

ANNUAL REPORT
OF THE
FEDERAL
TRADE COMMISSION
FOR THE
FISCAL YEAR ENDED JUNE 30
1948

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1949

FEDERAL TRADE COMMISSION

ROBERT E. FREER, *Chairman*
GARLAND S. FERGUSON
EWIN L. DAVIS
WILLIAM A. AYRES
LOWELL B MASON
OTIS B. JOHNSON, *Secretary*

FEDERAL TRADE COMMISSIONERS--1915-48

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

EXECUTIVE OFFICES OF THE COMMISSION

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

BRANCH OFFICES

Room 501, 45 Broadway, New
York 6.

1118 New Post Office Building,
433 West Van Buren Street,
Chicago 7.

1031 Federal Office Building, 600 South Street, New Orleans -12.

133 Federal Office Building, Civic
Center, San Francisco 2.

447 Federal Office Building,
Seattle 4.

LETTER OF SUBMITTAL

To the Congress of the United States :

I have the honor to submit herewith the Thirty-fourth Annual Report of the Federal Trade Commission for the fiscal year ended June 30, 1948. A limited number of Copies of the report is being printed by the Federal Trade Commission.

By direction of the Commission :

ROBERT E. FREER, *Chairman.*

CONTENTS

INTRODUCTION

	Page
Acts administered by Commission	1
Industry-wide elimination of unlawful practices	3
Staff organization	4
Summary of legal activities	6
General investigations	8
The Commissioners and their duties	8
Publications of the Commission	9
Recommendations to Congress	11
Minority recommendations to Congress	12

PART I. GENERAL INVESTIGATIONS

The merger movement--a summary report	16
International steel cartels	22
International electrical equipment cartel	23
Manufacture and distribution of farm implements	25
Industrial financial reports	27

PART II. GENERAL LEGAL WORK

Description of procedure	29
Procedure upon applications for complaint	29
Procedure upon formal complaints	30
Provisions of Wheeler-Lea amendment	32
Legal investigations	32
Survey of radio and periodical advertising	37
Disposition of cases by stipulation	40
Formal complaints	41
Orders to cease and desist	43
Cases in Federal courts	48
Tabular summary of legal and court Work	50

PART III. SETTLEMENT OF CASES BY STIPULATION

Corrective action through informal conferences	53
--	----

PART IV. TRADE PRACTICE CONFERENCES

Establishment and administration of trade practice rules for industries	55
Group I and Group II rules explained	56
Conference and rule making activities during year	56
Pending trade practice proceedings	58
Administration of rules	58
Types of practices covered in promulgated rules	59
Informative labeling	62

PART V. WOOL PRODUCTS LABELING ACT	
Informative labeling for protection of industry and the public	Page 63
PART VI. MEDICAL AND SCIENTIFIC OPINIONS	
Data used in cases relating to food, drugs, devices, and cosmetics	66
PART VII. FOREIGN TRADE WORK	
Export Trade Act	67
Associations operating under the act	67
New associations	69
Exports in 1947	69
Inquiries and recommendations	69
Trust laws and trade regulations abroad	70
PART VIII. FISCAL AFFAIRS	
Appropriation acts providing funds for Commission Work	75
Appropriations and expenditures for fiscal year	75
Detailed statement of costs for fiscal year	76
Appropriations and expenditures, 1915-48	78
APPENDIXES	
Federal Trade Commission Act	79
Titles of other acts administered by the Commission	87
Types of unfair methods and practices	87
Rules of practice	95
Statement of policy	113
Investigations, 1915-48	118
Index	137

**ANNUAL REPORT
OF THE
FEDERAL TRADE COMMISSION
FOR THE
FISCAL YEAR ENDED JUNE 30, 1948**

**INTRODUCTION
ACTS ADMINISTERED BY THE COMMISSION**

The Federal Trade Commission herewith submits its report for the fiscal year July 1, 1947, to June 30, 1948.

