecution under the Sherman antitrust law, provided it abstains from various anticompetitive injustices proscribed by the act.

Thirty-five associations comprising 428 American corporations are now registered with the Commission. Usually an export association is formed to achieve mutually rewarding benefits. These values can

be realized from the absence of competition; greater advantage in the profit potential of marketing; increasing efficiency and bargaining through cooperative action; and stronger ability to combat foreign business barriers.

The associations function chiefly as central selling agents or otherwise perform a variety of commercial services comparable to organized domestic trade associations.

There is a wide range among the members of an association as to volume of trade and commodities distributed. Trade associations now functioning exported about $1 billion of American products which were representative of many industries and both large and small American firms.

Under section 4 of the act the Commission is empowered to prohibit unfair methods of competition in export trade. Companion authority is available to the Commission to investigate trade conditions overseas.

The Office of Export Trade acts as the guardian of export trade associations, always watchful that their practices and policies are conducted according to law. The Office also advises American businessmen as to the formal and operational standards of the act and cooperates with and assists other bureaus of the Commission and the Departments of Justice, State, and Commerce on international trade problems.

During 1958 the opportunities for trade and investment in foreign markets have expanded. The approximate value of American products shipped abroad by export trade associations during the last 2 years is as follows:

	1957	1958
Metal and metal products	$90,794,509	$72,295,230
Products of mines and wells	49,858,679	247,154,835
lumber and wood products	7,352,276	4,586,248
Foodstuffs	158,816,276	168,282,273
Miscellaneous-including abrasives, motion pictures, pencils, pulp, paper and paperboard, rubber tires and tubes, textiles and typewriters..	623,605,444	522,189,938
Total	930,427,446	1,015,138,524

LEGISLATION

The Textile Fiber Products Identification Act, Public Law 85-897, enacted September 2, 1958, in general, takes up where the Wool Products Labeling Act of 1939 and the Fur Products Labeling Act of 1951 left off. It is designed to cover the field of Textile fiber content labeling and advertising, except as already covered by the Wool Products Labeling Act. Although primarily for the benefit of the consumer in providing truthful disclosure of fiber content, other objectives are to provide protection to Textile producers, manufacturers, and distributors from the unrevealed presence of substitutes and mixtures in "tex-

tile fiber products." As to Textile fiber products ready for consumer use, the bill would require disclosure on a label of the percentage, as well as the generic name, of the major fiber constituents of the product.

The act is to take effect 18 months after date of enactment and is to be enforced by the Federal Trade Commission through administrative procedures provided for under the Federal Trade Commission Act. Violators are subject to cease-and-desist orders, and, under certain circumstances, temporary injunction, pending Commission proceedings, may be sought in the U.S. district courts. Misdemeanor provisions are also provided for willful violations of the law.

Public Law 85-909, approved September 2, 1958, amended the Packers and Stockyards and Federal Trade Commission Acts to revest jurisdiction in the Commission over certain acts and practices of persons who qualified as "packers" under definition of the Packers and Stockyards Act and thereby came under the exclusive jurisdiction of the Secretary of Agriculture. Pursuant to this law, the Commission now has jurisdiction over "packers" except as to their activities, other than at the retail level, with respect to "livestock, meats, meat food products in unmanufactured form, poultry, or poultry products." In addition, the Commission is specifically vested with jurisdiction over all transactions in commerce in margarine or oleomargarine.

Of particular moment is the clarification of jurisdiction of the Commission over business enterprises, such as food chainstore organizations, which, prior to enactment of Public Law 85-309, took steps to qualify as "packers" in order to avoid Commission jurisdiction over their nonpacker activities.

In order to better carry out its duties, the Commission sought certain other new legislation from the Congress.

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

Another major legislative objective was to require that notification of proposed mergers be made to the Commission by corporations of significant size engaged in interstate commerce. The need for this legislation arises from the fact that by the time the Commission can institute appropriate antimerger proceedings, the merging companies

have become so intermingled that the time-honored problem of “unscrambling eggs" is encountered.

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

An important corollary proposal was authorization for the Commission to apply to the Federal district courts for preliminary injunctions against proposed mergers which the Commission has reason to believe would be in violation of section of the Clayton Act. The Commission would similarly be empowered to seek orders requiring maintenance of the status quo in instances where such mergers had already been accomplished. In the absence of such Commission authority, corporations may now complete their merger arrangements or may dispose of assets acquired through merger in the face of pending Commission proceedings designed to certain the legality of the merger and to direct disposition of assets in a manner appropriate to the public interest in cases where the mergers are found to be illegal.

In the course of legislative work during fiscal 1958, the Commission reported on 100 bills and legislative proposals. In addition, oral presentation and participation was made with regard to 30 bills or items of congressional committee consideration.

Chapter Eight

CONSULTATION

The program of obtaining voluntary compliance with the Commission's laws is administered by the Bureau of Consultation.

This highly important work is accomplished through the following means: (1) guide program, (2) trade practice rules, (3) stipulations, and (4) informal advice to small business.

The voluntary compliance program gives recognition to two important factors: first, that many violations result from lack of knowledge of the law or from a failure to understand its application; and, second, the desire of industry members to renounce illegal practices voluntarily and simultaneously so as to avoid placing anyone at competitive disadvantage. Frequently, the impetus for such industrywide reforms comes from industry members who dislike engaging in unfair trade practices and are eager to abandon them provided their competitors will do likewise.

With approximately 4 million business enterprises operating in the United States, it is clearly advantageous to the public, the Commission, and the business community to have the machinery to encourage and to assist voluntary compliance with the Commission's laws. It is the most equitable means of obtaining law observance, and the least expensive.

For those who fail to respond promptly to the Commission's voluntary compliance program, the mandatory procedures are invoked. Nevertheless, the Commission's voluntary procedures are extremely effective in supporting the genuine desire of most businessmen to compete fairly.

OFFICE OF THE DIRECTOR

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

Guides serve two purposes: (1) they point out to the business community in specific language the legal boundaries of advertising claims; and (2) they put the spotlight of publicity on malpractices which both deceive the buying public and work competitive hardships on honest advertisers.

The Guide Program had its beginning on September 15, 1955, with the issuance of Cigarette Advertising Guides. By maintaining close contact with the tobacco industry, the Bureau of Consultation has been able to secure the voluntary discontinuance or revision of 20 questionable claims, and to provide advice and guidance on proposed advertising during the past fiscal year.

The 12-point Tire Advertising Guides, effective on August 27, 1958, had an immediate nationwide impact on tire advertising at all levels of distribution The major achievements of the administration of the guides were: (1) elimination by tire manufacturers of the use of names which suggested a better grade or quality than was actually the case (a typical example would be abandonment of the designation "Super Deluxe High Standard" for a second-line tire); (2) a marked improvement by the tire industry in the clarification of guarantees and disclosure of their terms and conditions; and (3) general compliance with the requirements that advertisements of used and retreaded tires clearly disclose that they are not new products.

On October 10, 1958, the Commission issued to its staff Guides Against Deceptive Pricing for use in the evaluation of pricing representations in advertising. They were released to the public in the interest of obtaining voluntary, simultaneous, and prompt cooperation by those whose practices are subject to the Commission's jurisdiction. These guides are a new approach in the area of voluntary compliance, in that they are not confined to one product but cut across all industry lines. These guides received strong, support from business groups and have been used as a rallying point by those interested in maintaining truth in the advertising of saving claims to consumers.

Approximately 10,220 copies of the Tire Advertising Guides were distributed by the Commission in response to 3,900 requests. In addition, some tire manufacturers and trade associations have reproduced and disseminated at their own expense thousands of copies of these guides. There are approximately 300,000 tire retail outlets in the United States and we believe it is safe to assume that the vast majority have received a copy of the guides either from the Commission or from private sources.

In response to 12,957 individual requests, 76,700 copies of the Guides Against Deceptive Pricing have been distributed by the Commission. Other requests for copies of the Pricing Guides have been received from trade associations and various other business enterprises, many of which have also reproduced and disseminated copies at their own expense. From our experience with this program, we estimate that at least one-half million copies of the Pricing Guides have been reproduced and disseminated throughout the business community and to the public.

Furthermore, many business concerns, including some of the largest engaged in the manufacture and/or distribution of consumer goods, have either written to us or made public announcements of their intention to voluntarily comply with the guides. In addition, newspapers throughout the country and leading magazines have carried stories or feature articles on the guides, thereby performing a valuable service by informing the business community and the public of this practice.

Abandonment or correction of misleading or deceptive claims was obtained in 51 matters under the Tire Guides, and 48 under the Pricing Guides. The files were closed on assurances of compliance and the submission of revised advertising.

Advice and guidance on compliance, with guides was given to 68 firms and business groups in or related to the tire industry, and in 138 matters involving price representations.

Numerous other matters not susceptible for treatment on a voluntary compliance basis were forwarded to other bureaus and offices of the Commission for appropriate action.

DIVISION OF TRADE PRACTICE CONFERENCES

The Commission's trade practice conference programs for industries are administered by this Division. The objective of such programs is to obtain and maintain voluntary compliance with laws administered by the Commission on an industrywide basis. The work of the Division includes (1) the establishment and revision of trade practice rules for industries, (2) the furnishing of advice and guidance to industry members as to the requirements of such rules, and (3) the obtaining of voluntary compliance with such rules by the industry members subject thereto in the conduct of their business. To the extent that the objective of these programs is achieved, the need for individual complaint proceedings is reduced with consequent savings in the cost of law enforcement.

Rulemaking Work

A proceeding to establish rules is usually authorized pursuant to an application from a representative group in an industry. When an application is received, the proposal is given careful consideration by the Division and a report with recommendation made to the Commission. Such an application is granted only when the Commission has good reason to believe that the proceedings will constructively advance the best interests of the industry on sound competitive principles and substantially improve voluntary observance of the law by its members.

When the Commission authorizes a trade practice conference proceeding, the Division schedules and conducts an industrywide con-

ference at which all industry members are given an opportunity to propose and discuss appropriate trade practice rules for their industry. After consideration of all the matters presented at such conference and other available pertinent information, proposed rules are submitted to the Commission for release for public hearing. All interested or affected parties, including consumer groups, are invited to attend the public hearing and express their views concerning the proposed rules. After the hearing a study is made of the record of the entire proceeding, and final rules for the industry are submitted to the Commission with the recommendation that they be promulgated. The formulation and recommendation of trade practice rules for industries by the Division frequently entails technological and legal research, which includes consultation with legal experts and technicians of other Government agencies.

Accomplishments During Fiscal 1959

Statistics on rulemaking activities of the Division follow:

Trade practice rules in force on July 1, 1958	159
Industries for which new rules were promulgated	4
Industries for which revised rules were promulgated	10
Trade practice rules in force on June 30, 1959	163
Trade practice conference proceedings for industries pending on July 1, 1958	29
Trade practice conference proceedings authorized on the Commission's own motion	7
Applications for trade practice conference proceedings received	7
Applications for trade practice conference proceedings disposed of	23
Trade practice conference proceedings for industries pending on June 30, 1959 (A number of these proceedings were advanced during the year)	20

During fiscal 1959, the Commission promulgated trade practice rules for 14 industries. New rules were established for 4 such industries, and the existing rules for the other 10 were revised. The new rules promulgated apply to members of the following industries: Building Wire and Cable Manufacturing, Outlet and Switch Box Manufacturing, Work Glove, and Manifold Business Forms Industry. The revised rules promulgated apply to members of the Cut and Wire Tack, Macaroni and Noodle Products., Sunglass, Feather and Down Products, Fire Extinguishing Appliance, Gummed Paper and Sealing Tape, Industrial Bag and Cover, Tobacco Smoking Pipe and Cigar and Cigarette Holder, Waterproof Paper, and Wholesale Plumbing and Heating Industry.

The Work Glove rules furnish guidance with respect to the labeling and advertising of work gloves as "seconds," "irregulars" or "rejects." They also provide members with a much-needed clarification of the requirements of the Robinson-Patman Act.

The rules for the Outlet and Switch Box Manufacturing Industry clarify legal requirements with respect to a variety of practices, including prohibited discriminatory prices, rebates, refunds, discounts, credits, etc. Also prohibited sales below cost, other forms of prohibited trade restraints, inducing breach of contract and commercial bribery.

The Building Wire and Cable Manufacturing rules contain provisions relating to such subjects as substitution of products, misleading price lists, deceptive invoicing, prohibited discrimination, defamation of competitors or false disparagement of their products, commercial bribery, arrangements to exclude sales of competitors' products, and push money.

The rules for the Manifold Business Forms Industry cover a number of different unfair trade practices of concern to the members. Included is a rule requested by the industry pertaining, in part, to prohibited discriminations in price. This rule provides extensive clarification of section 2(a) of the Clayton Act, as amended, by interpreting the requirements of the act and setting forth examples of violations.

The revised rules for the Macaroni and Noodle Products Industry are designed, among other things, to protect consumers as well as industry members against misrepresentation of the protein, caloric, and starch content of industry products. The rules also provide extensive guidance on how industry members can furnish services, facilities, or allowances to customers on proportionally equal terms in accord with the requirements of sections 2(d) and 2(e) of the Clayton Act, as amended.

The revised trade practice rules for the Sunglass Industry represent a material advance in guidance afforded members with respect to legal requirements relating to disclosure of foreign origin, use of the word "certified," and representations as to gold content and product guarantees. An especially significant feature of the rules is the addition of the Guides Against Deceptive Pricing, adopted by the Commission October 2, 1958, as an appendix to the general rule on deceptive pricing

During the year the Commission, on its own motion, authorized a proceeding to amend the 1932 rules for the Household Furniture Industry. It has been reported that this industry at the manufacturers' level produced over $2 billion worth of furniture in 1958, and it is anticipated that the 1959 production will show an increase of 12 to 15 percent. A staff draft of suggested revised rules was prepared and discussed at meeting of an all-industry committee composed of representatives from the various segments of the industry and by suppliers who may be vitally affected by the rules. Discussions also were held with consumer groups.

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Rule Compliance Work

The work of the Division includes obtaining observance of rule promulgated for industries by their members. This involves the maintenance of liaison with industry members and their trade associations; the rendering of opinions respecting the application and requirements of the rules to current and proposed industry practices; and the securing of prompt and voluntary discontinuance in appropriate circumstances of practices which violate rule requirements.

In addition, many informal office conferences and discussions were held during the year by the Division's staff both with members of industries operating under trade practice rules and with trade association executives. At these meetings staff advice and opinions were given concerning the requirements and applicability of rule provisions to a great variety of specific practices. Also, many written staff opinions were given on rule requirement and application questions in response to written inquiries received from industry members, representatives of their trade associations, better business bureaus, and other interested parties. Such activity by the Division supplemented the guidance provided for by the rules. It also served to prevent industry members from introducing practices which would have resulted in injury to competition and the public before corrective action could have been taken to force their discontinuance. This work involved the giving of staff opinions on such practices as exclusive dealing, refusal to sell, price discrimination, illegal brokerage, discriminatory promotional allowances, conspiracies, and other types of monopoly, restraint of trade, as well as deceptive labeling and advertising practices.

Statistics relating to rule compliance activities during fiscal 1959 are as follows:

Compliance matters pending July 1, 1958	395
New compliance matters initiated during the year	727
Total for disposition	1,122
Disposed of during year	571
Pending June 30, 1959	551

Very substantial rule compliance work was done during the year with respect to the following industries and practices:

Corset, Brassiere, and Allied Products Industry. Significant and substantial progress was made in effecting the discontinuance of misrepresentation as to the weight reducing properties of girdles.

Jewelry Industry. Corrective action in this industry was directed principally to fictitious pricing; false descriptions of imitation and synthetic stones and imitation pearls; misrepresentation of the quality

of diamonds; and false representations as to the gold and silver content of jewelry.

Watch Case Industry. Practices corrected include falsely representing the regular retail prices of watches; misrepresenting that watches are guaranteed; and failure to disclose the metal content of watch cases.

Bedding Manufacturing and Wholesale Distributing Industry. Continuing attention has been given, with most favorable results, to the elimination of deceptive price preticketing and advertising of industry products, and representations in advertising and labeling that such products are guaranteed without disclosure of limiting terms and conditions of the guarantee and the obligations of the guarantor.

Luggage and Related Products Industry. Discontinuance by a number of industry members of the use of fictitious prices and deceptive representations as to composition in the sale of luggage, brief cases, and billfolds has been effected in the administration of the rules for this industry.

Rayon and Acetate, Silk and Linen Industries. Vigilant administration or the rules for these three industries was continued during the year. Such action was necessary in order to prevent consumer deception as to the fiber content of industry products, including those of mixed fibers; the weaving or processing of these and other fibers to simulate silk or linen; and the tendency to pass off products made of rayon, acetate, or other fibers as silk or linen by (1) labeling them as such, (2) using terms connoting silk or linen, and (3) failing to disclose the presence of the mentioned fibers.

Radio and Television Industry. During the year, the administration of the rules for this industry continued with emphasis on two deceptive practices which developed. The first was the failure of certain manufacturers to disclose that TV picture tubes, represented as being wholly new or sold under circumstances warranting assumption of being new, contained previously used envelopes (bulbs), and in some instances other used parts. The need for corrective action in this field was accentuated by reason of the phenomenal growth in the number of replacement tube producers. The second such practice was misleading advertising representations as to the weight and portability of so-called portable TV sets. These practices were quickly corrected under the rules.

Statistics relating to rule interpretation work during fiscal 1959 are as follows:

Rule interpretation matters pending July 1, 1959	41
Rule interpretations requested during fiscal 1959	241
Rule interpretations effected during fiscal 1959	246
Rule interpretation matters pending June 30, 1959	36

DIVISION OF STIPULATIONS

The work of negotiating stipulations to cease and desist and obtaining compliance with approved stipulations is conducted by this Division.

The stipulation procedure which was established in 1925, affords a person charged with using unlawful practices an opportunity to present his side of the matter informally and to enter into an agreement or stipulation to discontinue those practices shown by the facts to be unlawful. A stipulation becomes effective when approved by the Commission and is a matter of public record.

Where a practice is in general use in an industry, stipulations may be negotiated concurrently with those engaged in the practice. Thus, the procedure may be utilized to effect voluntary correction of unlawful practices simultaneously on an industrywide basis.

The procedure is informal and provides a speedy means of law enforcement without the expense of formal litigation.

After the Commission approves a stipulation, the Division obtains from the parties a report showing how they are complying with their agreements. It also conducts a systematic check on compliance with older stipulations and initiates corrective action in eases of noncompliance.

Stipulation Procedure

After investigation by the Bureau of Investigation, matters appropriate for stipulation negotiations are referred for this procedure.[1] The party charged with engaging in unlawful practices is given a statement of the practices believed from the investigation to be unlawful and is afforded an opportunity to discuss the issues informally with a Division representative. He or his counsel may also present such factual information as he may wish to have considered, in person or in writing. A stipulation providing for discontinuance of any practices shown by the facts to be illegal may be entered into and, if approved by the Commission serves as a basis for disposing of the case.

The Commission approved 148 stipulations in fiscal 1959, and 3 were pending with it at the close of the year. The results of stipulation negotiations during the fiscal year are shown in the following summary:

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

Cases pending with the Division July 1, 1958	48
Cases received by the Division during fiscal 1959	168
Total	216

Disposition

Reported to the Commission for action on executed stipulations	144
Referred to the Bureau of Investigation	25
Referred to the Bureau of Litigation	1
Referred for attention under the Guides Against Deceptive Pricing	1
Total	171
Cases pending June 30, 1959	45

Practices Covered by Stipulations

Investigation laving shown misleading advertising of automobile battery guarantees to have been in general use among battery advertisers, stipulations providing for the discontinuance of this type of advertising were negotiated concurrently with 21 major sellers of automobile batteries. This total included some of the largest oil, tire, and mail order companies. Batteries had been represented in advertising as granted unconditionally, when in fact the guarantees contained important limitations. Principal among these was that the value of a battery guarantee was reduced each month after the battery had been sold. The stipulations, which were approved simultaneously, provide for clear disclosure of these limitations.

Other practices covered by stipulations approved during the fiscal year include the following:

In 18 stipulations, manufacturers or distributors of various products agreed to stop using deceptive price representations in the sale of their products.

A manufacturer of a device containing radioactive material used to remove dust from phonograph records agreed to label the device so as to warn users of the possible harmful effects of the material.

A baking company agreed to discontinue advertising that the consumption of its bread as part of the diet will cause the consumer to lose weight.

A manufacturer of furniture and automobile polish agreed to use on the product a conspicuous warning that the polish is combustible and should not be used near an open flame or extreme heat.

A distributor of radio and television tubes agreed to reveal that its tubes are manufacturers' rejects.

A seller of novelty- jewelry agreed not to use Indian names, symbols, or illustrations, or otherwise represent that the jewelry was made or designed by Indians.

A manufacturer of a food blender agreed not to represent that fruit or vegetables juices extracted by its product will assure good health.

A manufacturer of hair dye agreed to stop claims that its product will restore the hair's natural color.

An advertiser of a drug preparation agreed to stop advertising that its product offered protection against Asian flu.

A distributor of reclaimed lubricating oil agreed to disclose in advertising and labeling that the oil was used.

A correspondence school agreed to stop using the word "University" in its name.

A drug manufacturer agreed to discontinue advertising that its product has any beneficial effect on rheumatism, arthritis, or neuralgia beyond temporary relief of minor aches, pains, or discomforts.

Another advertiser of a drug preparation agreed not to represent that its product will cure pimples.

In seven stipulations, sellers of imported products agreed to stop representing that the products sold by them were made in the United States and to disclose the country of origin of the products.

In three stipulations the parties agreed not to use fictitious names in collecting past due accounts.

A seller of a home study correspondence course of training for civil service agreed not to misrepresent the nature or conditions of any position available to persons taking the course.

In three stipulations, manufacturers of shoes agreed to discontinue certain orthopedic claims for their products.

In three stipulations, distributors of blankets agreed not to misrepresent the fiber content of their products.

In another stipulation the parties agreed to stop selling various merchandise by means of a lottery.

In four stipulations, manufacturers of moccasins agreed to stop representing that their products are hand sewn except as to such parts as may be sewn by hand.

A seller of hairbrushes agreed not to misrepresent the bristle content of its brushes.

A manufacturer of floor covering agreed to stop representing that its product would last a lifetime.

A distributor of combs agreed to stop representing that he manufactures tho product sold by him.

A manufacturer of spectacles agreed not to represent that its product will be effective in the treatment of eye diseases.

A stationery manufacturer agreed not to describe its product as "engraved."

A sewing machine manufacturer agreed to stop representing that its machines are completely automatic.

A cigar manufacturer agreed not to represent that its cigars are made of Cuban tobacco unless this is true.

An importer of fabrics agreed to stop representing that the fabrics sold by him are “hand-woven" unless such is the fact.

In twenty-eight stipulations, manufacturers or distributors of fur products agreed to discontinue illegal practices, including misbranding, false invoicing, and false or deceptive advertising.

Eighteen manufacturers or distributors of wool products agreed to label their products as required by the Wool Products Labeling Act.

Initial Compliance

During fiscal 1959 a total of 137 reports were received and filed as showing satisfactory compliance with recently approved stipulations. Twenty-two matters in which compliance was not considered satisfactory or further investigation was necessary were referred to

the Bureau of Investigation. One matter was referred for attention under the Guides Against Deceptive Pricing.

Stipulation Compliance Check

Results accomplished under the program for checking compliance with older stipulations are shown below:

On hand July 1, 1958	85
Initiated during the fiscal year	150
Received from the Bureau of Investigation	53
Total	288
Filed as showing compliance	197
Reported to the Commission with recommendation for filing after voluntary correction of violations	36
Referred to the Bureau of Investigation	26
Total	259
On hand at end of the end of fiscal year	29

DIVISION OF SMALL BUSINESS

This Division was created July 1,1951, specifically for the purpose of enabling the Commission to more fully assist small business in obtaining the protection, relief, and guidance afforded under the statutes administered by it.

The principal functions of the Division are—

1. To give informal staff advice to small businessmen on how to conduct their businesses within the statutes administered by the Commission;

2. To advise small businessmen as to the proper method of preparing applications for complaint against illegal practices of competitors, suppliers, and others;

3. To perform liaison functions with the House and Senate Select Committee on Small Business, the Small Business Administration, and other agencies dealing with the problems of small business;

4. To inform small businessmen of the functions and jurisdiction of other governmental agencies concerned with the interests of small business.

Inquiries which fall within the primary jurisdiction or responsibility of other governmental agencies are referred to them for appropriate attention. When the information requested is known to be available at a nongovernmental source, the inquirer is so advised.

In performing its duty to protect small business from predatory practices of competitors and suppliers, the Commission, through this Division, renders services to the small businessman, who, without the safeguards afforded by the Commission, might not be able to com-

pete through lack of resources and otherwise in areas where unfair or restrictive business practices exist.

Statistical Summary

Matters in process July 1, 1958	28
Received during fiscal year	554
Completed during fiscal year	562
Matters in process June 30, 1959	20

The 562 matters completed during the year included 102 conferences.

Chapter Nine

ECONOMICS

The functions of this Bureau are to give economic and statistical assistance to the Commission in its investigative and trial work as called for, and to make economic studies for publication in response to requests by the President, by Congress, or by the Commission. Its research work is conducted through the Division of Economic Evidence and Reports.

DIVISION OF ECONOMIC EVIDENCE AND REPORTS

The assistance given by personnel of the Division to other bureaus of the Commission as required consisted of preparing economic exhibits, analyzing economic evidence, compiling statistical materials, and assisting in the formulation of requests for economic data.

An economic report on concentration trends in the cement industry had been undertaken early in 1958. In August 1958 it was presented to the Commission, and in the spring of 1959 it was revised for possible publication. At the end of the fiscal year it was undergoing legal review.

On October 9, 1958, a resolution on significant economic trends in food marketing was adopted by the Commission. The resolution pointed to the fact that a substantial percentage of all Commission antimonopoly investigations had arisen from alleged violations of law in this industry, and to the broad public interest in preserving competitive free enterprise and preventing unfair methods of competition. In light of these considerations, the resolution called for an investigation and study of integration and concentration of economic power at the retail level of food distribution.

Questionnaire schedules for chain stores, voluntary group wholesale grocers, and retailer-owned cooperative food distributors were approved by the Commission on December 30, 1958, and by the Bureau of the Budget in January 1959. Mailing was completed February 2. Information was thus obtained relating to retail stores with about 90 percent of 1958 grocery store sales. In view of the wide interest expressed in this study and of the desirability of making factual information available without unnecessary delay, to those interested, the

Commission issued on June 30, 1959, an interim report, "Economic Inquiry Into Food Marketing."

The interim report included tabular presentation of sales and earnings by size groups, as well as acquisitions and integration by food chain stores. Data on sales according to areas served, acquisitions, integration, and services rendered group members were presented for both voluntary group wholesalers and retailer-owned cooperatives. The 10 tables giving chain store data and the 12 tables giving data for voluntaries and cooperatives in the interim report presented only part of the information developed in the questionnaires. It is planned to follow the interim report with a full report covering all of the factual material gathered.

Chapter Ten

APPROPRIATIONS AND FINANCIAL OBLIGATIONS

FUNDS AVAILABLE FOR THE FISCAL YEAR 1959

Funds available to the Commission for the fiscal year 1959 amounted to $6,488,000. Public law 85-844, 85th Congress, approved August 28, 1958, provided $5,975,000; and Second Supplemental Appropriation Act, 1959, Public Law 86-30, approved May 20, 1959, provided $513,000.

Obligations by Activities, Fiscal Year 1959

1. Antimonopoly:	
Investigation and litigation	$2, 790, 539
Economic and financial reports	584, 497
2. Deceptive practices:	
Investigation and litigation	1,430,826
Trade practice conferences and small business	312,969
Textile and fur enforcement	531,527
Lanham Act and insurance	51,310
3. Executive direction and management	410,684
4. Administration	371,816
Total	6,484,168

Settlements Made Under Federal Tort Claims Act

During the fiscal year 1959 the Commission paid no claims nor were, any claims pending.

Comparative Appropriations

Appropriations available to the Commission for the past 3 fiscal years and obligations for the same period, together with the unobligated balances, are shown in the table below. The table also lists the number of employees as of June 30 of each year.

Year	Number of Em-ployees	Nature of appropriations	Appropri-ations	Obligations	Balance
1957	744	Lump sum (including printing and binding).	$5,550,000	$ 5,513,269	$36,731
1958	738	Lump sum (including printing and binding).	6,185,500	6,182,607	2,893
1959	732	Lump sum (including printing and binding).	6,488,000	6,484,168	3,832

APPENDIXES

Federal Trade Commissioners- 1915-59

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-April 21, 1917
George Rublee	New Hampshire	Mar. 16, 1915-May 14, 1916
William B. Colver	Minnesota	Mar. 16, 1917-Sept. 25, 1920
John Franklin Fort	New Jersey	Mar. 16, 1917-Nov. 30, 1919
Victor Murdock	Kansas	Sept. 4, 1917-Jan. 31, 1924
Huston Thompson	Colorado	Jan 17, 1919-Sept. 25,1926
Nelson B. Gaskill	New Jersey	Feb. 1, 1920-Feb. 24, 1925
John Garland Pollard	Virginia	Mar. 6, 1920-Sept. 25, 1921
John F. Nugent	Idaho	Jan. 15, 1921-Sept. 25, 1927
Vernon W. Van Fleet	Indiana	June 26, 1922-July 31, 1926
Charles W. Hunt	Iowa	June 16, 1924-Sept. 25, 1932
William E. Humphrey	Washington	Feb. 25, 1925-Oct. 7, 1933
Abram F. Myers	Iowa	Aug. 2, 1926-Jan. 15, 1929
Edgar A. McCulloch	Arkansas	Feb. 11, 1927-Jan. 23, 1933
Garland S. Ferguson	North Carolina	Nov. 14, 1927-Nov. 15, 1949
Charles H. March	Minnesota	Feb. 1, 1929-Aug. 28, 1945
Ewin L. Davis	Tennessee	May 26, 1933-Oct. 23, 1949
Raymond B. Stevens	New Hampshire	June 26, 1933-Sept. 25, 1933
James M. Landis	Massachusetts	Oct. 10, 1933-June 30, 1934
George C. Mathews	Wisconsin	Oct. 27, 1933-June 30, 1934
William A. Ayres	Kansas	Aug.23, 1937-Feb. 17, 1952
Robert E. Freer	Ohio	Aug. 27, 1935-Dec. 31, 1948
Lowell B. Mason	Illinois	Oct. 15, 1945-Oct. 31, 1956
John Carson	Michigan	Sept. 28, 1949-March 31, 1953
James M. Mead	New York	Nov. 16, 1949-Sept. 25, 1955
Stephen J. Spingarn	New York	Oct. 25, 1950-Sept. 25, 1953
Albert A. Carretta	Virginia	June 18, 1952,-Sept. 25, 1954
Edward F. Howrey	Virginia	April 1, 1953- Sept. 12, 1955
John W. Gwynne	Iowa	Sept. 26, 1953-May 31, 1959
Robert T. Secrest	Ohio	Sept. 26, 1954-
Sigurd Anderson	South Dakota	Sept. 12, 1955-
William C. Kern	Indiana	Sept. 26, 1955-
Edward T. Tait	Pennsylvania	Nov. 2, 1956-
Earl W. Kintner	Indiana	June 9, 1959-

Types of Unfair Methods and Practices

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

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

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

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

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

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

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

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

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

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

10. Trade boycotts or combinations 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 through coercion to influence the trade policy of their competitors or of manufacturers from whom they buy.

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

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

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

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

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

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

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

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

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

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

(b) False or misleading use of the word "Free" in advertising.

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

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

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

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

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

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

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

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

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

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

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

(e) Falsely claiming to be a manufacturer's representative and outlet for surplus sock 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 personage presently or theretofore associated with such business or the products thereof.

(i) Claiming Falsely or misleadingly by patent, trade-mark, or other special and exclusive rights.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26. Coercing and forcing uneconomic and monopolistic reciprocal dealing.

27. Entering into contracts in restraint of trade whereby foreign corporation agree not to export certain products to the United States in consideration of a domestic company's agreement not to export the same commodity, nor to sell to anyone other than those who agree not to so export the same.

28. Employing various false and misleading representations and practices attributing to products a standing, merit and value to the purchasing public, or a part thereof, which they do not possess, such practices including—

(a) Misrepresenting, through salesmen or otherwise, products' composition, nature, qualities, results accomplished, safety, value, and earnings or profits to be paid therefrom.

(b) Falsely claiming unique status or advantages, or special merit therefor, on the basis of misleading and ill-founded demonstrations or scientific tests, or pretended widespread tests, or of pretended widespread and critical professional acceptance and use.

(c) Misrepresenting the history or circumstances involved in the making and offer of the products or the source or origin thereof (foreign or domestic), or of the ingredients entering therein, or parts thereof, or the opportunities brought to the buyer through purchase of the offering, or otherwise misrepresenting scientific or other facts bearing on the value thereof to the purchaser.

(d) Falsely representing products as legitimate, or prepared in accordance with Government or official standards or specifications.

(e) Falsely claiming Government or official or other acceptance, use, and endorsement of product, and misrepresenting success and standing thereof through use of false and misleading endorsements or false and misleading claims with respect thereto, or otherwise.

(f) Making use of a misleading trade name and representing by other means that the nature of a business is different than is the fact, such as a collection agency engaged in tracing alleged delinquent debtors representing itself to be a delivery system, an organization in search of missing heirs, or one connected with a Government agency.

(g) Misrepresenting fabrics or garments as to fiber content; and, in the case of wool products, failing to attach tags thereto indicating the wool, reused wool, reprocessed wool or other fibers contained therein, .and the identity of the manufacturer of qualified reseller, as required by the Wool Products Labeling Act, or removing or mutilating tags required to be affixed to the products when they are offered for sale to the public.

29. Failing and refusing to deal justly and fairly with customers in consummating transactions undertaken through such practices as refusing to correct mistakes in filling orders or to make promised adjustments or refunds, and retaining, without refund, goods returned for exchange or adjustment, and enforcing, notwithstanding agents' alterations, printed terms of purchase contracts, and exacting payments in excess of customers' commitments.

30. Shipping products at market prices to customers or prospective customers or to the customers or prospective customers of competitors without an order and then inducing or attempting by various means to induce the consignees to accept and purchase such consignments.

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

Statutes Pertaining to the Federal Trade Commission

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

1. Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717), and subsequently amended as indicated bellow.

2. Clayton Act, sections 2, 3, 7, 8 and 11, approved October 15, 1914 (38 Stat 730, 731, 732), amended as indicated below.

3. Webb-Pomerene Export Trade Act, approved April 10, 1918 (40 Stat. 516).

4. Wheeler-Lea Act, approved March 21, 1938 (52 Stat. 111), amending the Federal Trade Commission Act.

5. Robinson-Patman Act, approved June 19, 1936, and amendment thereto approved May 26, 1938 (49 Stat. 1526; 52 Stat. 446), revising and extending section 2 of the Clayton Act.

6. Wool Products Labeling Act of 1939, approved October 14, 1940 (54 Stat. 1128).

7. Public Law 15, 79th Congress, approved March 9, 1945, "An Act to express the intent of the Congress with reference to the regulation of the business of insurance" (59 Stat. 33).

8. Lanham Trade Mark Act, approved July 5, 1946 (60 Stat. 427).

9. Oleomargarine Act, approved March 16, 1950, amending Section 5 of the Federal Trade Commission Act respecting civil penalties, and section 15 respecting misleading advertisement of oleomargarine or margarine (64 Stat. 20).

10. Public Law 899, 81st Congress, approved December 29, 1950, the so-called antimerger legislation, amending and extending section 7 of the Clayton Act (64 Stat. 1125).

11. Fur Products Labeling Act, approved August 8, 1951 (65 Stat. 175).

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

13. Public Law 85-909, 85th Congress, approved September 2, 1958 (72 Stat. 1749) .

14. Textile Fiber Products Identification Act, approved September 2, 1958 (72 Stat. 1717).

Federal Trade Commission Act

[Public No. 203—63d Congress, as amended by Public—No. 447—75th Congress, as amended by Public—No. 459—81st Congress, as amended by Public—No. 542—82d Congress, as amended by Public—No. 85-791—85th Congress, as amended by Public—No. 85-909—85th Congress] [1]

[H.R. 15613, S. 1077, H.R.2023, H.R. 5767, H.R. 6788 and H.R. 9020]

An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes

SECTION 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

[1] The act is published as also amended by Public No. 706, 75th Cong. (see footnote 7), and as further amended, as above noted, by Public No. 459, 81st Cong., ch. 61, 2d session, H.R. 2023 (An Act to regulate oleomargarine, etc.), approved Mar. 10, 1950, and effective July 1, 1950 (see footnotes 9,12, and 13).

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. [2] 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 sane manner as the salaries of the judges of the courts of the United States. [3] The commission shall appoint a secretary, who shall receive a salary of $5,000 a year, [4] 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.[5]

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.

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[2] Under the provisions of section 3 of Reorganization Plan No. 8 of 1950, effective May 24, 1950 (as published in the Federal Register for May 25, 1950, at p. 3175), the functions of the Commission with respect to choosing a chairman from among the membership of the Commission were transferred to the President. Under said plan, prepared by the President and transmitted to the Senate and House on Mar. 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, there were also transferred to the Chairman of the Commission, subject to certain limitations, "the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds."

[3] The salary of the Chairman was fixed at $20,500 and the salaries of the other four Commissioners at $20,000 by Sec. 105(9) and Sec. 106(a) (45), respectively, of Public Law 854, 84th Cong., ch. 804, 2d sees., H.R. 7619 (An Act to adjust the rates of compensation of the heads of the executive departments and of certain other officials of the Federal Government, and for other purposes), approved July 31, 1956.

[4] The salary of the Secretary is controlled by the provisions of the Classification Act of 1923, approved Mar. 4, 1923, 42 Stat. 1488, as amended, which likewise generally controls the compensation of the employees.

[5] See preceding footnote.

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. [6]

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 power 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 States 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

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

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

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

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

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

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

(6) The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers subject to the Acts to regulate commerce, air carriers, and foreign air carriers subject to the Civil Aeronautics Act of 1938, and persons, partnerships, or corporations insofar as they are subject to the Packers and Stockyards Act, 1921, as amended, 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.[7]

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[7] Public No. 542, 82d Cong., ch. 745, 2d sess., H. R. 5767, approved July 14, 1952 (the McGuire Act, 15 U. S. C. 45, 66 Stat. 631), amended sec. 5(a) of this act, by Inserting in lieu thereof sec. 5(a) (1) through (6).

Theretofore, by subsection (f) of sec. 1107 of the "Civil Aeronautics Act of 1938," approved June 23, 1938, Public No. 706, 75th Cong., ch. 601, 3d sess., S. 3845, 52 Stat. 1028, the language of former sec. 5 (a) was amended by inserting immediately following the words "to regulate commerce," the words "air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938," as above set out in sec. 5(a)(6).

Public No. 85-909, 85th Cong., H. R. 9020, approved Sept. 2, 1958, amended the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 226, 227, and 72 Stat. 1749, 1750) by striking out subsec. (b) of sec. 406 and inserting in lieu thereof the following:

"(b) The Federal Trade Commission shall have power and jurisdiction over any matter involving meat, meat food products, livestock products in unmanufactured form, or poultry

(b) Whenever the Commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition or unfair or deceptive act or practice in commerce, and if it shall appear to the Commission that a proceeding by it in respect thereof would be in 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 record in the proceeding has been filed in a 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

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products, which by this Act is made subject to the power or jurisdiction of the Secretary, as follows:

"(1) When the Secretary in the exercise of his duties requests of the Commission that it make investigations and reports in any case.

"(2) In any investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission, arising out of acts or transactions involving meat, meat food products, livestock products in unmanufactured form, or poultry products, if the Commission determines that effective exercise of its power or jurisdiction with respect to retail sales of any such commodities is or will be impaired by the absence of power or Jurisdiction over all acts or transactions involving such commodities in such investigation or proceeding. In order to avoid unnecessary duplication of effort by the Government and burdens upon the Industry, the Commissioner shall notify the Secretary of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with regard to acts or transactions (other than retail sales) involving such commodities if the Secretary within ten days from the date of receipt of the notice notifies the Commission that there is pending in his Department an investigation of, or proceeding for the prevention of, an alleged violation of this Act involving the same subject matter.