The Federal Trade Commission is one of the oldest administrative agencies of the Federal Government. It was organized March -16, 1915 ,pursuant to the Federal Trade Commission Act, which was approved September 26, 1914. A bipartisan agency, it consists of five members, who are appointed for 7-year terms by the President with the advice and consent of the Senate. Not more than three of them may be members of the same political party.

Under the terms of its organic act, as well as four other statutes committed to its jurisdiction, the Commission devotes itself to activities designed to foster the successful operation, in the public interest, of the American economic system of free competitive enterprise. To this end, it seeks to prevent the use in interstate commerce of "unfair methods of competition and unfair or deceptive acts or practices." In addition, it administers other statutes passed by the Congress to supplement the antitrust laws and to provide specific protection to the consuming public. Its duties fall into two general categories :

- (1) legal activities in the enforcement of the laws it administers and
- (2) general investigations of economic conditions in interstate and foreign commerce.

The Federal Trade Commission was established in response to the need demonstrated in the early 1900's for an administrative body to deal with trade practices on a continuing and preventive basis. Passage in 19-14 of the Federal Trade Commission Act, as well as the Clayton Antitrust Act, certain sections of which are administered by the Commission, was intended to provide an effective supplemental means of carrying out the public policy expressed in the Sherman Antitrust Act of 1890. It was the purpose of these laws to stop monopolistic and other unfair practices in their incipiency.

As originally enacted, the Federal Trade Commission Act declared "unfair methods of to be unlawful and directed the Commission to take action against persons or corporations believed to be engaged in such practices. The action to be taken by the Commission was prophylactic in nature, not punitive.

On the basis of the general legislative standard laid down in the act, the exact meaning and application of which must be arrived at by what has been described as “the gradual process of judicial inclusion and exclusion,” the Commission has acted in the public interest to prohibit practices which, in the words of the Supreme Court, were “regarded as opposed to good morals because characterized by deception bad faith, fraud, or oppression, or as against public policy because of their dangerous tendency unduly to hinder competition or create monopoly.”

Twenty-three years after its passage, the Federal Trade Commission Act was amended on March 21, 1938, when the Wheeler-Lea Act was passed, making unlawful not only “unfair methods of competition” but also “unfair or deceptive acts or practices in commerce.” One of the principal purposes of the amendment was to make it unnecessary for the Commission to offer evidence to establish injury to an actual or potential competitor. Injury to the public was now sufficient to warrant Commission action.

Under other provisions of the Wheeler-Lea Act, the Commission’s jurisdiction over false advertising of foods, drugs, cosmetics, and curative devices was strengthened and broadened. The general effect of the amendment was to give a greater measure of protection to the consuming public and to make more effective the orders issued by the Commission.

The Commission is also empowered, under its basic statute, to make general economic investigations, to submit the resulting reports to the Congress or to the President, and to make recommendations for remedial legislation where needed. Publication of such reports has resulted in voluntary changes in the conduct of business in many industries to correct uneconomic or otherwise harmful trade practices spotlighted by the Commission’s investigation.

Other statutes, besides the Federal Trade Commission Act, administered in whole or in part by the Commission are the Clayton Act, the Webb-Pomerene Export Trade Act, the Wool Products Labeling Act, and certain sections of the Lanham Trade-Mark Act. In the administration of these acts, the principal responsibilities of the Commission are:

(1) To promote free and fair competition in interstate commerce in the interest of the public through prevention of price-fixing agreements, boycotts, combinations in restraint of trade, other unfair methods of competition, and unfair and deceptive acts and practices (Federal Trade Commission Act sec. 5).

(2) To safeguard the consuming public by preventing the dissemination of false or deceptive advertisements of foods, drugs, cosmetics, and devices (Federal Trade Commission Act, secs. 12 to 15).

(3) To prevent certain unlawful price and other discriminations, exclusive-dealing and tying contracts and arrangements, acquisitions of the stock of competitors, and interlocking directorates (Clayton Act, secs. 2,3,7, and 8).

(4) To protect producers, manufacturers, distributors, and consumers from the unrevealed presence of substitutes and mixtures in manufactured wool products (Wool Products Labeling Act of 1939).