"(3) Over all transactions in commerce in margarine or oleomargarine and over retail sales of meat, meat food products, livestock products in unmanufactured form, and poultry products.

"(c) The Federal Trade Commission shall have no power or jurisdiction over any matter which by this Act is made subject to the jurisdiction of the Secretary, except as provided in subsection (b) of this section."

* * * * * * *

The same Public Law also amended subsection 6 of sec. 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)(6) and 38 Stat. 719) by substituting "persons, partnerships, or corporations insofar as they are subject to the Packers and Stockyards Act, 1921, as amended, except as provided in sec 406(b) of said act" for "persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in sec. 406 (b) of said act."

section.[8] 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 filling in the court, within sixty days[9] 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 transmitted by the clerk of the court to the Commission, and thereupon the Commission shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon such filing of the petition the court shall have jurisdiction of the proceeding and of the question determined therein concurrently with the Commission until the filing of the record and shall have power to make and enter 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.[10] The findings of the Commission as to the facts, if supported by evidence, shall be conclusive. To the extent that the order of the Commission is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the Commission. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code.

(d) Upon the filing of the record with it the jurisdiction of the court of appeals of the United States to affirm, enforce, modify, or set aside orders of the Commission shall be exclusive.

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[8] This sentence was amended by Public Law 85—791, 85th Cong., H. R. 6788, approved August 28, 1958, 72 Stat. 942.

[9] 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 the enactment of this Act, as amended by this Act, shall begin on the date of the enactment of this Act."

[10] The above two sentences were also amended by Public Law 85-791.

[11] The above section was also amended by Public Law 85-791.

(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.

(i) 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 flied, or (2) the petition for certiorari has been

dened, 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 had 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. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission each day of continuance of such failure or neglect shall be deemed a separate offense.[12]

SEC. 6. That the Commission shall also have power—[13]

(a) To gather and compile information concerning, and to investigate from tine 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 defendent 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

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[12] Foregoing sentence added by subsection (c) of Sec. 4, Public No. 459, 81st Congress. (See footnote 1.)

[13] Public, No. 78, 73d Cong., approved June 16, 1933, making appropriations for the fiscal year ending June 30, 1934, for the "Executive Office and sundry independent executive bureaus, boards, commissions," etc., made the appropriation for the Commission contingent upon the provision (48 Stat. 291; 15 U.S.C.A., sec. 46a) that "hereafter no new investigations shall be initiated by the Commission as the results of a legislative resolution, except the same be a concurrent resolution of the two Houses of Congress."

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 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 purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce of food, drugs, devices, or cosmetics.

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

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

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

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

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

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

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

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

SEC. 14.[14] (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 or 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 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, 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 sections 12, 13, and 14—

(a) (1) The term "false advertisement" means an advertisement, other than labeling, which is misleading in a material respect; and in determining whether any advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representation 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 representation of material fact, and includes, or is accompanied in each instance by truthful disclosure of, the formula showing quantitatively each ingredient of such drug.

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

"SEC. C. (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."

(2) In the case of oleomargarine or margarine an advertisement shall be deemed misleading in a material respect if in such advertisement representations are made or suggested by statement, word, grade designation, design, device, symbol, sound, or any combination thereof, that such oleomargarine or margarine is a dairy product, except that nothing contained herein shall prevent a truthful, accurate, and full statement in any such advertisement of all the ingredients contained in such oleomargarine or margarine.[15]

(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 article; except that such term shall not include soap.

(f) For the purposes of this section and section 407 of the Federal Food Drug, and Cosmetic Act, as amended, the term "oleomargarine" or "margarine" includes—

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

(2) all substances, mixtures, and compounds which have a consistence similar to that of butter and which contain any edible oils or fats other than milk fat if made in imitation or semblance of butter.[16]

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 approved September 26, 1914.

Amended and approved March 21, 1938.[17]

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[15]Subsection (a) of sec. 4 of Public No. 459, 81st Congress (see footnote 1), amended Sec. 15 of this Act by inserting "(1)" after the letter "(a)" in subsection (a) above, and by adding at the end of such subsection new paragraph (2), above set out.

[16] Subsection (b) of sec. 4 of Public No. 459, 81st Congress (see footnote 1) further amended sec. 15 of this Act, by adding at the end thereof the new subsection (i) as above set out.

[17] See footnote. 1.

Packers and Stockyards Act

[Public Law 85-909, 85th Congress, 13.R. 9020, September 2, 1958]
AN ACT To amend the Packers and Stockyards Act, 1921, as amended, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Packers and Stockyards Act, 1921, as amended; (42 Stat. 159, as amended; 7 U.S.C. 181 and the following), is amended as follows:

(1) By amending section 202 by inserting after the word “unlawful” the words "with respect to livestock, meats, meat food products, livestock products in unmanufactured form, poultry, or poultry products".

(2) By amending section 406 by striking out subsection (b) and inserting in lieu thereof the following:

"(b) The Federal Trade Commission shall have power and jurisdiction over any matter involving meat, meat food products, livestock products in unmanufactured form, or poultry products, which by this Act is made subject to the power or jurisdiction of the Secretary, as follows:

"(1) When the Secretary in the exercise of his duties requests of the Commission that it make investigations and reports in any case.

"(2) In any investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission, arising out of acts or transactions involving meat, meat food products, livestock products in unmanufactured form, or poultry products, if the Commission determines that effective exercise of its power or jurisdiction with respect to retail sales of any such commodities is or will be impaired by the absence of power or jurisdiction over all acts or transactions involving such commodities in such investigation or proceeding. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Commissioner shall notify the Secretary of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with regard to acts or transactions (other than retail sales) involving such commodities if the Secretary within ten days from the date of receipt of the notice notifies the Commission that there is pending in his Department an investigation of, or proceeding for the prevention of, an alleged violation of this Act involving the same subject matter.

"(3) Over all transactions in commerce in margarine or oleomargarine and over retail sales of meat, meat food products, livestock products in unmanufactured form, and poultry products.

"(c) The Federal Trade Commission shall have no power or jurisdiction over any matter which by this Act is made subject to the jurisdiction of the Secretary, except as provided in subsection (b) of this section.

"(d) The Secretary of Agriculture shall exercise power or jurisdiction over oleomargarine or retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products only when he determines, in any investigation of, or any proceeding for the prevention of, an alleged violation of this Act, that such action is necessary to avoid impairment of his power or jurisdiction over acts or transactions involving livestock, meat, meat food products, livestock products in unmanufactured form, poultry or poultry products, other than retail sales thereof. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Secretary shall notify the Federal

Trade Commission of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with respect to acts or transactions involving oleomargarine or retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products if the Commission within ten days from the date of receipt of such notice notifies the Secretary that there is pending in the Commission an investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission involving the same subject matter.

(e) The Secretary of Agriculture and the Federal Trade Commission shall include in their respective annual reports information with respect to the administration of subsections (b) and (d) of this section."

SEC. 2. Said Act is further amended—

(1) by striking out the words "at a stockyard" from sections 301(c) and 301(d);

(2) by striking out the last sentence of section 302 (a): Provided, however, That nothing herein shall be deemed a definition of the term "public stockyards" as used in section 15 (5) of the Interstate Commerce Act;

(3) by inserting after the first sentence in section 303 the following sentence: "Every other person operating as a market agency or dealer as defined in section 301 of the Act may be required to register in such manner as the Secretary may prescribe.";

(4) by amending section 311 by striking out the words "stockyard owner or market agency" wherever they occur and inserting "stockyard owner, market agency, or dealer" and by striking out "stockyard owners or market agencies" and inserting "stockyard owners, market agencies, or dealers";

(5) by striking out the words "at a stockyard" from section 312(a).

SEC. 3. Subsection of section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a) (6)) is amended by striking out "persons, partnerships or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 406(b) of said Act", and substituting therefor the following: "persons, partnerships, or corporations insofar as they are subject to the Packers and Stockyards Act, 1921, as amended, except as provided in section 406(b) of said Act".

SEC. 4. Section 407 of the Packers and Stockyards Act, 1921, as amended, is amended (1) by inserting "(a)" immediately after "Sec. 407." and (2) by adding at the end thereof the following new subsection:

"(b) The Secretary shall maintain within the Department of Agriculture a separate enforcement unit to administer and enforce title II of this Act."

Approved September 2, 1958.

Clayton Act

[Public—No. 212—63d Congress, As Amended by Public—No. 692—74th Congress,[1] and Public—No. 899—81st Congress]

[H.R. 15657]

An Act To supplement existing laws against unlawful restraints and monopolies, and for other purposes

SEC. 1. DEFINITIONS. (38 Stat. 730; 15 U.S.C.A., sec. 12.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That "antitrust laws," as used herein, in-

[1] The Robinson-Patman Act (see footnote 2). See also footnotes 5 and 13 with respect to the repeal of Section 9, Section 17 in part, Sections 18 and 19, and Sections 21-25, inclusive, by two acts of June 25, 1948, namely, C. 645 (62 Stat. 683) and C. 646 (62 Stat. 896); and footnotes concerning the amendment of Sections 7 and 11 by act of Dec. 29, 1950, C. 1184 (64 Stat. 1125).

eludes the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety; sections seventy-three to seventy-seven, inclusive of an Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," of August twenty-seventh, eighteen hundred and ninety-four; an Act entitled "An Act to amend section seventy-three and seventy-six of the Act of August twenty-seventh, eighteen hundred and ninety-four, entitled An Act to reduce taxation, to provide revenue for the Government, and for other purposes," approved February twelfth, nineteen hundred and thirteen; and also this Act.

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

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

SEC. 2. DISCRIMINATING IN PRICE, SERVICE, OR FACILITIES.[2] (49 Stat. 1526; 15 U.S.C.A, sec. 13, as amended.)

SEC. 2. (a) That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination are in commerce, where such commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: Provided, That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered: Provided, however, That the Federal Trade Commission may, after due investigation and hearing to all interested parties, fix and establish quantity limits, and

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

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

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

revise the same as it finds necessary, as to particular commodities or classes of commodities, where it finds that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce; and the foregoing shall then not be construed to permit differentials based on differences in quantities greater than those so fixed and established: And provided further, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade: And provided further, That nothing herein contained shall prevent price changes from time to time where in response to changing conditions affecting the market for or the marketability of the goods concerned such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: Provided, however, That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

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

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

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

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

SEC. 3. TYING OR EXCLUSIVE LEASES, SALES, OR CONTRACTS. (38 Stat. 731; 15 U.S.C.A., sec. 14.)

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

SEC. 4. VIOLATION OF ANTITRUST LAWS—DAMAGES. (38 Stat. 731; U.S.C.A., SEC. 15.)

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

SEC. 4A.[3] Whenever the United States is hereafter injured in its business or property by reason of anything forbidden in the antitrust laws it may sue therefor in the United States district court for the district in which the defendent resides or is found or has an agent, without respect to the amount in controversy, and shall recover actual damages by it sustained and cost of suit.

SEC. 4B. Any action to enforce any cause of action under sections 4 or 4A shall be forever barred unless commenced within four years after the cause of action accrued. No cause of action barred under existing law on the effective date of this Act shall be revived by this Act.

SEC. 5. PROCEEDINGS BY OR IN BEHALF OF UNITED STATES UNDER ANTITRUST LAWS. FINAL JUDGMENTS OR DECREES THEREIN AS EVIDENCE IN PRIVATE LITIGATION. INSTITUTION THEREOF AS SUSPENDING STATUTE OF LIMITATIONS (38 Stat. 731; 15 U.S.C.A., sec. 16.)

SEC. 5. (a) A final judgment or decree heretofore or hereafter rendered in any civil or criminal proceeding brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be prima facie evidence against such defendant in any action or proceeding brought by any other party against such defendant under said laws or by the United States under section 4A, as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: Provided, That this section shall not apply to consent judgments or decrees entered before any testimony has been taken or to judgments or decrees entered in actions under Section 4.

(b) Whenever any civil or criminal proceeding is instituted by the United States to prevent, restrain, or punish violations of any of the antitrust laws, but not including an action under section 4 A, the running of the statute of limitations in respect of every section 4A, the running of the statute of limitations in respect

[3] Sec. 4A, 4B, 5(a) and 5(b) were added by Pub. Law 137, approved July 7, 1955, 69 Stat. 282, 283.

of every private right of action arising under said laws and based in whole or in part on any matter complained of in said proceeding shall be suspended during the pendency thereof and for one year thereafter: Provided, however, That whenever the running of the statute of limitations in respect of a cause of action arising under section 4 is suspended hereunder, any action to enforce such cause of action shall be forever barred unless commenced either within the period of suspension or within four years after the cause of action accrued.

SEC. 6. LABOR OF HUMAN BEINGS NOT COMMODITY OR ARTICLE OF COMMERCE. (38 Stat. 731; 15 U.S.C.A., sec. 17.)

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

SEC. 7. ACQUISITION BY CORPORATION OF STOCK OR OTHER SHARE CAPITAL OF OTHER CORPORATION OR CORPORATIONS. (38 Stat. 731; 15 U.S.C.A., sec. 18.)

SEC. 7.[4] That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no corporation subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of another corporation engaged also in commerce, where in any line of commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly.

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

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

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch or short line

[4] This section, and also section 11, which amend the respective sections of the Clayton Act, were enacted by Act of Dec. 29, 1950 (P.L. 899; 64 Stat. 1125; 15 U.S.C. 18).

constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other common carrier where these is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

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

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

SEC. 8. INTERLOCKING DIRECTORS, OFFICERS, OR EMPLOYEES OF BANKS AND DIRECTORS OF OTHER CORPORATIONS. (38 Stat. 732 (as amended by 48 Stat. 718); 15 U.S.C.A., sec. 19.)

SEC. 8. No private banker or director, officer, or employee of any member bank of the Federal Reserve System or any branch thereof shall be at the same time a director, officer, or employee of any other bank, banking association, savings bank, or trust company organized under the National Bank Act or organized under the laws of any State or of the District of Columbia, or any branch thereof, except that the Board of Governors of the Federal Reserve System may by regulation permit such service as a director, officer, or employee of not more than one other such institution or branch thereof; but the foregoing prohibition shall not apply in the case of any one or more of the following or any branch thereof:

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

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

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

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

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

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

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

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

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

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

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

SEC. 9. WILLFUL MISAPPLICATION, EMBEZZLEMENT, ETC., OF MONEYS, FUNDS, ETC., OF COMMON CARRIER A FELONY. (38 Stat. 733; 18 U.S.C.A., sec. 412.)

SEC. 9.[5] Every president, director, officer or manager of any firm, association or corporation engaged in commerce as a common carrier, who embezzles, steals, abstracts, or willfully misapplies, or willfully permits to be misapplied, any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation, arising or accruing from, or used in, such commerce, in whole or in part, or willfully and knowingly converts the same to his own use or to the use of another, shall be deemed guilty of a felony and upon conviction shall be fined not less than $500 or confined in the penitentiary not less than one year nor more than ten years, or both, in the discretion of the court.

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

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

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

SEC. 10. LIMITATIONS UPON DEALINGS AND CONTRACTS OF COMMON CARRIERS, WHOSE INTERLOCKING DIRECTORS, ETC. (38 Stat. 734; 16 U.S.C.A., sec. 20.)

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

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

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

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

SEC. 11. JURISDICTION TO ENFORCE COMPLIANCE, COMPLAINTS, FINDINGS, AND ORDERS. APPEALS, SERVICE. (38 Stat. 734; 15 U.S.C.A., sec. 21.)

SEC. 11.[6] That authority to enforce compliance with sections 2, 3, 7, and 8 of this Act by the persons respectively subject thereto is hereby vested in the Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act, as amended; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; in the Civil Aeronautics Board where applicable to air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938; in the Federal Reserve Board where applicable to banks, banking associations, and trust companies; and in the

[6] This section, and also section 7, which amend the respective sections of the Clayton Act, were enacted by Act of Dec. 29, 1950. (P. L. 899; 64 Stat. 1125; 15 U.S.C. 21.)

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

Whenever the Commission or Board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections 2, 3, 7, and 8 of this Act, it shall issue and serve upon such person and the Attorney General a complaint stating its charges in that respect, and containing a notice of hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission or Board requiring such person to cease and desist from the violation of the law so charged in said complaint. The Attorney General shall have the right to intervene and appear in said proceeding and any person may make application, and upon good cause shown may be allowed by the Commission or Board, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission or Board. If upon such hearing the Commission or Board, as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing, in which it shall state it's findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock, or other share capital, or assets, held or rid itself of the directors chosen contrary to the provisions of sections 7 and 8 of this Act, if any there be, in the manner and within the time fixed by said order. Until the record in such hearing shall have been filed in a United States court of appeals, as hereinafter provided, the Commission or Board may at any time upon such notice, and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.[7]

If such person fails or neglects to obey such order of the Commission or Board while the same is in effect, the Commission or Board may apply to the United States court of appeals, within any circuit where the violation complained of was or is being committed or where such person resides or carries on business, for the enforcement of its order, and shall file the record in the proceeding, as provided in section 2112 of Title 28, United States Code. Upon such filing of the application the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein concurrently with the Commission or Board until the filing of the record, and shall have power to make and enter a decree affirming, modifying, or setting aside the order of the Commission or Board. The findings of the Commission or Board as to the facts, if supported by substantial evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission or Board, the court may order such additional evidence to be taken before the Commission or Board and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission or Board may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and its recommendations, if any, for the modification or

[7] Parts of paragraphs two, three, tour and five of this section were amended by Public Law 85-791, 85th Cong., H. R. 6788, approved August 28, 1958, 72 Stat. 943.

setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 1254 of title 28, United States Code.

Any party required by such order of the Commission or Board to cease and desist from a violation charged may obtain a review of such order in said United States court of appeals by filing in the court a written petition praying that the order of the Commission or Board be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission or Board and thereupon the Commission or Board shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have the same Jurisdiction to affirm, set aside, or modify the order of the Commission or Board as in the case of an application by the Commission or Board for the enforcement of its order, and the findings of the Commission or Board as to the facts, if supported by substantial evidence, determined as provided in section 10(e) of the Administrative Procedure Act, shall in like manner be conclusive.

Upon the filing of the record with it the jurisdiction of the United States court of appeals to enforce, set aside, or modify orders of the Commission or Board shall be exclusive.

Such proceedings in the United States court of appeals shall be given precedence over cases pending therein, and shall be in every way expedited. No order of the Commission or Board or the judgment of the court to enforce the same shall in anywise relieve or absolve any person from any liability under the antitrust Acts.

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

SEC. 12. PLACE OF PROCEEDING UNDER ANTITRUST LAWS. SERVICE OF PROCESS. (38 Stat. 73; 15 U.S.C.A., sec. 22.)

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

SEC. 13. SUBPOENAS OR WITNESSES IN PROCEEDINGS BY OR ON BEHALF OF TUE UNITED STATES UNDER ANTITRUST LAWS. (38 Stat. 736; 15 U.S.C.A., sec. 23.)

SEC. 13. That in any suit, action, or proceeding brought by or on behalf of the United States subpoenas for witnesses who are required to attend a court of the United States in any judicial district in any case, civil or criminal, arising under the antitrust laws may run into any other district: Provided That in civil cases no writ of subpoena shall issue for witnesses living out of

the district in which the court is held at a greater distance than one hundred miles from the place of holding the same without the permission of the trial court being first had upon proper application and cause shown.

SEC. 14. VIOLATION BY CORPORATION OF PENAL PROVISIONS OF ANTITRUST LAWS. (38 Stat. 736; 15 U.S.C.A., sec. 24.)

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

SEC. 15. JURISDICTION OF UNITED STATES DISTRICT COURTS TO PREVENT AND RESTRAIN VIOLATIONS OF THIS ACT. (38 Stat. 730; 15 U.S.C.A., sec. 25.)

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

SEC. 16. INJUNCTIVE RELIEF AGAINST THREATENED LOSS BY VIOLATION OF ANTITRUST LAWS. (38 Stat. 737; 15 U.S.C.A., sec. 26.)

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

SEC. 17. PRELIMINARY INJUNCTIONS, TEMPORARY RESTRAINING ORDERS. (38 Stat. 737; first two paragraphs are 28 U.S.C.A., sec. 381.)

SEC. 17.[8] That no preliminary injunction shall be issued without notice to the opposite party.

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

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

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

SEC. 18. NO RESTRAINING ORDER OR INTERLOCUTORY ORDER OF INJUNCTION WITHOUT GIVING SECURITY. (38 Stat. 738; 28 U.S.C.A., sec. 383.)

SEC. 18.[9] That, except as otherwise provided in section 16 of this Act, no restraining order or interlocutory order of injunction shall issue, except upon the giving of security by the applicant in such sum as the court or judge may deem proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby.

SEC. 19. ORDERS OF INJUNCTION OR RESTRAINING ORDERS—REQUIREMENTS. (38 Stat. 738; 28 U.S.C.A., sec. 383.)

SEC. 19.[10] That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained, and shall be binding only upon the parties to the suit, their officers, agents, servants, employees and

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[8] See second paragraph of footnote 13.

[9] See second paragraph of footnote 13.

[10] Ibid.

attorneys, or those in active concert or participating with them, and who shall, by personal service or otherwise, have received actual notice of the same.

SEC. 20. RESTRAINING ORDERS OR INJUNCTIONS BETWEEN AN EMPLOYER AND EMPLOYEES, EMPLOYERS AND EMPLOYEES, ETC., INVOLVING OR GROWING OUT OF TERMS OR CONDITIONS OF EMPLOYMENT. (38 Stat. 738; 29 U.S.C.A., sec. 52.)

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

And no such restraining order or injunction shall prohibit any person or persons, whether singly or in concert, from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at any place where any such person or persons may lawfully be, for the purpose of peacefully obtaining or communicating information, or from peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful and lawful means so to do; or from paying or giving to, or withholding from, any persons engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto; nor shall any of the acts specified in this paragraph be considered or held to be violations of any law of the United States.

SEC. 21. DISOBEDIENCE OF ANY LAWFUL WRIT, PROCESS, ETC., OF ANY UNITED STATES DISTRICT COURT, OR ANY DISTRICT OF COLUMBIA COURT. (38 Stat. 738; 28 U.S.C.A., sec. 386.)

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

SEC. 22. RULE TO SHOW CAUSE OR ARREST. TRIAL. PENALTIES. (38 Stat. 738; 28 U.S.C.A., sec. 387.)

SEC. 22. [12] That whenever it shall be made to appear to any district court or judge thereof, or to any judge therein sitting, by the return of a proper officer or lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor, which rule, together with a copy of the affidavit or information, shall be served upon

[11] See footnote 13.

[12] Ibid.

the person charged, with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court: Provided, however, That if the accused, being a natural person, fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable bail for his attendance at the trial and his submission to the final judgment of the court. Where the accused is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

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

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

SEC. 23. EVIDENCE, APPEALS. (38 Stat. 739; 28 U.S.C.A., sec. 388.)

SEC. 23.[13] That the evidence taken upon the trial of any persons so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as justice may require. Upon the granting of such writ of error, execution of judgment shall be stayed, and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court, or by any Justice or any

[13] Sections 21 to 25, inclusive, were repealed by Act of June 25, 1948, c. 645 (62 Stat. 883), which revised, codified and enacted into "positive law," Title 18 of the Code (Crimes and Criminal Procedure). Said act reenacted said matter, excluding Section 23, as to substance as 18 U.S.C., Section 402 (as amended by Public Law 72, May 21, 1949, 81st Congress) 18 U.S.C., Section 3285 and 18 U.S.C., Section 3691. Section 23 was omitted as no longer required in view of the civil and criminal rules promulgated by the Supreme Court.

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

judge of any district court of the United States or any court of the District of Columbia.

SEC. 24. CASES OF CONTEMPT NOT SPECIFICALLY EMBRACED IN SECTION 21 NOT AFFECTED. (38 Stat. 739; 28 U.S.C.A., sec. 389.)

SEC. 24.[14] That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all the other cases of contempt not specifically embraced within section twenty-one of this Act, may be punished in conformity to the usages at law and in equity now prevailing.

SEC. 25. PROCEEDINGS FOR CONTEMPT LIMITATIONS. (38 Stat. 740; 2S U.S.C.A., sec. 390.)

SEC. 25.[15] That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this Act.

SEC. 26. INVALIDING OF ANY CLAUSE, SENTENCE, ETC., NOT TO IMPAIR REMAINDER OF ACT. (38 Stat. 740; 15 U.S.C.A., sec. 27.)

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

Approved, October 15, 1914.*

Flammable Fabrics Act

(Approved June 30, 1953; 67 Stat. 111; 15 U. S. C. Sec. 1191)

[PUBLIC—No. 88—83D CONGRESS, CH. 164—1ST SESS.]

[H.R. 5069]

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

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

SHORT TITLE

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

DEFINITIONS

SEC. 2. As used in this Act—

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

(b) The term "commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such

[14] See footnote 13.

[15] See footnote 13.

* Original act.

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

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

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

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

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

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

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

PROHIBITED TRANSACTIONS

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

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

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

STANDARD OF FLAMMABILITY

SEC. 4. (a) Any fabric or article of wearing apparel shall be deemed so highly flammable within the meaning of section 3 of this Act as to be dangerous when worn by individuals if such fabric or any uncovered or exposed part of such article of wearing apparel exhibits rapid and intense burning when tested under the conditions and in the manner prescribed in the Commercial Standard promulgated by the Secretary of Commerce effective January 30,

1953, and identified as "Flammability of Clothing Textiles, Commercial Standard 191-53," or exhibits a rate of burning in excess of that specified in paragraph 3.11 of the Commercial Standard promulgated by the Secretary of Commerce effective May 22, 1953, and identified as "General Purpose Vinyl Plastic Film, Commercial Standard 192-53." For the purposes of this Act, such Commercial Standard 191-53 shall apply with respect to the hats, gloves, and footwear covered by section 2 (d) of this Act, notwithstanding any exception contained in such Commercial Standard with respect to hats, gloves, and footwear.

(b) If at any time the Secretary of Commerce finds that the Commercial Standards referred to in subsection (a) of this section are inadequate for the protection of the public interest, he shall submit to the Congress a report setting forth his findings together with such proposals for legislation as he deems appropriate.

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

ADMINISTRATION AND ENFORCEMENT

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

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

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

(d) The Commission is authorized to—

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

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

INJUNCTION AND CONDEMNATION PROCEEDINGS

SEC. 6. (a) Whenever the Commission has reason to believe that any person is violating or is about to violate section 3 of this Act, and that it would be in the public interest to enjoin such violation until complaint under the Federal Trade Commission Act is issued and dismissed by the Commission or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act or is set aside by the court on review, the Commission may bring suit in the district court of the United States or in United States court of any Territory for the district or

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

Territory in which such person resides or transacts business, to enjoin such violation and upon proper showing a temporary injunction or restraining order shall be granted without bond.

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

(c) In any such action the court upon application seasonably made before trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

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

PENALTIES

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

GUARANTY

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

such wearing apparel or fabric; or (2) a continuing guaranty filed with the Commission applicable to any wearing apparel or fabric handled by a guarantor, in such form as the Commission by rules or regulations may prescribe.

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

SHIPMENTS FROM FOREIGN COUNTRIES

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

INTERPRETATION AND SEPARABILITY

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

EXCLUSIONS

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

EFFECTIVE DATE

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

AUTHORIZATION OF NECESSARY APPROPRIATIONS

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Approved June 30, 1953.

Textile Fiber Products Identification Act

[Public Law 85-897, 85th Congress, H. R. 469, September 2, 1958]

AN ACT To protect producers and consumers against misbranding and false advertising of the fiber content of textile fiber products, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Textile Fiber Products identification Act.".

DEFINITIONS

SEC. 2. As used in this Act—

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

(b) The term “fiber” or “textile fiber” means a unit of matter which is capable of being spun into a yarn or made into a fabric by bonding or by interlacing in a variety of methods including weaving, knitting, braiding, felting, twisting, or webbing, and which is the basic structural element of textile products.

(c) The term “natural fiber” means any fiber that exists as such in the natural state.

(d) The term manufactured fiber means any fiber derived by a process of manufacture from an any substance which, at any point in the manufacturing process, is not a fiber.

(e) The term "yarn" means a strand of textile fiber in a form suitable for weaving, knitting, braiding, felting, webbing, or otherwise fabricating into a fabric.

(f) The term "fabric" means any material woven, knitted, felted, or otherwise produced from, or in combination with, any natural or manufactured fiber, yarn, or substitute therefor.

(g) The term "household textile articles” means articles of wearing apparel, costumes and accessories, draperies, door coverings, furnishings, beddings, and other textile goods of a type customarily used in a household regardless of where used in fact.

(h) The term "textile fiber product" means—

(1) any fiber, whether in the finished or unfinished state, used or intended for use in household textile articles;

(2) any yarn or fabric, whether in the finished or unfinished state, used or intended for use in household textile articles; and

(3) any household textile article made in whole or in part of yarn or fabric;

except that such term does not include a product required to be labeled under the Wool Products Labeling Act of 1939.

(i) The term "affixed" means attached to the textile fiber product in any manner.

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

(k) The term “commerce” means commerce among the several States or with foreign nations, or between 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.

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

(m) The term “ultimate consumer” means a person who obtains a textile fiber product by purchase or exchange with no intent to sell or exchange such textile fiber product in any form.

MISBRANDING AND FALSE ADVERTISING DECLARED UNLAWFUL

SEC. 3. (a) The introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product which is misbranded or falsely or deceptively advertised within the meaning of this Act; or the rules and regulations promulgated thereunder, is unlawful, and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce, and which is misbranded or falsely or deceptively advertised, within the meaning of this Act or the rules and regulations promulgated thereunder, is unlawful, and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, which is misbranded or falsely or deceptively advertised, within the meaning of this Act or the rules and regulations promulgated thereunder, is unlawful, and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(d) This section shall not apply—

(1) to any common carrier or contract carrier or freight forwarder with respect to a textile fiber product received, shipped, delivered, or handled by it for shipment in the ordinary course of its business;

(2) to any processor or finisher in performing a contract for the account of a person subject to the provisions of this Act if the processor or finisher does not change the textile fiber content of the textile fiber product contrary to the terms of such contract;

(3) with respect to the manufacture, delivery for transportation, transportation, sale, or offering for sale of a textile fiber product for exportation from the United States to any foreign country;

(4) to any publisher or other advertising agency or medium for the dissemination of advertising or promotional material, except the manufacturer, distributor, or seller of the textile fiber product to which the false or deceptive advertisement relates, if such publisher or other advertising agency or medium furnishes to the Commission, upon request, the name and post office address of the manufacturer, distributor, seller, or other person residing in the United States, who caused the dissemination of the advertising material; or

(5) to any textile fiber product until such product has been produced by the manufacturer or processor in the form intended for sale or delivery to, or for use by, the ultimate consumer: Provided, That this exemption shall apply only if such textile fiber product is covered by an invoice or other paper relating to the marketing or handling of the textile fiber product and such invoice or paper correctly discloses the information with respect to the textile fiber product which would otherwise be required under section 4 of this Act to be on the stamp, tag, label, or other identification and the name and address of the person issuing the invoice or paper.

MISBRANDING AND FALSE ADVERTISING OF TEXTILE FIBER PRODUCTS

SEC. 4. (a) Except as otherwise provided in this Act, a textile fiber product shall be misbranded if it is falsely or deceptively stamped, tagged, labeled, in-

voiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

(b) Except as otherwise provided in this Act, a textile fiber product shall be misbranded if a stamp, tag, label, or other means of identification, or substitute therefor authorized by section 5, is not on or affixed to the product showing in words and figures plainly legible, the following:

(1) The constituent fiber or combination of fibers in the textile fiber product, designating with equal prominence each natural or manufactured fiber in the textile fiber product by its generic name in the order of predominance by the weight thereof if the weight of such fiber is 5 per centum or more of the total fiber weight of the product, but nothing in this section shall be construed as prohibiting the use of a nondeceptive trademark in conjunction with a designated generic name: Provided, That exclusive of permissible ornamentation, any fiber or group of fibers present in an amount of 5 per centum or less by weight of the total fiber content shall not be designated by the generic name or the trademark of such fiber or fibers, but shall be designated only as "other fiber" or "other fibers" as the case may be.

(2) The percentage of each fiber present, by weight, in the total fiber content of the textile fiber product, exclusive of ornamentation not exceeding 5 per centum by weight of the total fiber content: Provided, That, exclusive of permissible ornamentation, any fiber or group of fibers present in an amount of 5 per centum or less by weight of the total fiber content shall not be designated by the generic name or trademark of such fiber or fibers, but shall be designated only as "other fiber" or "other fibers" as the case may be: Provided further, That in the case of a textile fiber product which contains more than one kind of fiber, deviation in the fiber content of any fiber in such product from the amount stated on the stamp, tag, label, or other identification shall not be a misbranding under this section unless such deviation is in excess of reasonable tolerances which shall be established by the Commission: And provided further, That any such deviation which exceeds said tolerances shall not be a misbranding if the person charged proves that the deviation resulted from unavoidable variations in manufacture and despite due care to make accurate the statements on the tag, stamp, label, or other identification.

(3) The name, or other identification issued and registered by the Commission, of the manufacturer of the product or one or more persons subject to section 3 with respect to such product.

(4) If it is an imported textile fiber product the name of the country where processed or manufactured.

(c) For the purposes of this Act, a textile fiber product shall be considered to be falsely or deceptively advertised if any disclosure or implication of fiber content is made in any written advertisement which is used to aid, promote, or assist directly or indirectly in the sale or offering for sale of such textile fiber product, unless the same information as that required to be shown on the stamp, tag, label, or other identification under section 4(b) (1) and (2) is contained in the heading, body, or other part of such written advertisement, except that the percentages of the fiber present in the textile fiber need not be stated.

(d) In addition to the information required in this section, the stamp, tag, label, or other means of identification, or advertisement may contain other information not violating the provisions of this Act.

(e) This section shall not be construed as requiring the affixing of a stamp, tag, label, or other means of identification to each textile fiber product contained in a package if (1) such textile fiber products are intended for sale to the ultimate consumer in such package (2) such package has affixed to it a stamp, tag label, or other means of identification bearing, with respect to the textile fiber products contained therein, the information required by subsection (b), and (3)

the information on the stamp, tag, label, or other means of identification affixed to such package is equally applicable with respect to each textile fiber product contained therein.

(f) This section shall not be construed as requiring designation of the fiber content of any portion of fabric, when sold at retail, which is severed from bolts, pieces, or rolls of fabric labeled in accordance with the provisions of this section at the time of such sale: Provided, That if any portion of fabric severed from a bolt, piece, or roll of fabric is in any manner represented as containing percentages of natural or manufactured fibers, other than that which is set forth on the labeled bolt, piece, or roll, this section shall be applicable thereto, and the information required shall be separately set forth and segregated as required by this section.

(g) For the purposes of this Act, a textile fiber product shall be considered to be falsely or deceptively advertised if the name or symbol of any fur-bearing animal is used in the advertisement of such product unless such product, or the part thereof in connection with which the name or symbol of a fur-bearing animal is used, is a fur or fur product within the meaning of the Fur Products Labeling Act: Provided, however, That where a textile fiber product contains the hair or fiber of a fur-bearing animal, the name of such animal, in conjunction with the word "fiber", "hair", or "blend", may be used.

(h) For the purposes of this Act, a textile fiber product shall be misbranded if it is used as stuffing in any upholstered product, mattress, or cushion after having been previously used as stuffing in any other upholstered product, mattress, or cushion, unless the upholstery product, mattress, or cushion containing such textile fiber product bears a stamp, tag, or label approved by the Commission indicating in words plainly legible that it contains reused stuffing.

REMOVAL OF STAMP, TAG LABEL, OR OTHER IDENTIFICATION

SEC. 5. (a) After shipment of a textile fiber product in commerce it shall be unlawful, except as provided in this Act, to remove or mutilate, or cause or participate in the removal or mutilation of, prior to the time any textile fiber product is sold and delivered to the ultimate consumer, any stamp, tag, label or other identification required by this Act to be affixed to such textile fiber product, and any person violating this section shall be guilty of all unfair method of competition, and an unfair or deceptive act or practice, under the Federal Trade Commission Act.

(b) Any person—

(1) introducing, selling, advertising, or offering for sale, in commerce, or importing into the United States, a textile fiber product subject to the provisions of this Act, or

(2) selling, advertising, or offering for sale a textile fiber product whether in its original state or contained in other textile fiber products, which has been shipped, advertised, or offered for sale, in commerce.

may substitute for the stamp, tag, label, or other means of identification required to be affixed to such textile product pursuant to section 4(b), a stamp, tag, label, or other means of identification conforming to the requirements of section 4(b), and such substituted stamp, tag, label, or other means of identification shall show the name or other identification issued and registered by the Commission of the person making the substitution.

(c) If any person other than the ultimate consumer breaks a package which bears a stamp, tag, label, or other means of identification conforming to the requirements of section 4, and if such package contains one or more units of a textile fiber product to which a stamp, tag, label, or other identification conforming to the requirements of section 4 is not affixed, such person shall affix a stamp, tag, label, or other identification bearing the information on the stamp,

tag, label, or other means of identification attached to such broken package to each unit of textile fiber product taken from such broken package.

RECORDS

SEC. 6. (a) Every manufacturer of textile fiber products subject to this Act shall maintain proper records showing the fiber content as required by this Act of all such products made by him, and shall preserve such records for at least three years.

(b) Any person substituting a stamp, tag, label, or other identification pursuant to section 5(b) shall keep such records as will show the information set forth on the stamp, tag, label, or other identification that he removed and the name or names of the person or persons from whom such textile fiber product was received, and shall preserve such records for at least three years.

(c) The neglect or refusal to maintain or preserve the records required by this section is unlawful, and any person neglecting or refusing to maintain such records shall be guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce, under the Federal Trade Commission Act.

ENFORCEMENT OF THE ACT

SEC. 7. (a) Except as otherwise specifically provided herein, this Act shall be enforced by the Federal Trade Commission under rules, regulations, and procedure provided for in the Federal Trade Commission Act.

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

(c) The Commission is authorized and directed to make such rules and regulations, including the establishment of generic names of manufactured fibers, under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement.

(d) The Commission is authorized to cause inspections, analyses, tests, and examinations to be made of any product subject to this Act.

INJUNCTION PROCEEDINGS

SEC. 8. Whenever the Commission has reason to believe—

(a) that any person is doing, or is about to do, an act which by section 3, 5, 6, 9, or 10 (b) is declared to be unlawful; and

(b) that it would be to the public interest to enjoin the doing of such act until complaint is issued by the Commission under the Federal Trade Commission Act and such complaint is dismissed by the Commission or set aside by the court on review or until an order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act,

the Commission may bring suit in the district court of the United States or in the United States court of any Territory, for the district or Territory in which such person resides or transacts business, to enjoin the doing of such act and upon proper showing a temporary injunction or restraining order shall be granted without bond.

EXCLUSION OF MISBRANDED TEXTILE FIBER PRODUCTS

SEC. 9. All textile fiber products imported into the United States shall be stamped, tagged, labeled, or otherwise identified in accordance with the provisions of section 4 of this Act, and all invoices of such products required pursuant to section 484 of the Tariff Act of 1930, shall set forth, in addition to the matter therein specified, the information with respect to said products required under the provisions of section 4(b) of this Act, which information shall be in the invoices prior to their certification, if such certification is required pursuant to section 484 of the Tariff Act of 1930. The falsification of, or failure to set forth the required information in such invoices, or the falsification or perjury of the consignee's declaration provided for in section 485 of the Tariff Act of 1930, insofar as it relates to such information, is unlawful, and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act; and any person who falsifies, or perjures the consignees declaration insofar as it relates to such information, may thenceforth be prohibited by the Commission from importing, or participating in the importation of, any textile fiber product into the United States except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act. A verified statement from the manufacturer or producer of such products showing their fiber content as required under the provisions of this Act may be required under regulation prescribed by the Secretary of the Treasury.