(5) To supervise the registration and operation of associations of American exporters engaged solely in export trade (Export Trade Act) .

(6) To apply for cancellation of registered trade-marks which are deceptive, immoral, or scandalous, or which have been obtained fraudulently, or Which are in violation of other provisions of the Lanham Trade-Mark Act (Lanham Trade-Mark Act of 1946).

(7) To gather and make available to the President, the Congress, and the public, factual data concerning economic and business conditions as a basis for remedial legislation where needed, and for the guidance and protection of the public (Federal Trade Commission Act, sec. 6).

INDUSTRY-WIDE ELIMINATION OF UNLAWFUL PRACTICES

For many years the Commission has sought to encourage voluntary compliance with the laws which it administers. It has utilized individual stipulation-agreements and conferences with whole industries and has otherwise cooperated with businessmen to inform and guide them with respect to the scope and meaning of the laws within its jurisdiction. A cooperative procedure similar to trade-practice conferences was first used by the Commission in about 1919; a Trade Practice Conference Division was established in 1926; and the present active list of trade-practice conference rules covers about 160 industries.

These procedures to encourage more general observance of the laws administered by the Commission were given increased impetus under the reorganization plan placed in effect during the previous fiscal year. Designed to permit more prompt, equitable, and economical settlement of the issues involved than is otherwise possible, the program developed under this plan calls for emphasis upon simultaneous industry-wide action and expansion of the cooperative phases of the Commission's work. With greater emphasis placed on the use of cooperative means, industry members are given an opportunity, where circumstances permit, to eliminate unfair methods of competition or unfair or deceptive practices through stipulation-agreements to cease and desist, or through the establishment of trade practice rules. The Commission holds trade practice conferences either upon its own motion or upon request from an industry where such a proceeding appears an appropriate means of eliminating unfair trade practices.

Cases are not disposed of, however, by voluntary agreement, either through trade practice conference proceedings or through stipulation-agreements, where there are involved violations of the Clayton Act, combination or collective action in restraint of trade, or practices which are fraudulent or inherently dangerous to health. (The Commission's policy in such matters is set forth at p.113.)

During the fiscal year 1948, the program was continued, with indus-investigations conducted among automobile dealers in New York City and the District of Columbia, and in the following industries : Cast iron soil pipe, cheese, simulated and cultured pearls, floor Wax products shampoo and scalp preparations, wallpaper cleaning preparations, crib and carriage mattresses, and orthopedic or "health"

shoes. Trade practice rules were established for the watch case, office machine marketing, wholesale confectionery, and hand knitting yarn industries. Under the stipulation procedure, 99 voluntary agreements to cease and desist from unlawful practices were accepted by the Commission.

STAFF ORGANIZATION

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

Office of the General Counsel.--The General Counsel is the principal legal officer of the Commission, advising the Commission on questions of law, policy, and procedure arising in connection with litigation before the agency in the Federal courts, or in connection with legislative and a wide variety of other matters. Grouped under the General Counsel are the Division of Appellate Proceedings, the Division of Compliance, and the Division of Trade-Marks. These divisions, in the order named, (1) represent the Commission in all proceedings in the Federal courts, (2) coordinate all matters relating to enforcement of orders to cease and desist, and (3) prepare applications for cancellation of registered trade-marks that are in violation of the Lanham Trade-Mark Act of 1946.

Bureau of Litigation.--The function of preparing, trying, briefing, and arguing complaints in litigated cases is a prosecuting function which is performed by a staff of attorneys who work under the super vision of the Chief Trial Counsel and four Assistant Chief Trial Counsels. Neither they nor any of the attorneys performing this function in a particular case or in a factually related one participate or advise in the decision of such a case except under the same conditions that are applicable to attorneys representing the respondent, which conditions are set forth in the Commission ' s published Rules of Practice. (See p.107.)

The Division of Antimonopoly Trials tries Clayton Antitrust Act and other restraint-of-trade cases. The Division of Deceptive Practices Trials tries other formal cases, including those involving false and misleading advertising, improper labeling of wool products, and other unfair and deceptive practices. The Division of Export Trade tries cases arising under the Webb-Pomerene Export Trade Act and otherwise administers the provisions of that statute.

Bureau of Legal Investigation.--The legal investigational activities of the Commission are conducted through its Bureau of Legal Investigation, the active operating units being the Division of Radio and Periodical Advertising and the Division of Field Investigation. The Director of the Bureau of Legal Investigation is responsible for the coordination of the legal investigational activities so there will be no conflict or duplication of work between the operating divisions attached to his office. He also is responsible for the initiation, through the Commission, of industry-wide investigations whenever it appears that simultaneous action against all members of an industry is warranted in the public interest and this type of treatment appears practicable.

Bureau of Stipulations.--All matters considered appropriate for settlement by the Commission's stipulation procedure are referred

to the Bureau of Stipulations for the negotiation of agreements to cease and desist from unlawful practices. The bureau takes no part in the investigation or prosecution of any matter. It consists of a Director, an Assistant Director, and a staff of attorney-conferees.

Bureau of Trade Practice Conferences and Wool Act Administration.--Trade practice conference proceedings are conducted by the Commission through the Bureau of Trade Practice Conferences and Wool Act Administration which also administers the Wool Products Labeling Act. These activities are under the supervision of a Director, an Associate Director, and three Assistant Directors who are in charge of the following : Division of Rule Making, Division of Rule Administration, and Division of Wool Act Administration and Inspection.

Bureau of Trial Examiners.--Members of the Bureau of Trial Examiners are designated to preside at hearings in connection with the trial of formal complaints issued by the Commission. The Trial Examiner in charge of such a hearing takes testimony and receives evidence submitted in support of, as well as in opposition to, the allegations of the complaint. He rules upon the admissibility of testimony and exhibits and otherwise conducts hearings in accordance with the Administrative Procedure Act and the Commission's Rules of Practice. After closing of the record for the receipt of testimony and other evidence and after counsel for both sides have been afforded opportunity to submit interlocutory proposals, the Trial Examiner makes his recommended decision. his recommended decision includes a statement of his findings and conclusions upon all the material issues of fact, law or discretion presented on the record, together with the reasons supporting it, and a recommended order.

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

The Division of Economics conducts general economic surveys and investigations for the purpose of ascertaining the competitive practices, the nature and significance of monopolistic arrangements, and the degree of concentration in a given industry, and for the purpose of reporting on general economic conditions within the field of the Commission's jurisdiction. It assembles and analyzes economic information needed in the development of an antimonopoly program. In addition it provides economic assistance at all stages in the preparation and conduct of legal cases, including the evaluation, from an economic viewpoint, of pricing policies and distribution practices

in relation to the legal issues of collusive price-fixing and monopoly controls. Economic information in connection with trade practice conference proceedings is likewise furnished by this division.

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

The Division of Statistics and Financial Reports collects, summarizes, and analyzes the financial operating statements of American manufacturing corporations. On the basis of these data, it prepares quarterly reports on the financial position and operating results of the Nation's manufacturing industries.

Bureau of Medical Opinions.--The Bureau of Medical Opinions is charged with the duty of supplying scientific information and opinions to the Commission and its various bureaus, particularly with respect to foods, drugs, devices, cosmetics, insecticides, and chemicals. It arranges for the analysis or testing of such commodities, secures expert scientific witnesses where necessary, and otherwise works closely with the Commission's investigators and trial attorneys in matters pertaining to science. Through the Director, the Commission maintains liaison with other Government agencies concerned with scientific matters.

Executive Office.--The Secretary of the Commission serves as its Executive Officer and is responsible for the administrative management of the agency. He signs all orders of the Commission and is legal custodian of its seal, papers, records, and property.

Bureau of Administration.--The Bureau of Administration provides administrative services to the Commission and its operating bureaus through the following divisions: Budget and Planning; Personnel; Legal Records; Economic and Administrative Records; Services and Supplies; Library; and Legal Research, Compiling, and Publication.