GUARANTY

SEC. 10. (a) No person shall be guilty of an unlawful act under section 3 if he establishes a guaranty received in good faith, signed by and containing the name and address of the person residing in the United States by whom the textile fiber product guaranteed was manufactured or from whom it was received, that said product is not misbranded or falsely invoiced under the provisions of this Act. Said guaranty shall be (1) a separate guaranty specifically designating the textile fiber product guaranteed, in which case it may be on the invoice or other paper relating to said product; or (2) a continuing guaranty given by seller to the buyer applicable to all textile fiber products sold to or to be sold to buyer by seller in a form as the Commission, by rules and regulations, may prescribe; or (3) a continuing guaranty filed with the Commission applicable to all textile fiber products handled by a guarantor in such form as the Commission by rules and regulations may prescribe.

(b) The furnishing of a false guaranty, except where the person furnishing such false guaranty relies on a guaranty to the same effect received in good faith signed by, and containing the name and address of the person residing in the United States by whom the product guaranteed was manufactured or from whom it was received, is unlawful, and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce, within the meaning of the Federal Trade Commission Act.

CRIMINAL PENALTY

SEC. 11. (a) Any person who willfully does an act which by section 3, 5, 6, 9, or 10 (b) is declared to be unlawful shall be guilty of a misdemeanor and upon conviction shall be fined not more than $5,000 or be imprisoned not more than one year, or both, in the discretion of the court: Provided, That nothing in this section shall limit any other provision of this Act.

(b) Whenever the Commission has reason to believe that any person is guilty of a misdemeanor under this section, it may certify all pertinent facts

to the Attorney General. If, on the basis of the facts certified, the Attorney General concurs in such belief, it shall be his duty to cause appropriate proceedings to be brought for the enforcement of the provisions of this section against such person.

EXEMPTIONS

SEC. 12. (a) None of the provisions of this Act shall be construed to apply to—

(1) upholstery stuffing, except as provided in section 4(h);

(2) outer coverings of furniture, mattresses, and box springs;

(3) linings or interlinings incorporated primarily for structural purposes and not for warmth;

(4) filling or padding incorporated primarily for structural purposes and not for warmth;

(5) stiffenings, trimmings, facings, or interfacings;

(6) backings of and paddings or cushions to be used under, floor coverings;

(7) sewing and handicraft threads;

(8) bandages, surgical dressings, and other textile fiber products, the labeling of which is subject to the requirements of the Federal Food, Drug and Cosmetic Act of 1935, as amended;

(9) waste materials not intended for use in a textile fiber product;

(10) textile fiber products incorporated in shoes or overshoes or similar outer footwear;

(11) textile fiber products incorporated in headwear, handbags, luggage, brushes, lampshades, or toys, catamenial devices, adhesive tapes and adhesive sheets, cleaning cloths impregnated with chemicals, or diapers.

The exemption provided for any article by paragraph (3) or (4) of this subsection shall not be applicable if any representation as to fiber content to such article is made in any advertisement, label, or other means of identification covered by section 4 of this Act.

(b) The Commission may exclude from the provisions of this Act other textile fiber products (1) which have an insignificant or inconsequential textile fiber content, or (2) with respect to which the disclosure of textile fiber content is not necessary for the protection of the ultimate consumer.

SEPARABILITY CLAUSE

SEC. 13. If any provision of this Act, or the application thereof to any person, as that term is herein defined, is held invalid, the remainder of the Act and the application of the remaining provisions to any person shall not be affected thereby.

APPLICATION OF EXISTING LAWS

SEC. 14. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other Act of the United States.

EFFECTIVE DATE

SEC. 1. This Act shall take effect eighteen months after enactment, except for the promulgation of rules and regulations by the Commission, which shall be promulgated within nine months after the enactment of this Act. The Commission shall provide for the exception of any textile fiber product acquired prior to the effective date of this Act. Approved September 2, 1958.

General Investigations by the Commission, since 1915

Since its establishment in 1915, the Federal Trade Commission has conducted numerous general inquiries which are alphabetically listed and briefly described in the following pages. [1] They were made at the request of the President, the Congress, the Attorney General, Government agencies, or on motion of the Commission pursuant to the Federal Trade Commission Act.

Reports on these inquiries in many instances have been published as Senate or House documents or as Commission publications. Printed documents, unless indicated as being, out of print, [2] may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D. C. Processed publications are available without charge from the Federal Trade Commission while the supply lasts.

Agencies initiating or requesting investigations are indicated in parentheses in the headings. Investigations, the results of which have been published, are listed below. Following this listing are unpublished investigations conducted by the Commission.

Accounting Systems (F. T. C.).—Pointing the way to a general improvement in accounting practices, the Commission, published Fundamentals of a Cost System for Manufacturers (H. Doc. 1356, 64th, 31 p, o. p., 7/1/16) and System of Accounts for Retail Merchants (19 p., o. p., 7/15/16).

Accounting Systems.—See Distribution Cost Accounting.

Advertising as a Factor in Distribution.—See Distribution Methods and Costs.

Agricultural Implements.—See Farm Implements and Distribution Methods and Costs.

Agricultural Implements and Machinery (Congress).[8]—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, 4th, 6/24/36) and, following submission of its report, Agricultural Implement and Machinery Industry (H. Doc. 702, 75th, 1,176 p., 6/6/38, o. p.), the industry made substantial price reductions. The report criticized certain competitive practices on the part of the dominant companies which the companies later promised to remedy. It showed, among other things, that a few major companies had maintained a concentration of control which resulted in large part from their acquisition of the capital stock or assets of competitors prior to enactment of the Clayton Antitrust Act in 1914 and thereafter from their purchase of assets of

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[1] The wartime cost-finding inquiries, 1917-18 (p. 122), include approximately 370 separate investigations.

[2] Documents out of print (designated "o. p.") are available in depository libraries.

[3] Inquiries desired by either House of Congress are now undertaken by the Commission as a result of concurrent resolutions of both Houses.

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

Agricultural Income (Congress).—Investigating a decline in agricultural income and increases or decreases in the income of corporations manufacturing and distributing wheat, cotton, tobacco, livestock, milk, and potato products (Public Res. 61, 74th, 8/27/35), and table and juice grapes, fresh fruits and vegetables (Public Res. 112, 74th, 6/20/36), the Commission made recommendations concerning, among other things, the marketing of commodities covered by the inquiry; corporate consolidations and mergers;[5] unbalanced agricultural-industrial relations; cooperative associations; production financing; transportation; and terminal markets. Its recommendations for improvement of the Perishable Agricultural Commodities Act were adopted by Congress in amending that act Public, 328, 75th) in 1937. [Report of the F. T. C. on Agricultural Income Inquiry, Part 1, Principal Farm Products, 1,134 p., 3/2/37 (summary, conclusions, and recommendations, S. Doc. 54, 75th, 40 p., o. p.); Part II, Fruit, Vegetables, and Grapes, 906 p. 6/10/37, o. p.; Part III, Supplementary Report, 154 p., 11/8/37; and interim reports of 12/26/35 (H. Doc. 380, 74th, 6 p.), and 2/1/37 (S. Doc. 17, 75th, 16 p., o. p.).]

Agricultural Prices.—See Price Deflation.

Antibiotic Manufacture.— study of the antibiotic industry, including origin of the industry, production and manufacture of antibiotics, marketing programs of antibiotic manufacturers, pricing practices, patent ownership and licensing, trademarks, and consumer purchasing patterns. The report was authorized on July 22, 1953, but did not advance beyond the planning stage until July 13, 1956. It was undertaken because of the great public interest in the availability of medicines at reasonable prices and because of the contribution to medicine costs attributable to antibiotics.

Automobiles.—See Distribution Methods and Costs, and Motor Vehicles.

Bakeries and Bread.—See under Food.

Beet Sugar.—See under Food—Sugar.

Building Materials.—See Distribution Methods and Costs.

Calcium Arsenate (Senate).—High prices of calcium arsenate, a poison used to destroy the cotton boll weevil (S. Res. 417, 67th, ½./2:), appeared to be due to sudden increased demand rather than trade restraints (Calcium Arsenate Industry, S. Doc. 345, 67th. 21 p., op 3/3/23).

Cartels.—See paragraphs headed Copper Industry, International Phosphate Cartels, Sulphur Industry, International Electrical Equipment Cartel, International Steel Cartels, Fertilizer (F. T. C.), International Petroleum Cartels and International Alkali Cartels.

Cement (Senate).—Inquiry into the cement industry's competitive conditions and distributing processes (S. Res. 448, 71st, 2/16/31) showed that rigid application of the multiple basing-point price system [6] tended to lessen price competition and destroy the value of sealed bids; concerted activities of manufacturers and dealers strengthened the system's price effectiveness; and dealer associations' practices were designed to restrict sales to recognized "legitimate" dealers (Cement industry, S. Doc. 71, 73d, 160 p., o. p., 6/9/33)

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[4] Conditions With Respect to the Sale and Distribution of Milk and Dairy Products (H. Doc. 94, 75th, 1/4/37), p. 38; Report of the F. T. C. on Agricultural Income Inquiry, Part I (3/2/37), p. 26; Agricultural Implement and Machinery Industry (H. Doc. 702, 75th, 6/6/39), p. 1038; The Present Trend of Corporate Mergers and Acquisitions 3/7/47); The Merger Movement: A Summary Report (1948); and F. T. C. Annual Reports: 1938, pp. 19 and 29: 1939, p. 14: 1940, p. 12: 1941, p. 19; 1942. p. 19; 1943, p. 9; 1944, p. 7; 1945, p. 8; 1946, p. 12; 1947, p. 12; and 1948, p. 11.

[5] See footnote 4 above.

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

Chain Stores (Senate).—Practically every phase of chain-store operation was covered (S. Res. 224, 70th, 5/5/28), including cooperative chains, chain-store manufacturing and wholesale business, leaders and loss leaders, private brands, short weighing and overweighing and sales, costs, profits, wages, special discounts and allowances, and prices and margins of chain and independent grocery and drug distributors in selected cities (For subtitles of 33 reports published under the general title, Chain Stores, 1931-33, see F. T. C. Annual Report, 1941, p. 201.)

In the Final Report on the Chain-Store Investigation (S. Doc. 4, 74th, 110 p., o. p., 12/14/34), legal remedies available to combat monopolistic tendencies in chain-store development were discussed. The Commission's recommendations pointed the way to subsequent enactment of the Robinson-Patman Act (1930) prohibiting price and other discriminations, and the Wheeler-Lea Act (1938) which amended the Federal Trade Commission Act so as to broaden the prohibition of unfair methods of competition in section 5 to include unfair or deceptive acts or practices in interstate commerce.

Cigarette Shortage (F. T. C. and Senate Interstate Commerce Committee Chairman), Wartime, 19445.—In response to complaints from the public and a request from the Chairman of the Senate Interstate Commerce Committee (letter dated 12/1/44), the Commission investigated the cigarette shortage and reported, among other things that the scarcity was directly traceable to the large volume of cigarettes moving to the armed forces and the Allies; that it was not attributable to violations of laws administered by the Commission; but that certain undesirable practices such as hoarding and tie-in sales had developed. (Report of the F. T. C. on the Cigarette Shortage, 33 pages, processed, o. p., 2/13/45.)

Coal (Congress and F. T. C.), Wartime, 1917-18, Etc.—From 1916 through the first World War period and afterward, the Commission at different times investigated anthracite and bituminous coal prices and coal industry's financial condition. Resulting cost and price reports are believed to have substantially benefited the consumer. Among the published reports were: Anthracite Coal Prices, preliminary (S. Doc. 19, 65th, 4 p., o p., 5/4/17); Preliminary Report by the F. T. C. on the Production and Distribution of Bituminous Coal (H. Doc. 152, 65th, 8 p, o. p., 5/19/17); Anthracite and Bituminous Coal Situation, summary (H. Doc. 193, 65th, 29 p., o. p., 6/19/17); and Anthracite and Bituminous Coal (S. Doc. 50, 65th, 420 p., o. p., 6/19/17)—pursuant to S. Res. 217, 64th 2/22/16; H. Res. 352, 64th, 8/18/16, and S. Res. 51, 65th, 5/1/17; Washington, D. C., Retail Coal Situation (5 p., release, processed, o. p., 8/11/17)—pursuant to F. T. C. motion; Investment and Profit in Soft-Coal Mining (two parts, 5/31/22 and 7/6/22, 218 p., o. p., S. Doc. 207, 65th)—pursuant to F. T. C. motion; and Report of the F. T. C. on Premium Prices of Anthracite (97 p., o. p., 7/6/25)—pursuant to F. T. C. motion.

Coal, Cost of Production (F. T. C.), Wartime, 1917-18.—President Wilson fixed coal prices by Executive order under the Lever Act (1917) on the basis of information furnished by the Commission. For use of the U. S. Fuel Administration in continuing price control, the Commission compelled 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 Report of the F. T. C.— Coal, 6/30/19, summarized for principal coal-producing states or regions: (1) Pennsylvania, bituminous, 103 p., o. p.; (2) Pennsylvania, anthracite, 145 p., o. p.; (2) Illinois, bituminous, 127 p., o. p.; (4) Alabama, Tennessee, and Kentucky, bituminous, 210 p., o. p.; (5) Ohio, Indiana, and Michigan, bituminous, 286 p., o. p.; (6) Maryland, West Virginia, and Virginia, bituminous, 286 p., o. p.; and (7) trans-Mississippi States, bituminous, 459 p., o. p.).

[7] See footnote 4.

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 reported (denied about 7 years later) led to their abandonment.

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

Combed Cotton Yarns.—See Textiles.

Commercial Bribery (F. T. C.).—Investigating the prevalence of bribery of customers' employees as a means of obtaining trade, the Commission published A Special Report on Commercial Bribery (H. Doc. 1107, (65th, 3 p., o. p., 5/15/18), recommending legislation striking at this practice; Commercial Bribery (S. Doc. unnumbered, 65th. 36 p., o. p., 8/22/18); and Commercial Bribery (S. Doc. 258, 66th, 7 p., o. p., 3/18/20).

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

Concentration of Productive Facilities (F. T. C.).—In a study of the extent of concentration of economic power, the Commission reported that 46 percent of the total net capital assets of all manufacturing corporations in the United States in 1947 was concentrated in the 113 largest manufacturers. The report is entitled The Concentration of Productive Facilities, 1947—Total Manufacturing and 26 Selected Industries (96 p.). See also Divergence between Plant and Company Concentration.

Control of Iron Ore (F. T. C.).—A study of the concentration of iron ore supplies covers the sources and consumption of iron ore in 1945, an estimate of reserves available to mayor companies and an analysis of effect of possible shortage to big and small companies. The Control of Iron Ore, o. p. (1952).

Cooperation in American Export Trade.—See Foreign Trade

Cooperation in Foreign Countries (F. T. C..—Inquiries made by the Commission regarding the cooperative movement in 15 European countries resulted in a report, Cooperation in Foreign Countries (S. Doc. 171, 68th, 202 p., o. p., 11/29/24), recommending further development of cooperation in the United States.

Cooperative Marketing (Senate).—This inquiry (S. Res. 34, 69th, 3/17/25) covered the development of the cooperative movement in the U. S. and illegal interferences with the formation and operation of cooperatives; and a comparative study of costs, prices, and marketing methods (Cooperative marketing, S. Doc. 95, 70th, 721 p., o. p., 4/30/28).

Copper.—See Wartime Cost Finding, 1917-18.

Copper Industry (F. T. C.—The Commission's report on The Copper Industry, transmitted to Congress (3/11/47), was in two parts: Part I—The Copper Industry of the United States and International Copper Cartels, and Part II—Concentration and Control by the Three Dominant Companies, o. p. The Commission reported that "The copper situation is particularly serious, not only because of the concentration of control of the ore reserves and of the productive capacity, but also because the domestic supply is inadequate to meet the demands of high level national production and employment. Furthermore, the production of foreign

copper, on which the United States will become increasingly dependent, is likewise dominated by a few corporate groups which in the past have operated cooperatively in cartels to regulate production and prices."

Corporation Reports.—See Quarterly Financial Reports.

Corporate Mergers and Acquisitions (F. T. C.)—To determine the impact on the Nation's economy of corporate mergers and acquisitions, the Commission made a study of the merger movement for the years 1940-46, inclusive. The results of the study were transmitted to Congress in a report entitled The Present Trend of Corporate Mergers and Acquisitions (23 p., o. p., 3/7/47), which showed, among other things, that during the period covered, more than 1,800 formerly independent competitive firms in manufacturing and mining industries alone had disappeared as a result of mergers or acquisitions, and that more than one-third of the total number of acquisitions occurred in only three industries, food, nonelectrical machinery, and textiles and apparel—all predominantly "small business" fields.

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

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

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

Cost Accounting.—See Accounting Systems.

Cost of Living (President), Wartime, 1917-18.—Delegates from the various States met in Washington, April 30 and May 1, 1917, at the request of the Federal Trade Commission, and considered the rapid rise of wartime prices and the plans then being made for the Commission's general investigation of foodstuffs. [See Foods (President), Wartime, 1917-18, herein.] Proceedings of the conference were published (High Cost of Living, 119 p., o. p.).

Cotton Industry.—See Textiles.

Cottonseed Industry (House).—Investigating alleged price fixing (S. Res. 439, 69th, 3/2/27), the Commission reported evidence of cooperation among State associations but no indication that cottonseed crushers or refineries had fixed prices in violation of the antitrust laws (Cottonseed Industry, H. Doc. 193, 70th 37 p., 3/5/28).

Cottonseed Industry (Senate).—Two resolutions (S. Res. 136, 10/21/29, and S. Res. 147, 11/2/29—71st) directed the Commission to determine whether alleged unlawful combinations of cottonseed oil mill corporations sought to lower and fix prices of cottonseed and to sell cottonseed meal at s 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., o. p., with 11 vols. testimony, S. Doc. 209, 71st, 5/19/33).

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

Distribution.—See Millinery Distribution.

Distribution of Steel Consumption.—A study to determine the distribution of steel in a time of shortage, when control over distribution rests with the producers. (1949-1950) The results of the study were transmitted to the Subcommittee on Monopoly of the Senate Select Committee on Small Business and published as a committee print. (20p) o. p., 3/31/52.

Distribution Methods and Costs (F. T. C.).—This inquiry into methods and costs of distributing important consumer commodities (F. T. C. Res., 6/27/40) was undertaken by the Commission pursuant to authority conferred upon it by section 6 of the F. T. C. Act. Eight parts of the F. T. C. Report on Distribution Methods and Costs were transmitted to Congress and published under the subtitles: Part I, Important Food Products (11/11/43, 223 p., o. p.); Part III, Building Materials— Lumber, Paints and Varnishes, and Portland Cement (2/19/44, 50 p., o. p.); Part IV, Petroleum Products, Automobiles, Rubber Tires and Tubes, Electrical Household Appliances, and Agricultural Implements (3/2/44, 189 p., o. p.); Part V, Advertising as a Factor in Distribution (10/30/44, 50 p.); Part VI, Milk Distribution, Prices, Spreads and Profits; (6/18/45, 58 p., o. p.); Part VII, Cost of Production and Distribution of Fish in the Great Lakes Area (6/30/45, 58 p.); Part VII, Cost of Production and Distribution of Fish in New England (6/30/45, 118 p.); and Part IX, Cost of Production and Distribution of Fish on the Pacific Cost (7/26/46, 82 p.). The inquiries relating to fish were conducted in cooperation with the Coordinator of Fisheries, Interior Department. During World War II special reports on the distribution of some 20 commodity groups were made for confidential use of the Office of Price Administration and other war agencies.

Divergence Between Plant and Company Concentration (F. T. C.).—ln this 1950 report, the Commission measured the divergence between plant and company concentration for each of 340 manufacturing industries. The Divergence Between Plant and Company Concentration, 1947 (162 p., o. p.). See also Concentration of Productive Facilities.

Du Pont Investments (F. T. C.).—The Report of the F. T. C. on Du Pont Investments (F. T. C. motion 7/29/27; report, 46 p., o. p. processed, 2/1/29) discussed reported acquisition by E. I. du Pont de Nemours & Co. of U. S. Steel Corp. stock, together with previously reported holdings in General Motors Corp.

Electric and Gas Utilities, and Electric Power.—See Power.

Farm Implements (Senate), Wartime, 1917-18.—The Report of the F. T. C. on the Causes of High Prices of Farm Implements (inquiry under S. Res. 223, 65th, 5/13/18; report, 713 p., o. p., 5/4/20) disclosed numerous trade combinations for advancing prices and declared the consent decree for dissolution of International Harvester Co. to be inadequate. The Commission recommended revision of the decree and the Department of Justice proceeded to that end.