SUMMARY OF LEGAL ACTIVITIES DURING FISCAL YEAR

The Commission issued 70 formal complaints alleging violations of the laws it administers; entered 73 orders directing respondents to cease and desist from such violations; and accepted 99 stipulations to discontinue unlawful practices.

Cases in the Supreme Court of the United States and in circuit courts of appeals in which the Commission was a party totaled 20. Rulings favorable to the Commission were obtained in two cases in the Supreme Court and in six cases in circuit courts of appeals, while three cases were dismissed by stipulation. There were no decisions adverse to the Commission. As the fiscal year closed, there were nine cases pending in circuit courts of appeals, none in the Supreme Court.

Other court proceedings pending at the end of the year included four civil penalty suits involving violations of orders to cease and desist, and two complaints seeking

mandatory injunctions and re-

covery of forfeitures in connection with the failure of two corporations to file special reports under sections 6 (a) and (b) of the Federal Trade Commission Act. These cases were brought in United States district courts at the direction of the Attorney General, acting on the request of the Commission.

Trade practice rules were promulgated for the watch case, office machine marketing, wholesale confectionery, and hand knitting yarn industries. Additional activities included the issuance of proposed rules for four other industries and the holding of seven formal trade practice conferences and an equal number of public hearings in connection with these and other proceedings.

Administration of the Wool Products Labeling Act included field inspections of more than 23 million articles subject to the provisions of the act. These activities concerned the labeling practices of nearly 9,000 manufacturers, distributors, and other dealers in wool products,

The Commission conducted several investigations into the operations of export associations organized under the Export Trade Act. Investigation of General Milk Co., Inc., was completed, and recommendations for the readjustment of its business were issued. There were 51 export associations registered with the Commission at the close of the fiscal year.

The Commission also instituted work in connection with the Trade-Mark Act of 1946. This statute, which became effective July 5, 1947, authorizes the Federal Trade Commission to petition the Commissioner of Patents to cancel, upon specified grounds, the registration of trade-marks registered in the Patent Office. Grounds upon which such action may be taken include circumstances constituting fraudulent procurement, illegal use of the mark after registration, and circumstances where the mark has become the common descriptive name for an article or process on which the patent has expired.

During the fiscal year 1948, all registrations and republication issued by the Patent Office have been studied for deceptiveness in connection with the goods to which applied. Those involving the sale of medicines and therapeutic devices have been referred to the Director of the Bureau of Medical Opinions for opinion as to claims appearing in the required statement of use. A number of registrations have been referred to the Bureau of Legal Investigation for investigation of deceptive circumstances.

Investigations of the circumstances surrounding the use of approximately 70 registrations have been initiated by the Commission where information indicates that the registrants did not possess the statutory requirements for trade-mark registrations.

Several trade-mark registrations for articles or processes covered by expired patents where information indicates that the registered marks may have become the common descriptive name of the article or process were receiving consideration at the end of the year.

As the year closed the Commission also had under way a study of State legislation pertaining to insurance, in preparation for the enforcement, in the interstate insurance business, of the Federal Trade Commission Act and the Clayton Act. This action was

necessitated by a Supreme Court decision holding that the business of insurance, when conducted across State lines; was subject to Federal antitrust

laws, and by congressional legislation providing that after June 30, 1948, the Federal Trade Commission Act and the Clayton Act, as well as the Sherman Act, should be applicable to interstate insurance business to the extent that such business is not regulated by State law.

GENERAL INVESTIGATIONS

The Commission completed four general investigations during the fiscal year and transmitted the resulting reports to Congress, as follows :

- (1) *The Merger Movement: A Summary Report.*
- (2) *International Steel Cartels.*
- (3) *International Electrical Equipment Cartel.*
- (4) *Manufacture and Distribution of Farm Implements.*

In addition, the Commission, in a joint project with the Securities and Exchange Commission, issued a series of Industrial Financial Reports, based on the financial operating statements of approximately 8,500 manufacturing corporations. Reports were issued for each quarter of 1947, and the reports for the first two quarters of 1948 were in preparation at the close of fiscal year.

During its existence the Commission has conducted nearly 150 general investigations and 370 cost studies.

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

Investigations conducted by the Commission have led, directly or indirectly, to the enactment of important laws, including the Export Trade Act, the Packers and Stockyards Act, the Securities Act of 1933, the Stock Exchange Act of 1934, the revised Federal Power Commission Act of 1934, the Public Utilities Holding Company Act of 1935, the Natural Gas Act of 1938, and the Robinson-Patman Anti-discrimination Act of 1936, which amended section 2 of the Clayton Act.

THE COMMISSIONERS AND THEIR DUTIES

The five members of the Federal Trade Commission are appointed by the President with the advice and consent of the Senate. The law provides that not more than three of them may belong to the same political party.

Under the provisions of the Commission's organic act, the term of a Commissioner is 7 years, dating from the 26th of September 2 last preceding his appointment, except when he succeeds a Commissioner who relinquishes office prior to the expiration of his term. In such a case, the statute provides that the new member shall be appointed only for the unexpired term of the Commissioner whom he succeeds. Upon

¹ An alphabetical list and brief description of the investigations conducted by the Commission appear in the appendix, beginning at p. 118.

² September 26 marks the anniversary of the approval of the Federal Trade Commission Act in 1914.

the expiration of his term of office, a Commissioner continues to serve until the appointment and qualification of his successor.

Members of the Commission as of June 30, 1948, were Robert E. Freer, Republican, of Ohio, Chairman; Garland S. Ferguson, Democrat of North Carolina; Ewin L Davis, Democrat, of Tennessee; William A. Ayres, Democrat, of Kansas; and Lowell B. Mason, Republican, of Illinois.

At the end of each calendar year, the Commission elects one of its members to serve as chairman during the ensuing year. Under the policy of rotating the chairmanship annually, each Commissioner serves as chairman at least once during his 7-year term of office. Commissioner Freer is serving as chairman during the calendar year 1948, having succeeded Commissioner Ferguson.

In addition to the general duties of administering the statutes committed to the Commission for enforcement, each Commissioner has supervisory charge of the work of one or more of the bureaus of the Commission. This supervision is rotated among the Commissioners on an annual basis. The following assignments of Commissioners were effective during part of the fiscal year and continued through December 31, 1948 :

Chairman Freer : Executive Office, Bureau of Administration, Bureau of Trial Examiners, Office of Assistant to the Chairman, and Special Legal Assistants to the Commission.

Commissioner Ferguson: Office of General Counsel and Bureau of Litigation.

Commissioner Davis: Bureau of Industrial Economics.

Commissioner Ayres: Bureau of Legal Investigation and Bureau of Medical Opinions.

Commissioner Mason: Bureau of Trade Practice Conferences and Wool Act Administration and Bureau of Stipulations.

Each case coming before the Commission for consideration is assigned to a Commissioner for examination and report before it is acted upon by the Commission. The Commissioners meet each workday for the transaction of business, including the hearing of oral arguments in cases before the Commission. They usually preside individually at the trade practice conferences held for industries, perform numerous administrative duties incident to their positions, and direct the work of the staff of some 600 employees, including attorneys, economists, accountants, statisticians, and administrative personnel stationed in Washington and in branch offices in New York, Chicago, San Francisco, Seattle, and New Orleans.

PUBLICATIONS OF THE COMMISSION

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

to make public from time to time such portions of the information obtained by it hereunder, except trade secrets and names of customers, as it shall deem expedient in the public interest; and to make annual and special reports to the Congress and to

submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use.