Farm Implements (F. T. C.).—A 1948 report on the Manufacture and Distribution of Farm Implements (160 p., also 8 p. processed summary) concerns the production and distribution policies of large manufacturers of farm machinery. The report includes information respecting important developments and trends in the industry.

Feeds, Commercial (Senate).—Seeking to determine whether purported combinations in restraint of trade existed (S. Res. 140, 66th, 7/31/19), the Com-

mission found that although some association activities were in restraint of trade, there were no substantial antitrust violations (Report of the F. T. C. On Commercial Feeds, 206 p., o. p., 3/29/21.

Fertilizer (Senate).—Begun by the Commissioner of Corporations [8] (S. Res. 487, 62d, 3/1/13), this inquiry disclosed extensive use of bogus independent fertilizer companies for competitive purposes (Fertilizer Industry, S. Doc. 551, 64th, 269 p., o. p., 8/10/16.). Agreements for abolition of such unfair competition were reached.

Fertilizer (Senate).—A second fertilizer inquiry (S. Res. 307, 67th, 6/17/22 developed that active competition generally prevailed in that industry in the U. S., although in some foreign countries combinations controlled certain important raw materials. The Commission recommended improved agricultural credits and more extended cooperation by farmers in buying fertilizer (Fertilizer Industry, S. Doc. 347, 67th, 87 p., o. p., 3/3/23).

Fertilizer (F. T. C.).—The Commission's 1949 report on The Fertilizer Industry (100 p.) is concerned primarily with restrictions and wastes which interfere with the supply of plant food materials in the quantities needed and at prices low enough to facilitate maintenance of soil fertility. The Nation's resources of nitrogen, phosphate, and potash are discussed, and the inter-relationships of producers and mixers are reviewed. The report also summarizes available information concerning cartel control of nitrogen, phosphates, and potash.

Fish.—See Distribution Methods and Costs.

Flags (Senate), Wartime, 1917-18.—Unprecedented increases in the prices of U. S. flags in 1917, due to wartime demand, were investigated (S. Res. 35, 65th. 4/16/17). The inquiry was reported in Prices of American Flags (S. Doc. 82, 65th, 6 p., o. p., 7/26/17).

Flour Milling.—See Food, below.

Food (President), Wartime, 1917-18.—President Wilson, as a wartime emergency measure (2/7/17), directed the Commission "to investigate and report the facts relating to the production, ownership, manufacture, storage, and distribution of foodstuffs" and "to ascertain the facts bearing on alleged violations of the antitrust acts." Two major series of reports related to meat packing and the grain trade with separate inquiries into flour milling, canned vegetables and fruits, canned salmon, and related matters, as listed below.

Food (President) Continued—Meat Packing.—Food Investigation-Report of the F. T. C. on the Meat-Packing Industry was published in six parts: 1. Extent and Growth of Power of the Five Packers in Meat and Other Industries (6/24/19, 674, 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),[9] which had substantially the effect of Federal legislation in restricting their future operations to certain lines of activity. As a further result of the investigation, Con-

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[8] The Commission was created September 26, 1914, upon passage of the Federal Trade Commission Act, sec. 3 of which provided that "all pending investigations and proceedings of the Bureau of Corporations (of the Department of Commerce) shall be continued by the Commission."

[9] The legal history of the consent decree and a summary of divergent economic interests involved in the question of packers participation in unrelated lines of food products were set forth by the Commission in Packer Consent Decree (S. Doc. 219, 68th, 44 p. o. p., 2/20/25), prepared pursuant to S. Res. 278, 68th, 12/8/24.

gress enacted the Packers and Stockyards Act (1921), adopting the Commissions recommendation that the packers be divorced from control of the stockyards. (The meat-packing industry is further referred to under Meat Packing Profit Limitation, p. 150.)

Food (President) Continued—Grain Trade.—Covering the industry from country elevator to central market, the Report of the F. T. C. on the Grain Trade as published in seven parts: I. Country Grain Marketing (9/15/20, 350 p., o. p.); II. Terminal Grain Markets and Exchanges (9/15/20, 333 p., o. p.); III. Terminal Grain Marketing (12/21/21, 332 p., o. p.); IV. Middlemen's Profits and Margins. 9/26/23, 215 p., o. p.); V. Future Trading Operations in Grain (9/15/20 347 p., o. p.); VI. Prices of Grain and Grain Futures (9/10/24, 374 p., o. p.); and VII. Effects of Future Trading (6/25/26, 419 p., o. p.). The investigation as reported in vol. V, and testimony by members of the Commission's staff (U. S. Congress House Committee on Agriculture, Future Trading, hearings, 67th, April 25-May 2, 1921 was an important factor in enactment of the Grain Futures Act (1921). (Further reference to the grain trade is made under Grain Elevators, Grain Exporters, and Grain Wheat Prices, p. 149.)

Food (President) Continued—Bakeries and Flour Milling.—One F. T. C. report was published by the Food Administration (U. S. Food Administration, Report of the F. T. C. on Bakery Business in United States, pp. 13, o. p., 1133/17). Other reports were: Food Investigation Report of the F. T. C. on Flour Milling and Jobbing (4/4/18, 27 p., o. p.) and Commercial Wheat Flour Milling (9/15/20, 118 p., o. p.)

Food (President) Continued—Canned Foods,[10] Private Car Lines, Wholesale Food Marketing.—Under the general title Food Investigation were published Report of the F. T. C. on Canned Foods—General Report and Canned Vegetables and Fruits (5/18/18, 83 p., o. p.); Report of the F. T. C. on Canned Foods Canned Salmon (12/27/18, 83 p., o. p.); Report of the F. T. C. on Private Car Lines, regarding transportation of meats, fruits, and vegetables (6/27/19, 271 p., o. p.); and Report of the F. T. C. on Wholesale Marketing of Food (6/30/19, 268 p., o. p.), which recommended that a wholesale dealer in perishable food products should be required to procure a Federal license and that Federal inspection and standards should be provided. Provisions in accordance with these recommendations were incorporated in the Perishable Agricultural Commodities Act (1930).

Food—Bread and Flour (Senate).—Reports on this inquiry (S. Res. 183, (68th, 2/26/24) were: Competitive Conditions in Flour Milling (S. Doc. 97, 70th. 140 p, o. p., 5/3/26); Bakery Combines and Profits (S. Doc. 212, 69th, 95 p., 2/11/27); Competition and Profits in Bread and Flour (S. Doc. 98, 70th, 509 p, o. p., 1/11/28); and Conditions in the Flour Milling Business, Supplementary (S. Doc. 96, 72d, 26 p., o. p., 5/28/32).

Food—Wholesale Baking Industry (F. T. C.).—This inquiry (F. T. C. Res., 8/31/45) resulted in two reports to Congress: Wholesale Baking Industry, Part I—Waste in the Distribution of Bread (4/22/46, processed, 29 p., o. p. and Wholesale Baking Industry, Part II — Costs, Prices and Profits (8/7/46, 137 p., o. p.). Part I developed facts concerning wasteful and uneconomic practices in the distribution of bread, including consignment selling which involves the taking back of unsold bread; furnishing, by gift or loan, bread racks, stands, fixtures, etc, to induce distributors to handle a given company's products. It was found that, although War Food Order No. 1 which prohibited these practices was only partially observed, in 1945 as compared with 1942, the quantity of bread saved

[10] In connection with its wartime cost finding inquiries, 1917-18, p. 124 herein, the Commission published Report of the F. T. C. on Canned Foods 1918—Corn, Peas, String Beans, Tomatoes, and Salmon (86 p.,11/21/21).

was sufficient to supply the population of England, Scotland, and Wales with a daily ration of one-third of a loaf for 30 days, the population of France for 36 days, or the population of Finland for nearly l year. The Commission suggested that "a careful examination of present laws be made by the legislative and executive branches of the Government to determine what legislation, if any, is needed to permanently eliminate wasteful trade practices and predatory competition which threaten the existence of many small bakers, foredoom new ventures to failure and promote regional monopolistic control of the wholesale breadbaking industry."

Part II presents information concerning prices and pricing practices in the industry, profits earned, and unit costs of production and distribution. It compares the details of production and distribution costs for bread and rolls, other bakery products, and for all bakery products for two operating periods in 1945, March and September. Comparisons of costs, are also made for these two periods or plants arranged by geographical areas. Comparisons of the costs of production and distribution are made by size groups of wholesale bakeries.

Food—Fish.—See Distribution Methods and Costs.

Food—Flour Milling (Senate). This study of costs, profits, and other factors (S. Res. 212, 6th, l/18/22) was reported in Wheat Flour Milling Industry (S Doc. 130, 68th, 130 p., o. p., 5/16/24).

Food—Flour Milling Industry, Growth and Concentration in (F. T. C.).—The Commission's study showed that there has been a progressive increase in the size of flour-mill operations and a progressive decrease in the number of flour-milling establishments. Nevertheless, the Commission reported, there is a lesser degree of concentration in the flour-milling industry than in many other important industries. The results of the study were presented to Congress in a report on the Growth and Concentration in the Flour-Milling Industry (6/2/47).

Food—Grain Elevators (F. T. C.) Wartime, 1917-18.—In view of certain bills pending before Congress with reference to regulation of the grain trade the Commission in a preliminary report, Profits of Country and Terminal Grain Elevators (S. Doc. 40 67th 12 p., o. p., 6/13/21) presented certain data collected during its inquiry into the grain trade ordered by the President.

Food—Grain Exporters (Senate).—The low prices of export wheat in 1921 gave rise to this inquiry (S. Res. 133 67th 12/22/21) concerning harmful speculative price manipulations on the grain exchanges and alleged conspiracies among country grain buyers to agree on maximum purchasing prices. The Commission recommended stricter supervision of exchanges and additional storage facilities for grain not controlled by grain dealers (Report of the F. T. C. on Methods and Operations of Grain Exporters, 2 vols. 387 p. o. p. 5/16/22 and 6/18/23).

Food—Grain Wheat Prices (President). An extraordinary decline of wheat prices was investigated (President Wilson's directive 10/12/20) and found to be due chiefly to abnormal market conditions (Report of the F. T. C. on Wheat Prices for the 1920 Crop, 91 p., o. p., 12/13/20).

Food—Important Food Products.—See Distribution Methods and Costs.

Food—Marketing.—On October 9, 1958 the Commission launched a study of significant economic trends in food marketing. The study also deals with integration and concentration of economic power at the retail level of distribution in the food industry. An interim report, statistical only, was issued June 30, 1959, and is to be followed by a final report early in 1960.

Food—Meat Packing Profit Limitation (Senate) Wartime 1917-18.—Following an inquiry (S. Res. 177, 66th 9/3/19) involving wartime control of this business as established by the U. S. Food Administration in 1917-18 the Commission recommended greater control and lower maximum profits (Maximum Profit Limitation on Meat Packing Industry, S. Doc. 110 66th 179 p., o. p. 9/25/19) .

Food—Milk.—See Distribution Methods and Costs.

Food—Milk and Milk Products (Senate), Wartime, 1917-18.—Covering an inquiry (S. Res. 431, 65th, 3/3/19) into fairness of milk prices to producers and of canned-milk prices to consumers, the report of the F. T. C. on Milk and Milk Products 1914-18 (6/6/21, 234 p., o. p.) showed a marked concentration of control and questionable practices many of which later were recognized by the industry as being unfair.

Food—Milk and Dairy Products (House).—Competitive conditions in different milk-producing areas were investigated (H. Con. Res. 32, 73d, 6/15/34). Results of the inquiry were published in seven volumes: Report of the F. T. C. on the Sale and Distribution of Milk Products, Connecticut and Philadelphia Milksheds (H. Doc. 152, 74th, 901 p., o. p., 4/5/35); Report of the F. T. C. on the Sale and Distribution of Milk and Milk Products (Connecticut and Philadelphia milksheds, interim report, H. Doc. 387, 74th, 125 p., o. p., 12/31/35); Chicago Sales Area (H. Doc. 451, 74th, 103 p., o. p., 4/15/36); Boston, Baltimore, Cincinnati, St. Louis (H. Doc. 501, 74th, 243 p., o. p., 6/4/36); Twin City Sales Area (H. Doc. 506, 74th, 71 p., o. p., 6/13/36); and New York Milk Sales Area (H. Doc 95, 75th, 138 p., o. p., 9/30/36). The Commission reported that many of the industry's problems could be dealt with only by the States and recommended certain legislation and procedure, both State and Federal (Summary Report on Conditions with Respect to the Sale and Distribution of Milk and Dairy Products, H. Doc. 94, 75th, 39 p., o. p., 1/4/37). Legislation has been enacted in a number of States carrying into effect all or a portion of the Commission' 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 (Price and Competition Among Peanut Mills, S. Doc. 132, 72d, 78 p., o. p., 6/30/32).

Food—Raisin Combination (Attorney General).—Investigating allegations of a combination among California raisin growers (referred to F. T. C. 9/30/19), the Commission found the enterprise not only organized in restraint of trade but conducted in a manner threatening financial disaster to the growers. The Commission recommended changes which the growers adopted (California Associated Raisin Co., 26p., processed, o. p., 6/8/20).

Food—Southern Livestock Prices (Senate). Although the low prices of southern livestock in 1919 gave rise to a belief that discrimination was being practiced, a Commission investigation (S. Res. 133, 66th, 7/25/19) revealed the alleged discrimination did not appear to exist (Southern Livestock Prices, S. Doc. 209, 66th, 11 p., o. p., 2/2/20).

Food—Sugar (House).—An extraordinary advance in the price of sugar in 1919 (H. Res. 150, 66th, 10/1/19) was found to be due chiefly to speculation and hoarding. The Commission made recommendations for correcting these abuses (Report of the F. T. C. on Sugar Supply and prices, 205 p., o. p., 11/15/20).

Food—Sugar, Beet (F. T. C.).—Initiated by the Commissioner of Corporations,[11] but completed by the F. T. C., this inquiry dealt with the cost of growing beets and the cost of beet-sugar manufacture (Report on the Beet Sugar industry in the U. S., H. Doc. 158, 65th, 164 p., o. p., 5/24/17).

Foreign Trade—Antidumping Legislation (F. T. C.).—To develop information for use of Congress in its consideration of amendments to the antidumping laws, the Commission studied recognized types of dumping and provisions for preventing the dumping of goods from foreign countries (Antidumping Legislation and

[11] See footnote 8.

Other Import Regulations in the United States and Foreign Countries, S. Doc. 112, 73d, 100 p., o. p., 1/11/34; supplemental report, 111 p., o. p., processed, 6/27/38).

Foreign Trade—Cooperation in American Export Trade (F. T. C).—This inquiry related to competitive conditions affecting Americans in international trade. The Export Trade Act, also known as the Webb-Pomerene law, authorizing the association of U. S. manufacturers for export trade, was enacted as a result of Commission recommendations (Cooperation in American Export Trade, 2 vols., 984 p., o. p., 6/30/16; also summary, S. Doc. 426, 64th, 7 p., o. p., 5/2/16; and conclusions 1916. 14 p., o. p.).

Foreign Trade—Cotton Growing Corporation (Senate).—The report of an inquiry (S. Res. 317, 68th, 1/27/25) concerning the development of this British company, Empire Cotton Growing Corporation (S. Doc. 226, 68th, 30 p., o. p., 2/28/25), showed there was then little danger of serious competition with the American grower or of a possibility that the United States would lose its position as the largest producer of raw cotton.

Gasoline.—See Petroleum.

Grain.—See Food.

Grain Exchange Actions (F. T. C. and Chairman of Senate Committee on Agriculture and Forestry).—The Commission's report on Economic Effects of Grain Exchange Actions Affecting Futures Trading During the First Six Months of 1946 (85 p., o. p., 2/4/47) presents results of a special study made at the request of the then Chairman of the Senate Committee on Agriculture and Forestry. The report reviews the factors which made it impossible, during the first half of 1945, for futures trading to be conducted in the usual manner on the Chicago, Kansas City and Minneapolis grain exchanges under existing conditions of Government price control and severe restrictions on the movement of short supplies of free grain in the cash market. The report also discusses the economic effects of emergency actions taken by the exchanges on the interests trading in futures, and suggests, among other things, that both the Commodity Exchange Act and the U. S. Warehouse Act "should be so amplified and coordinated, or even combined, as to make effective the type and scope of regulation over futures trading contemplated by the Congress in enacting the Commodity Exchange Act."

Guarantee Against Price Decline (F. T. C.).—Answers to a circular letter (12/26/19) calling for information and opinions on this subject were published in Digest of Replies in Response to an Inquiry of the F. T. C. Relative to the Practice of Giving Guarantee Against Price Decline (68 p., o. p. 5/27/20).

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

Independent Harvester Co. (Senate), Wartime, 1917-18.—After investigation (S. Res. 212, 65th, 3/11/18) of the organization and methods of operation of the company which had been formed several years before to compete with the "harvester trust," but which had passed into receivership, the F. T. C. Report to the Senate on the Independent Harvester Co. (5 p., release, processed, o. p., 5/15/18) showed the company's failure was due to mismanagement and insufficient capital.

Industrial Concentration and Product Diversification in the 1,000 Largest Manufacturing Companies: 1950 (F. T. C.)—This purely statistical report has 12 pages of text which state the findings in 52 text tables and 22 charts covering all manufacturing, food, electrical apparatus, and transportation equipment, and 529 pages of appendix tables covering these and other manufacturing industries.

The 4 leading shippers of each product are identified, but shipments by individual companies are not disclosed.

Interlocking Directorates (F. T. C.).—This 1950 report on Interlocking Directorates summarizes the interlocking relationships among directors of the 1,000 largest manufacturing corporations. It also covers the interlocking directorates between these corporations, and a selected list of banks, investment trusts, insurance companies, railroads, public utilities, and distributive enterprises.

International Alkali Cartels (F. T. C.).—In a report (1950) on International Cartels in the Alkali Industry, o. p., the Commission discussed the nature, extent, and effect of international agreements concerning baking soda, soda ash, and caustic soda to which organized groups of American and European alkali producers were parties from 1924 until 1946.

International Electrical Equipment Cartel (F. T. C.).—In its 1948 report on this subject (107 p., also 10 p. processed summary) the Commission points out the high degree of economic concentration in the electrical equipment industry which exists in each of the important industrial nations.

International Petroleum Cartel.— staff study of the activities of the seven major oil companies in relation to control over the international oil industry. Staff Report to the Federal Trade Commission submitted to the Subcommittee on Monopoly of the Select Committee on Small Business, U. S. Senate Committee print No. 6, 82d Cong.—2d sess. 378 p., o. p., 1952.

International Phosphate Cartels (F. T. C.).—The F. T. C. Report on International Phosphate Cartels (F. T. C. Res. 9/19/44) developed facts with respect to the practices, arrangements and agreements between domestic phosphate companies and foreign competitors through international cartels, through which minimum export prices were fixed. These prices varied from market to market, depending upon competition, ocean freight rates, and other factors. The agreements established fixed quotas in each grade, and sales were allocated among members of the Phosphate Export Association according to their quotas and the grade involved. The report (processed, 60 p.) Was transmitted to Congress 5/1/46.

International Steel Cartels (F. T. C.).—A report to Congress concerning numerous cartel agreements relating to steel which were adopted between World War I and World War II. Certain American companies participated in these agreements, which were both national and international in scope. The International agreements allotted quotas to the different national groups, fixed prices in the export trade, and established reserved and unreserved areas. (International Steel Cartels (1948), 115 p., o. p., also 12 p. processed summary.)

Iron Ore.—See Control of Iron Ore.

Large Manufacturing Companies (F. T. C.).—This 1951 report, entitled A List of 1,000 Large Manufacturing Companies, Their Subsidiaries and Affiliates, 1948, slows for each of the 1,000 largest manufacturing corporations which publish financial statements the percentage of stock interest held by the corporation in each of its subsidiaries and affiliates. The parent corporations are grouped in 21 major industries and ranked as to size on the basis of their total assets in 1948, 223 p., o. p., 6/1/51.

Leather and Shoes (F. T. C. and House), Wartime, 1917-18.—General complaint regarding high prices of shoes led to this inquiry, which is reported in Hide and Leather Situation, preliminary report (H. Doc. 857, 65th, 5 p., o. p., 1/23/18), and Report on Leather and Shoe Industries (180 p., o. p., 8/21/19). A further study (H. Res. 217, 66th, 8/19/19) resulted in the Report of the F. T. C. on Shoe and Leather Costs and Prices (212 p., o. p., 6/10/21).

Lumber—Costs.—Sec, Wartime Cost Finding, 1917-18.

Lumber Trade Associations (Attorney General).—The Commission's extensive survey of lumber manufacturers associations (referred to F. T. C., 9/4/19) resulted in Department of Justice proceedings against certain associations for alleged antitrust law violations. Documents published were: Report of the F. T. C. on Lumber Manufacturers' Trade Associations, incorporating regional reports of 1/10/21, 2/18/21, 6/9/21, and 2/15/22 (150 p., o. p.); Report of the F. T. C. on Western Red Cedar Association, Lifetime Post Association, and Western Red Cedarmen's Information Bureau (22 p., o. p., 1/24/23), also known as Activities of Trade Associations and Manufacturers of Posts and Poles in the Rocky Mountain and Mississippi Valley Territory (S. Doc. 293, 67th, o. p.); and Report of the F. T. C. on Northern Hemlock and Hardwood Manufacturers Association (52 p., o. p., 5/7/23).

Lumber Trade Association (F. T. C.).—Activities of five large associations were investigated in connection with the Open-Price Associations inquiry to bring down to date the 1919 lumber association inquiry (Chap. VIII of Open/Price Trade Associations, S. Doc. 26, 70th, 516 p., o. p., 2/13/29).

Meat-Packing Profit Limitations.—See Food.

Mergers (F. T. C.).—(See Corporate Mergers.)

Milk.—See Food.

Millinery Distribution (President).—This inquiry, requested by President Roosevelt, embraced growth and development of syndicates operating units for retail millinery distribution, the units consisting of leased departments in department or specialty stores (Report to the President of the United States on Distribution Methods in the Millinery Industry, 65 p., processed, 11/21/39, o. p.).

Monopolistic Practices and Small Business.—A study by the staff of the Commission on the effect of certain monopolistic practices on small business, requested by the Subcommittee on Monopoly of the Senate Select Committee on Small Business. The results were transmitted to the Subcommittee and published as a committee print by Select Committee on Small Business, U. S. Senate, 82d Cong. (88 p. 3/31/52).

Motor Vehicles (Congress).—Investigating (Public Res. 87, 75th, 4/13/38) distribution and retail sales policies of motor vehicle manufacturers and dealers, the Commission found, among other things, a high degree of concentration and strong competition; that many local dealers associations fixed prices and operated used-car valuation or appraisal bureaus essentially as combinations to restrict competition; that inequities existed in dealer agreements and in certain manufacturers' treatment of some dealers; and that some companies car finance plans developed serious abuses (Motor Vehicle Industry, H. Doc. 468, 76th, 1077 p., o. p., (6/5/39). The leading companies voluntarily adopted a number of the Commission's recommendations as company policies.

National Wealth and Income (Senate). In 1922 the national wealth was estimated (inquiry pursuant to S. Res. 451, (7th, 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., 6/25/26) and Taxation and Tax-exempt Income (S. Doc. 148, 68th, 144 p., o. p., 6/6/24)].

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

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

Paper—Book (Senate), Wartime, 1917-18.—This inquiry (S. Res. 269, 64th, 9/7/16) resulted in proceedings by the Commission against certain manufacturers to prevent price enhancement and the Commission recommended legislation

to repress trade restraints Book Paper Industry— Preliminary Report (S. Doc. 45, 65th, 11 p., o. p., 6/13/17), and Book Paper Industry—Final Report (S. Doc. 79, 65th, 125)., o. p., 8/21/17)].

Paper—Newsprint (Senate), Wartime, 1917-18.—High prices of newsprint (S. Res. 177, 64th, 4/24/16) were shown to have been partly a result of certain newsprint association activities in restraint of trade. Department of Justice proceedings resulted in abolishment of the association and indictment of certain manufacturers. The Commission for several years conducted monthly reporting of production and sales statistics, and helped provide some substantial relief for smaller publishers in various parts of the country. [Newsprint Paper Industry, preliminary (S. Doc. 3, 65th, 12 p., o. p., 3/3/17; Report of the F. T. C. on the Newsprint Paper Industry (S. Doc. 49, 65th) 162 p., o. p., 6/13/17); and Newsprint Paper Investigation (in response to S. Res. 95, 65th, 6/27/17; S. Doc. 61. 65th, 8 p., o. p., 7/10/17)].

Paper—Newsprint (Senate).—The question investigated (S. Res. 337, 70th, 2/27/29) was whether a monopoly existed among newsprint manufacturers and distributors in supplying paper to publishers of small dailies and weeklies (Newsprint Paper Industry, S. Doc. 214, 71st, 116 p., o. p., 6/30/30).

Petroleum.—See International Petroleum Cartel.

Petroleum Products.—See Distribution Methods and Costs.

Petroleum and Petroleum Products, Prices (President and Congress).—At different times the Commission has studied prices of petroleum and petroleum products and issued reports thereon as follows: Investigation of the Price of Gasoline, preliminary (S. Doc. 403, 64th, 15 p., o. p., 4/10/16) and Report on the Price of Gasoline in 1915 (H. Doc. 74, 65th, 224 p., o. p., 4/11/17—both pursuant to S. Res. 109, 63d, 6/18/13[12] and S. Res. 457, 63d, 9/28/14, which reports discussed high prices and the Standard Oil Companies division of marketing territory among themselves, the Commission suggesting several plans for restoring effective competition; Advance in the Prices of Petroleum Products (H. Doc. 801. 66th, 57 p., o. p., 6/1/20)—pursuant to H. Res. 501, 66th, 4/5/20, in which report the Commission made constructive proposals to conserve the oil supply; Letter of Submittal and Summary of Report on Gasoline Prices in 1924 (24 p. processed, 6/4/24, and Cong. Rec., 2/28/25, p. 5158)—pursuant to request of President Coolidge, 2/7/24; Petroleum Industry—Prices, Profits and Competition (S. Doc. 61, 70th, 360 p., o. p., 12/12/27)—pursuant to S. Res. 31, 69th, 6/3/36; Importation of Foreign Gasoline at Detroit, Mich., (S. Doc. 206, 72d, 3 p., o. p., 2/27/33)—pursuant to S. Res. 274, 72d, 7/16/32; and Gasoline Price (S. Doc. 178, 73d, 22 p., o. p., 5/10/34)—pursuant to S. Res. 166, 73d, 2/2/34.

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

Petroleum Pipe Lines (Senate).—Begun by the Bureau of Corporations,[12] this inquiry (S. Res. 109, 63d, 6/18/13) showed the dominating importance of the pipe lines of the great midcontinent oil fields and reported practices of the pipeline companies which were unfair to small producers (Report on Pipe-Line Transportation of Petroleum, 467 p., o. p., 2/28/16), some of which practices were later remedied by the Interstate Commerce Commission.

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[12] See footnote 8.

[13] See footnote 3. Conditions in one of the midcontinent fields were discussed by the Bureau of Corporations in Conditions in the Healdton oil Field (Oklahoma) 116 p., 8/15/15).

Petroleum—Regional Studies (Senate and F. T. C.).—Reports published were: Pacific Coast Petroleum Industry (two parts 4/7/21 and 11/28/21, 538 p., o. p.)— pursuant to S. Res. 138, 66th, 7/31/19; Reports of the F. T. C. on the Petroleum Industry of Wyoming (54 p., o. p., 1/3/21)—pursuant to F. T. C. motion; Petroleum Trade in Wyoming and Montana (S. Doc. 233, 67th, 4 p., o. p., 7/13/22)— pursuant to F. T. C. motion, in which report legislation to remedy existing conditions was recommended; and Report of the F. T. C. on Panhandle Crude Petroleum (Texas) (19 p., o. p., 2/3/28)—pursuant to F. T. C. motion, 10/6/26 (in response to requests of producers of crude petroleum).

Potomac Electric Power Co. (Procurement Director, United States Treasury).— study (2/29)/44) of the financial history and operations of this corporation for the years 1896-1943 was made at the request of the Director of Procurement, United States Treasury, and the report thereon was introduced into the record in the corporation's electric rate case before the District of Columbia Public Utilities Commission.

Power—Electric (Senate).—This inquiry (S. Res. 329, 68th, 2/9/25) resulted in two reports, the first of which, Electric Power Industry—Control of Power Companies (S. Doc. 213, 69th, 272 p., o. p., 2/21/27) dealt with the organization, control, and ownership of commercial electric-power companies. It called attention to the dangerous degree to which pyrarmiding had been practiced in superimposing a series of holding companies over the underlying operating companies, and was influential in bringing about the more comprehensive inquiry described under Power—Utility Corps, below. Supply of Electrical Equipment and Competitive Conditions (S. Doc. 46, 70th, 282 p., o. p., 1/12/28) showed, among other things, the dominating position of General Electric Co. in the equipment field.

Power—Interstate Transmission (Senate).—Investigation (S. Res. 151, 71st, 11/8/29) was made of the quantity of electric energy transmitted across State lines and used for development of power or light, or both (Interstate Movement of Electric Energy, S. Doc. 238, 71st, 134 p., o. p., 12/20/30).

Power—Utility Corporations (Electric and Gas Utilities) (Senate).—This extensive inquiry (S. Res. 83, 70th, 2/15/28; Public Res. 46, 73d, 6/1/34; and F. T. C. Act, Sec. 6) embraced the financial set-up of electric and gas utility companies operating in interstate commerce and of their holding companies and other companies controlled by the holding companies. The inquiry also dealt with the utilities efforts to influence public opinion with respect to municipal ownership of electric utilities. The Commissions reports and recommendations, focusing congressional attention upon certain unfair financial practices in connection with the organization of holding companies and the sale of securities, were among the influences which brought about enactment of such remedial legislation as the Securities Act (1933), the Public Utility Holding Company Act (1935), the Federal Power Act (1935), and the Natural Gas Act (1938).

Public hearings were held on all phases of the inquiry and monthly interim reports presented hundreds of detailed studies by the Commissions economists, attorneys, accountants, and other experts, based on examination of 29 holding companies having $6,108,128,713 total assets; 70 subholding companies with $5,685,463,201 total assets; and 278 operating companies with $7,245,106,464 total assets. The testimony, exhibits, and final reports (Utility Corporations, S. Doc. 92, 70th, o. p.) comprised 95 volumes.

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 mar-

[14] Final reports were published in 1935; a general index in 1937. Some of the volumes are out of print. For report titles, see F. T. C. Annual Report, 1941, p. 221; and for lists of companies investigated, see F. T. C. Annual Reports, 1935, p. 21, and 1936, p. 36.

kets and price levels. In the cement industry the basing-point method was found to have a tendency to establish unhealthy uniformity of delivered prices and cross-hauling or cross-freighting to be an economic evil (Report of the F. T. C. on Price Bases Inquiry, Basing-Point Formula, and Cement Prices, 218 p., o. p., 3/26/32). Illustrating the use in a heavy commodity industry of both a modified zone-price system and a uniform delivered-price system, the Commission examined price schedules of the more important manufacturers of range boilers, 1932-36, disclosing that the industry operated under a zone-price formula, troth before and after adoption of its N. R. A. code (Study of Zone-Price Formula in Range Boiler Industry, 5 p., processed, 3/30/36, a summary based on the complete report which was submitted to Congress but not printed).

Price Deflation (President).—To an inquiry (3/21/21) of President Harding, the Commission made prompt reply (undated presenting its views of the causes of a disproportional decline of agricultural prices compared with consumers prices (Letter of the F. T. C. to the President of the U. S., 8 p., o. p.).

Profiteering (Senate), Wartime, 1917-18.—Current conditions of profiteering (S. Res. 255, 65th, 6/10/18) as disclosed by various Commission investigations were reported in Profiteering (S. Doc. 248, 65th, 20 p., o. p., 6/29/18).

Quarterly Financial Reports United States Manufacturing Corporations (F. T. C. and S. E. C.).—This 1947-58 series of reports is intended to meet the general needs of the Government and the public for current reliable corporation financial data. The reports show the aggregate estimates for American manufacturing corporations as derived from reports collected by the Federal Trade Commission and the Securities and Exchange Commission. This work is based upon resumption by F. T. C. of its prewar financial reporting function and continuation by S. E. C. of its current responsibilities for collection of financial information from corporations with securities registered on a national exchange. F. T. C. obtains comparable information from a carefully selected sample of small, medium size and large nonregistered corporations. The sample has been designed so that the two sets of data can be combined to provide estimates for 21 major industry groups (increased to 23 major groups in 1951) as well as the aggregate for all manufacturing corporations. The Quarterly Financial Reports formerly were known as Industrial Corporation Reports.

Quarterly Financial Report, United States Retail and Wholesale Corporation—

This presents estimates of the income statements and balance sheets for the total operations of United States wholesale trade corporations (merchant wholesalers only) and retail trade corporations, for various industrial segments of retailing and merchant wholesaling, and for different sizes of business in retailing and merchant wholesaling. These estimates are for the year 1950 and each of the four quarters of 1951. There were compiled from financial statements received from individual corporations.

Quarterly Financial Report, Five Manufacturing Industries, 1947-51.—This presents averages of the quarterly income statements and balance sheets for the total operations of representative samples of manufacturing corporations (with average annual sales within a specified range) in specific industries and in a specific geographical region.

Radio (House).—A comprehensive investigation of the radio industry (H. Res. 548, (67th, 3/4/23); Report of the F. T. C. on the Radio Industry, 347 p., o. p, 12/1/23) contributed materially to enactment of the Radio Act of 1927 and the succeeding Federal Communications Act of 1934. The investigation was followed by Commission and Department of Justice proceedings on monopoly charges which culminated in a consent decree (11/2/32; amended, 11/2/35).

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

Rags, Woolen.—See Textiles.

Raisin Combination.—See Food.

Range Boilers.—See Price Bases.

Rates of Return in Selected Industries (F. T. C.).—comparison of the prewar (World War II) and postwar rates of return on stockholders' investments after taxes for more than 500 identical manufacturing corporations. The present report, published annually, covers the years 1940 and 1947-56, includes 25 selected manufacturing industries.

Resale Price. Maintenance (F. T. C.).—The question whether a manufacturer of standard articles, identified by trade-mark or trade practice, should be permitted to fix by contract the price at which purchasers should resell them, led to the first inquiry, resulting in a report, Resale Price Maintenance (H. Doc. 1480, 65th, 3 p., o. p., 12/2/18). Other reports were: A Report on Resale Price Maintenance (H. Doc. 145, 66th, 3 p., o. p., 6/30/19) and Resale Price Maintenance (F. T. C. motion, 7/25/27; reports, Part I, H. Doc. 546, 70th, 141 p, o. p., 1/30/29, and Part II, 215 p., o. p., 6/22/31). The Report of the F. T. C. on Resale Price Maintenance, o. p., (F. T. C. Res., 4/25/39) was submitted to Congress 12/13/45. The inquiry developed facts concerning the programs of trade organizations interested in the extension and enforcement of minimum resale price maintenance contracts, and the effects of the operation of such contracts upon consumer prices and upon sales volumes of commodities in both the price-maintained and nonprice-maintained categories.

Rubber Tires and Tubes.—See Distribution Methods and Costs.

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

Southern Livestock Prices.—See Food.

Steel Code and Steel Code as Amended (Senate and President).—The Commission investigated (S. Res. 166 73d, 2/3/34) price fixing, price increases, and other matters (Practices of the Steel Industry Under the Code, S. Doc. 159, 73d, 79 p., o. p., 3/19/34) and the Commission and N. R. A. studied the effect of the multiple basing-point system under the amended code (Report of the F. T. C. to the President in response to Executive Order of May 30, 1954, With Respect to the Basing-Point System in the Steel Industry, 125 p., o p., 11/30/34).[17] The Commission recommended important code revisions.

Steel Companies, Proposed Merger (Senate).—An inquiry (S. Res. 286, 67th 5/12/22) into a proposed merger of Bethlehem Steel Corp. and Lackawanna Steel Co., and of Midvale Steel & Ordnance Co., Republic Iron & Steel Co., and Inland Steel Co., resulted in a two-volume report. Merger of Steel and Iron Companies (S. Doc. 208, 6th, 11 p., o. p., (6/5/22 and 9/7/22).

Steel Costs and Profits.—See Wartime Cost Findings, 1917-18.

Steel Sheet; Piling—Collusive Bidding (President).—Steel sheet piling prices on certain Government contracts in New York, North Carolina, and Florida were investigated (inquiry referred to F. T. C. 11/20/35). The F. T C. Report

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[16] The salary lists do not appear in the report but are available for inspection.

[17] As of the same date, the N. R. A. published its Report of the National Recovery Administration on the Operation of the Basing-Point System in the Iron and Steel Industry (175 p., processed). The basing-point system is also discussed in published reports listed under "Cement" and "Price Bases" herein.

to the President on Steel Sheet Piling (42 p., processed, 6/10/36 o. p.) demonstrated the existence of collusive bidding because of a continued adherence to the basing-point system[18] and provisions of the steel industry's code.

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

Sugar.—See Food.

Sulphur Industry (F. T. C.).—In its report to Congress on The Sulphur Industry and International Cartels (6/16/47), o. p., the Commission stated that the operations of all four producers constituting the American sulphur industry generally have been highly profitable, and that the indications are that foreign cartel agreements entered into by Sulphur Export Corp., an export association organized under the Webb-Pomerene Law, have added to the profitability of the U. S. industry. On 2/7/47, after hearings, the Commission recommended that Sulphur Export Corp. readjust its business to conform to law.

Taxation and Tax-Exempt Income.—See National Wealth and Income.

Temporary National Economic Committee, Studies of the F. T. C.—See F. T. C. Annual Report, 1941, p. 218, for titles.

Textiles (President).—President Roosevelt (Executive Order of 9/26/34) directed an inquiry into the textile industry's labor costs, profits, and investment structure to determine whether increased wages and reduced working hours could be sustained under prevailing economic conditions. Reports covering the cotton, woolen and worsted, silk and rayon, and thread, cordage and twine industries were: Report of the F. T. C. on Textile Industries, Parts I to VI, 12/31/34 to 6/20/35, 174 p., o. p. (Part VI financial tabulations processed 42 p., o. p.); Report of the F. T. C. on the Textile Industries in 1933 and 1934), Parts I to IV, 8/1/35 to 12/5/35, 129 p., o. p.; Parts II and III, o. p. (Part IV, processed, 21 p., o. p.; accompanying tables, processed, 72 p., o. p.); Cotton Spinning Companies Grouped by Types of Yarn Manufactured During 1933 and 1934, 1/31/36, 20 p., processed, o. p.; Cotton Weaving Companies Grouped by Types of Woven Goods Manufactured During 1933 and 1934, 3/24/36, 48 p., processed, o. p.; Textile Industries in the First Half of 1935, Parts I to III, 5/22/36 to 8/22/36, 119 p., processed, o. p.; Textile Industries in the Last Half of 1935, Parts I to III, 11/20/36 to 1/6/37, 155 p., processed, o. p.; and Textile Industries in the First Half of 1936, Parts I to III, 1/21/37 to 2/11/37, 163 p., processed, o. p.

Textiles—Combed Cotton Yarns.—High prices of combed cotton yarns led to this inquiry (H. Res. 451, 66th, 4/5/20) which disclosed that while for several years profits and prices had advanced, they declined sharply late in 1920 (Report of the F. T. C. on Combed Yarns, 94 p., o. p., 4/14/21).

Textiles—Cotton Growing Corporation.—See Foreign Trade.

Textiles—Cotton Merchandising (Senate)—Investigating abuses in handling consigned cotton (S. Res. 252, 68th, 6/7/24), the Commission made recommendations designed to correct or alleviate existing conditions (Cotton Merchandising Practices, S. Doc. 194, 68th, 38 p., o. p., 1/20/25).