The publications of the Commission reflect the character and scope of its work and vary in content and treatment from year to year. Important among them are those presenting fact-finding studies, reports and recommendations relating to general business and industrial inquiries. Illustrated by appropriate charts and tables, these books and pamphlets deal with current developments, possible abuses and trends in an industry, and contain scientific and historical background of the subjects discussed. They have supplied the Congress, the Executive agencies of the Government, and the public with information not only of specific and general value but of especial value as respects the need or wisdom of new and important legislation, to which they have frequently led, as well as to corrective action by the Department of Justice and private interests affected. The Supreme Court has at times had recourse to them, and many have been designated for reading in connection with university and college courses in business administration, economics, and law.

The 42 volumes of Federal Trade Commission Decisions contain (1) the findings of fact and orders to cease and desist or of dismissal issued by the Commission; (2) the stipulations accepted by the Commission wherein respondents agree to cease and desist from unlawful practices; and (3) the decisions of the courts in Commission cases. They constitute a permanent and authoritative record of the remedial measures taken by the Commission to stop violations of the laws it administers. The decisions establish for industry, business, and the individual the guideposts of fair competitive dealing. They also tell, case by case, the story of the multiplicity of unlawful practices which have been found to be detrimental to the public interest and of the accomplishments of the Commission in the prevention of such practices.

Decisions of the Federal courts reviewing Commission cases also are published from time to time in separate volumes and may be purchased from the Superintendent of Documents, Government Printing Office.

Trade practice rules, the Wool Products Labeling Act and the regulations thereunder, and the Rules of Practice before the Commission are published in pamphlet form and may be obtained from the Commission without charge.

The following publications were issued during the fiscal year :

Annual Report of the Federal Trade Commission for the Fiscal Year Ended June 30, 1947. House Document No. 459, Eightieth Congress, second session, January 19, 1948; 145 pages. Available from the Superintendent of Documents, Government Printing Office, at 30 cents a copy while the supply lasts.

Trade Practice Rules for the following industries: Watch Case Industry, January 30, 1948, 17 pages.; Office Machine Marketing Industry, February 26, 1948, 15 pages; Wholesale Confectionery Industry, April 2, 1948, 9 pages and Knitting Yarn Industry, June 18, 1948, 11 pages. All rules available from the Federal Trade Commission without charge while the supply lasts.

The Merger Movement: A Summary Report, 1948; 134 pages. Available from the Superintendent of Documents, Government Printing Office, at \$1 a copy while the supply lasts. A processed summary

is available from the Federal Trade Commission without charge while the supply lasts.

International Steel Cartels, 1948; 115 pages. Available from the Superintendent of Documents, Government Printing Office, at 25 cents a copy while the supply lasts. A processed summary is available from the Federal Trade Commission without charge while the supply lasts.

Manufacture and Distribution of Farm Implements, 1948; 160 pages. Available from the Superintendent of Documents, Government Printing Office, at 40 cents a copy while the supply lasts. A processed summary is available from the Federal Trade Commission while the supply lasts.

International Electrical Equipment Cartel, 1948; 107 pages. Available from the Superintendent of Documents, Government Printing Office, at 25 a copy while the supply lasts. A processed summary is available from the Federal Trade Commission while the supply lasts.

Wartime Costs and Profits for Manufacturing Corporations, 1941 to 1945, October 6, 1947; 136 pages. Copies available from the Federal Trade Commission without cost while the supply lasts.

Rules, Policy, Organization, and Acts, March 9, 1948; 214 pages. Copies are available from the Federal Trade Commission without cost.

Quarterly Industrial Financial Report Series for All U.S. Manufacturing Corporations, first, second, third, and fourth quarters of 1947 and first quarter of 1948. Copies are available from the Federal Trade Commission and the Securities and Exchange Commission without cost while the supply lasts.