Textiles—Cotton Trade (Senate).—Investigation (S. Res. 262, 67th, 3/29/22) involved a decline in cotton prices, 1920-22, as reported in Preliminary Report of

[18] See footnote 15.

the F. T. C. on the Cotton Trade (S. Doc. 311, 67th, 28 p., o. p., 2/2/23). After second inquiry (S. Res. 429, 67th, 1/31/23), the Commission recommended certain reforms in trading practices and particularly in permitting Southern delivery of cotton on New York futures contracts (The Cotton Trade, incl. testimony, S. Doc. 100, 68th, 2 vols., 510 p., o. p., 4/28/24). A subsequent Senate bill (S. 4411, 70th, 5/18/28) provided for Southern warehouse delivery, but, before any law was enacted, the New York Cotton Exchange adopted Southern delivery on New York futures contracts (11/16/28 and 2/26/30) in accordance with the Commission's recommendations.

Textiles—Woolen Rag Trade (F. T. C.), Wartime, 1917-18.—The Report on the Woolen Rap Trade (90 p., o. p., 6/30/19) contains information gathered during the World War, 1917-18, at the request of the War Industries Board, for its use in regulating the prices of woolen rags employed in the manufacture of clothing.

Tobacco (Senate).—Inquiry (S. Res. 329, 2/9/25) into activities of two well-known companies disclosed that alleged illegal agreements or conspiracies did not appear to exist. (The American Tobacco Co. and the Imperial Tobacco Co., S. Doc. 34, 69th, 129 p., o. p., 12/25/25).

Tobacco Marketing—Leaf (F. T. C.).—Although representative tobacco farmers in 1929 alleged existence of territorial and price agreements among larger manufacturers to control cured leaf tobacco prices, the Commission found no evidence of price agreements and recommended production curtailment and improvement of marketing processes and cooperative relations (Report on Marketing of Leaf Tobacco in the Flue-Cured District of the State of North Carolina and Georgia, 54 p., o. p., processed, 5/23/31).

Tobacco Prices (Congress).—Inquiries with respect to a decline of loose-leaf tobacco prices following the 1919 harvest (H. Res. 533, 66th, 6/3/20) and low tobacco prices as compared with high prices of manufactured tobacco products (S. Res. 129, 67th, 8/9/21) resulted in the Commission recommending modification of the 1911 decree (dissolving the old tobacco trust) to prohibit permanently the use of common purchasing agencies by certain companies and to bar their purchasing tobacco under any but their own names (Report of the F. T. C. on the Tobacco Industry, 162 p., o. p., 12/11/20, and Prices of Tobacco Products, S. Doc. 121, 67th, 109 p., o. p., 1/17/22).

Trade and Tariffs in South America (President). Growing out of the First Pan-American Financial Conference held in Washington, May 24-29, 1915, this inquiry (referred to F. T. C. 7/22/15) was for the purpose of furnishing necessary information to the American branch of the International High Commission appointed as a result of the conference. Customs administration and tariff policy were among subjects discussed in the Report on Trade and Tariffs in Brazil, Uruguay, Argentina, China, Bolivia, and Peru (246 p., o. p., 6/30/16).

Twine.—See Sisal Hemp and Textiles.

Utilities.—See Power.

Wartime Cost Finding (President), 1917-18.—President Wilson directed the Commission (7/25/17) to find the costs of production of numerous raw materials and manufactured products. The inquiry resulted in approximately 370 wartime cost investigations. At later dates reports on a few of them were published, including: Cost Report of the F. T. C.—Copper (26 p., o. p., 6/30/19); Report of the F. T. C. on Wartime cost and Profits of Southern Pine Lumber Companies (94 p., o. p., 5/1/22); and Report of the F. T. C. on Wartime Profits and Costs of the Steel Industry (138 p., o. p., 2/18/25). The unpublished reports [20] cover a wide variety of subjects. On the basis of the costs as found, prices were fixed, or controlled in various degrees, by Government agencies such as the War and Navy

[19] See footnote 10.

[20] Approximately 260 of the wartime cost inquiries are listed in the F. T. C. Annual Reports, 1918, pp. 29-30, and 1919, pp. 38-42, and in World War Activities of the F. T. C., 1917-8 (69 p., processed, 7/15/40).

Departments, War Industries Board, Price Fixing Committee, Fuel and Administration, Food Administration, and Department of Agriculture. The Commission also conducted cost inquiries for the Interior Department, Tariff Commission, Post Office Department, Railroad Administration, and other Government departments or agencies. It is estimated that the inquiries helped to save the country many billions of dollars by checking unjustifiable price advances.

Wartime Costs and Profits (F. T. C.).—Cost and profit information for 4,107 identical companies for the period 1941-45 is contained in a Commission report on Wartime Costs and Profit for Manufacturing Corporations, 1941 to 1945 (30 p., processed, with 10 p. appendix). Compilation of the information contained in the report was begun by the Office of Price Administration prior to the transfer of the financial reporting function of that agency to the Federal Trade Commission in December 1946.

Wartime Inquiries, 1917-15, Continued.—Further wartime inquiries of this period are described herein under the headings: Coal, Coal Reports—Cost of Production, Cost of Living, Flags, Food, Farm Implements, Independent Harvester Co., Leather and Shoes, Paper—Book, Paper—Newsprint, Profiteering, and Textiles—Woolen Rag Trade, o. p.

The following are unpublished investigations by the Commission for the use of other government agencies:

Aluminum Foundries (W. P. B.), Wartime, 1942-43.—Details were obtained for the War Production Board at its request, from aluminum foundries throughout the U. S. covering their operations for May 1942 and their compliance with W. P. B. Supplementary Orders m-1-d, M-1-c, and M-1-f.

Antifreeze Solutions, Manufacturers of (W. P. B.), Wartime, 1943-44.—War Production Board Order L-258 of 1/20/43 prohibited production of salt and petroleum-base antifreeze solutions. While production of these products had ceased, great quantities were reported to be still in the hands of producers and distributors. To enable W. P. B. to determine what further action should be taken to protect essential automotive equipment from these solutions, it requested the Commission to locate producers inventories as of 1/20/43, and to identify all deliveries made from such inventories to distributors subsequent to that date.

Capital Equipment (W. P. B.), Wartime, 1942-43.—For the War Production Board, a survey was made in connection with Priorities Regulation No. 12, as amended 10/3/42, of concerns named by it to determine whether orders had been improperly related to secure capital equipment or whether orders that had been rerated had been extended for the purpose of obtaining capital equipment in violation of priorities regulations.

Chromium Processors (W. P. B.), Wartime, 1942-43.—For the War Production Board, the Commission investigated the transactions of the major chromium processors to determine the extent to which they were complying with Amendment No. 2 to W. P. B. General Preference Order No. m-18a, issued 2/4/42. The investigation was conducted concurrently with a survey of nickel processors.

Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of (W. P. B.), Wartime, 1942-43.—The Commission conducted an investigation for the War Production Board to determine whether manufacturers of commercial cooking and plate warming equipment were complying with W. P. B. Limitation Orders L-182 and L-182 as amended 3/2/43; Conservation Orders M-126 and M-9-c, as amended; and Priorities Regulation No. 1.

Contractors, Prime, Forward Buying Practices of (W. P. B.), Wartime, 1942-43.—The matter of procurement, use, and inventory of stocks of critical materials involved in the operation of major plants devoting their efforts to war produc-

tion was inquired into for the information of the War Production Board. Items such as accounting, inventory, control, purchase, practices, etc., formed a part of the inquiry.

Copper Base Alloy Ingot Makers (W. P. B.), Wartime, 1942-43.—This investigation was designed to ascertain the operations, shipments, and inventories of copper, copper alloys, copper scrap, and copper base alloy ingot makers and was conducted for the purpose of determining the extent to which they were complying with governing W. P. B. Preference and Conservation Orders M-9-a and b, and M-9.

Copper, Primary Fabricators of (W. P. B.), Wartime, 1941-42.—A survey and inspection of a specified list of companies which used a large percentage of all refinery copper allocated, and at the same time represented a fair cross-section of the industry, were made to ascertain the degree of compliance accorded to preference, supplementary, and conservation orders and regulations of the Director of Priorities, Office of Production Management (later the War Production Board).

Cost of Living (President).—President Roosevelt, in a published letter (11/16/37), requested the Commission to investigate living costs. The Commission (11/20/37) adopted a resolution undertaking the inquiry and a few months thereafter submitted a report to the President.

Costume Jewelry, Manufacturers of (W. P. B.), Wartime, 1943-44.—Because it appeared that vast quantities of critical metals were being diverted illegally from war use to the manufacture of costume jewelry and similar items, the War Production Board requested the Commission to investigate 45 manufacturers to ascertain the facts concerning their compliance with W. P. B. Orders M-9-a, M-9-b, M-9-c, M-9-c-2, M-43, M-38, M-11, M-11-b, M-126, L-81, L-131, and L131-a, all as amended.

Electric Lamp Manufacturers (W. P. B.), Wartime, 1942-43.—At the direction of the War Production Board, an investigation was made of the activities of manufacturers of portable electric lamps whose operations were subject to the restrictions imposed by W. P. B. Limitation and Conservation Orders L-33 and M-9-c.

Fertilizer and Related Products (O. P. A.), Wartime, 1942-43.—At the request of O. P. A. (June 1942), the Commission investigated costs, prices, and profits in the fertilizer and related products industries. The inquiry developed information with reference to the operations of 12 phosphate rock mines of 11 companies, and 40 plants of 24 companies producing sulphuric acid, superphosphate, and mixed fertilizer. One of the principal requirements of the inquiry was to obtain information concerning costs, prices, and profits for 103 separate formulas of popular-selling fertilizers during 1941 and 1942.

Food—Biscuits and Crackers (O. P. A.), Wartime, 1942-43.—As requested by the Office of Price Administration, the Commission investigated costs and profits in the biscuit and cracker manufacturing industry and submitted its report to that agency 3/25/43. The survey of 43 plants operated by 25 companies showed, among other things, that costs were lower and profits higher for the larger companies than for the smaller ones.

Food—Bread Baking (O. E. S.), Wartime, 1942-43.—This investigation was requested (10/23/42) by the Director of the Office of Economic Stabilization and was conducted to determine what economies could be made in the bread-baking industry so as to remove the need for a subsidy for wheat, to prevent an increase in bread prices, or to lower the price of bread to consumers. Essential information on more than 600 representative bakeries' practices, costs, prices, and profits was developed and reported to O. E. S. (12/29/42). The report also was furnished to the Secretary of Agriculture and special data gathered in the inquiry were tabulated for O. P. A.

Food—Bread Baking (O. P. A.), Wartime, 1941-42.—In the interest of the low income consumer, for whom it was deemed necessary the price of bread should be held at a minimum, the Commission investigated costs, prices, and profits of 60 representative bread-baking companies, conveying its findings to O. P. A. (Jan. 1942) in an unpublished report.

Food—Flour Milling (O. E. S.), Wartime, 1942-43.—Requested by the Director of the Office of Economic Stabilization, this inquiry covered practices, costs, prices, and profits in the wheat flour-milling industry, its purpose being to provide the Director with facts to determine what economies could be effected in the industry so as to eliminate the need for a wheat subsidy, without reducing farmers returns, or to reduce bread prices. The report was made to O. E. S. and a more detailed report was prepared for O. P. A.

Fruit Growers and Shippers (W. P. B.), Wartime, 1943-44.—This investigation was requested by the War Production Board to determine whether 7 grape growers and 12 grape shippers, all located in California, were in violation of W. P. B. Order L-232 with respect to quotas affecting the use of lugs (wooden shipping containers).

Furnaces, Hot Air, Household (W. P. B.), Wartime, 1943-44.—The Commission made a Nation-wide survey for the War Production Board of the operations of one of the largest manufacturers in the United States of household hot air furnaces, to determine whether its practices in selling and servicing domestic heating plants were in violation of Orders L-79 and P-84, and other applicable regulations and orders of W. P. B.

Fuse Manufacturers (W. P. B.), Wartime, 1942-43.—For the War Production Board the Commission investigated and reported on the activities of representative fuse manufacturers whose operations were subject to W. P. B. Limitation Orders L-158 and 161, as amended.

Glycerin, Users of (W. P. B.), Wartime, 1942-43.—At the request of the War Production Board, paint and resin manufacturers, tobacco companies, and other large users of glycerin were investigated to determine whether they had improperly extended preference ratings to obtain formaldehyde, paraformaldehyde, or hexamethylenetetramine, to which they were not otherwise entitled.

Household Furniture (O. P. A.), Wartime, 1941-42.—Costs, prices, and profits of 67 representative furniture companies were studied to determine whether, and to what extent, price increases were justified. A study was also made to determine whether price-fixing agreements existed and whether wholesale price increases resulted from understandings in restraint of trade. Confidential reports were transmitted to O. P. A. in Sept. 1941.

Insignia Manufacturers (W. P. B.), Wartime, 1944-45. —Preliminary studies made by the War Production Board disclosed the probability that certain insignia manufacturers had acquired larger quantities of foreign silver than necessary to fill legitimate orders and diverted the balance to unauthorized uses. In response to W. P. B.'s request the Commission surveyed the acquisition and use of foreign silver by such manufacturers to determine the degree of their compliance with Order M-199 and checked the receipt and use of both domestic and treasury silver, as well as the manufacture of insignia, as controlled by Orders L-131 and M-9-c.

Jewel Bearings, Consumers of (W. P. B.), Wartime, 1942-43.—For the War Production Board, users of Jewel bearings were investigated to determine the extent to which they were complying with W. P. B. Conservation Order M-50, which had been issued to conserve the supply and direct the distribution of jewel bearings and jewel-bearing material.

Metal-Working Machines, Invoicing and Distribution of (W. P. B.), Wartime 1942-43.—For the War Production Board an inquiry was made to obtain com-

plete data from the builders of metal-working machines (including those manufactured by their subcontractors) such as all nonportable power-driven machines that shape metal by progressively removing chips or by grinding, boning, or lopping; all nonportable power-driven shears, presses, hammers, bending machines, and other machines for cutting, trimming bending, forging, pressing, and forming metal; and all power-driven measuring and testing machines. Each type and kind of machine was reported on separately.

Nickel Processors (W. P. B.), Wartime, 1942-43.—The Commission was designated by the War Production Board to investigate the transactions of some 600 nickel processors for the purpose of determining the extent to which they were complying with W. P. B. Preference Order No. M-6-a, issued 9/30/41, and Conservation Order M-6-b, issued 1/20/42. The investigation was conducted concurrently with a survey of chromium processors.

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

Paint, Varnish, and Lacquer Manufacturers (W. P. B.), Wartime, 1943-44.—The purpose of this survey was to determine whether the manufacturers covered were in violation of War Production Board Orders M-139, M-150, M-159, M-246, and M-327 in their acquisition and use of certain chemicals, all subject to W. P. B. allocations, used in the manufacture of paint, varnish, and lacquer. Sales of such products to determine their end uses also were investigated.

Paperboard (O. P. A.), Wartime, 1941-42.—Costs, profits, and other financial data regarding operations of 68 paperboard mills (O. P. A. request, 11/12/41) for use in connection with price stabilization work, were transmitted to O. P. A. in a confidential report (May 1942).

Paper—Newsprint (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 1/24/38) the manner in which certain newsprint manufacturers complied with a consent decree entered against them (11/26/17) by the U. S. District Court, Southern District of New York.

Petroleum Decree (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 4/16/36) the manner in which a consent decree entered (9/15/30) against Standard Oil Co. of California, Inc., and others, restraining them from monopolistic practices, was being observed, and reported (4/2/37) to the Attorney General.

Priorities (W. P. B.), Wartime, 1941-45.—Pursuant to Executive orders (January 1942), W. P. B. designated the Federal Trade Commission as an agency to conduct investigations of basic industries to determine the extent and degree to which they were complying with W. P. B. orders relative to the allocation of supply and priority of delivery of war materials. F. T. C. priorities investigations are listed herein under the headings: Aluminum, Foundries Using; Antifreeze Solutions, Manufacturers of; Capital Equipment, Chromium, Processors of; Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of; Contractors, Prime, Forward Buying Practices of; Copper Base Alloy Ingot Makers; Copper, Primary Fabricators of; Costume Jewelry, Manufactures of; Electric Lamps, manufacturers of; Fruit Growers and Shippers; Furnaces, Hot Air, Household; Fuse Manufacturers; Glycerin, Users of; Insignia Manufacturers; Jewel Bearings, Consumers of; Metal-working Machines, Invoicing and Distribution of; Nickel, Processors of; Paint, Varnish, and Lacquer, Manufacturers of; Quinine, Manufacturers and Wholesalers of; Silverware, Manufacturers of; Silverware Manufacturers and Silver Suppliers; Steel Industry;

Textile Mills, Cotton; and Tin, Consumers of. The report on each of these investigations was made directly to W. P. B.

Quinine, Manufacturers and Wholesalers of (W. P. B.), Wartime, 1942-43. At the instance of the War Production Board, investigation was made to determine whether requirements of its Conservation Order No. M-131-a, relating to quinine and other drugs extracted from cinchona bark, were being complied with.

Silverware Manufacturers (W. P. B.), Wartime, 1942-43.—Silverware manufacturers were investigated at the request of the War Production Board to determine the extent to which they had complied with the copper orders, that is W. P. B. General Preference Order No. M-9-a, Supplemental Order No. M-9-b, and Conservation Order m-9-c, as amended.

Silverware Manufacturers and Silver Suppliers (W. P. B.), Wartime, 1942-43.— The activities of silverware manufacturers and silver suppliers under W. P. B. Conservation and Limitation Orders m-9-a, b, and c, m-100 and L-140 were investigated and reported on at the request of the War Production Board.

Sisal Hemp (Senate).—The Commission assisted the Senate Committee on Agriculture and Forestry in an inquiry (S. Res. 170, 64th, 4/17/16) and advised how certain quantities of hemp promised by the Mexican sisal trust, might be fairly distributed among American distributors of binder twine (Mexican Sisal Hemp, S. Doc. 440, 64th, 8 p., o. p., 5/9/16). The Commission's distribution plan was adopted.

Steel Costs and Profits (O. P. A.), Wartime, 1942-43.— A report on the Commission's survey of costs, prices and profits in the steel industry, begun in April 1942 at the request of O. P. A., was made to that agency. The inquiry covered 29 important steel-producing companies.

Steel Industry (O. P. M.), Wartime, 1941-42.—This investigation covered practically every steel mill in the country and was conducted for the purpose of determining the manner in which the priorities and orders promulgated by the Office of Production Management were being observed. i. e., the technique used in the steel industry in meeting the requirements of O. P. M. (later the War Production Board) orders and forms controlling the distribution of pig iron, iron and steel, iron and steel alloys, and iron and steel scrap.

Textile Mills, Cotton (W. P. B.), Wartime, 1943-44.—For the War Production Board the Commission conducted a compliance investigation of manufacturers of cotton yarns, cordage, and twine to ascertain whether they were in violation of Priorities Regulation 1, as amended, by their failure to fill higher rated orders at the time they filled lower rated orders.

Tin Consumers (W. P. B.), Wartime, 1942-43.—The principal consumers of tin were investigated at the instance of the War Production Board to determine the degree of their compliance with Conservation Order M-43-a, as amended, and other orders and regulations issued by the Director of the Division of Industry Operation, controlling the inventories, distribution, and use of the tin supply in the U. S.

War Materials Contracts (House), Wartime, 1941-42.—At the request of the House Committee on Naval Affairs, the Commission assigned economic and legal examiners to assist in the Committees inquiry into progress of the national defense program (H. Res. 162, 77th, 4/2/41). The Commission's examiners were active in field investigations covering aircraft manufacturers' cost records and operation, naval air station construction, materials purchased for use on Government contracts, and industry expansion financing programs.

Wartime Inquiries, 1941-45.—To aid in the 1941-45 war program, F. T. C. was called upon by other Government departments, particularly the war agencies, to use its investigative, legal, accounting, statistical and other services in conducting investigations. It made cost, price, and profit studies; compiled

industrial corporation financial data; investigated compliance by basic industries with W. P. B. priority orders; and studied methods and costs of distributing important commodities. The 1941-45, wartime investigations are herein listed under the headings: Advertising as a Factor in Distribution; cigarette shortage; Distribution Methods and Costs; Fertilizer and Related Products; Food—Biscuits and Crackers; Food—Bread Baking; Food—Fish; Food—Flour Milling; Household Furniture; Industrial Financial Reports; Metal-Working Machines; Paperboard; Priorities; Steel Costs and Profits; and War Material Contracts.

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