RECOMMENDATIONS TO CONGRESS

In the Annual Report of the Federal Trade Commission for the fiscal year ending June 30, 1947, the Commission stated that on March 4, 1947, it had addressed to the Congress a special report pursuant to the statutory direction contained in section 6 (f) of the Federal Trade Commission Act that it recommend to Congress additional legislation. This report pointed out the recent increase in the trend toward corporate acquisitions and mergers and recommended to the Congress that section 7 of the Clayton Act be amended to prevent acquisition of physical assets as well as corporate stock where the effect may be substantially to lessen competition in interstate commerce. On June 30, 1948, the Commission transmitted to the Congress a further report on the merger movement which pointed out that as a result of the rising number of mergers, more than 2,450 manufacturing and mining companies which had been independent had been absorbed since 1940 and that these firms had held assets of about 5.2 billion dollars, or more than 5 percent of the total assets of all manufacturing corporations. In this report the Commission renewed its recommendation for the amendment of section 7 of the Clayton Act. Similar recommendations have been made to the Congress in the Commission's Annual Reports for many years.

A bill embodying the substance of the Commission's recommendations for amendment of section 7 of the Clayton Act was introduced by Representative Kefauver in the Eightieth Congress (H. R 3736, 80th Cong.) and favorably reported to the House of Representatives by the Committee on the Judiciary (H. Rept. No.596). Senator O'Mahoney introduced a bill in the Senate (S. 104, 80th Cong.) , which though not amended to conform to the House bill (H. R 3736, 80th Cong.) had the same objectives. A subcommittee voted to recommend passage of the O'Mahoney bill, but it was never reported out of the full committee. The Commission renews its recommendation that legislation be enacted which will enable the Commission to deal effectively with this problem of curbing corporate mergers and acquisitions which are inimical to the public interest.

(The charts facing this page illustrate the trend of the corporate merger movement during the period 1919 to 1948.)

The Commission also renew for consideration of the Congress the recommendation that the Clayton Act be amended to provide that orders to cease and desist entered thereunder shall become final in the same manner as do similar orders to cease and desist under the Federal Trade Commission Act.

As enacted in 1914, the Federal Trade Commission Act provided that orders to cease and desist should become final only after affirmance in one of the circuit courts of appeals and following a decree of the court embodying the Commission's order. There were no penalties provided for violation of orders to cease and desist and the could only be enforced finally by way of criminal contempt proceedings in the circuit courts for violation of court orders.

In the Wheeler-Lea Act of 1938, section 5 of the Federal Trade Commission Act was amended to provide that orders to cease and desist under that act shall become final at the expiration of 60 days from service of the order unless appeal is taken to the courts. Thereafter violations of final orders to cease and desist are subject to civil penalty proceedings brought by the Attorney General in the United States district courts.

There appears to be no substantial reason why orders under the Clayton Act should not have the same status as to finality and as to penalties for violation as similar orders under the Federal Trade Commission Act.

MINORITY RECOMMENDATIONS

Commissioner Mason submits individually the following minority proposals :

In the greatest and most complex economy in the world it is necessary that we have a capable and efficient quasi-judicial agency to prevent unfair practices in commerce. But administrative agencies diminish their effectiveness when they claim powers in excess of those that can be justified under a democratic form of Government. In a manner of speaking, they price themselves out of the market. This overzealousness puts ammunition in the hands of those who would destroy administrative law.

In my opinion, the following recommendations strengthen the administrative enforcement of the Federal Trade Commission Act. I

believe they will renew the public confidence, and create general acceptance of and agreement with Commission orders and a cooperative attitude on the part of business.

I recommend :

1. That Congress broaden the scope of appellate court review of Commission orders. Congress recently did this on tax matters. ¹

The Commission has always intended to prove its cases by a greater weight of the evidence. Even those who would maintain the status quo of Commission procedure subscribe to this principle. There would thus seem to be no objection to amending the law to provide for judicial review on that basis.

Without altering the Commission 's normal procedure, such an act would silence many of the criticisms now leveled at Commission action and would increase public acceptance of its orders;

The Administrative Procedure Act , recently passed, has already raised the quality of our trial examiners' procedures without materially changing the modus operandi. There is every reason to believe the quality and efficiency of Commission proceedings can be raised if Congress includes the Federal Trade Commission as another agency whose findings of fact may be under the closer scrutiny of the courts.

2. The Supreme Court recently held that an order of the Commission would be sustained on a finding of "reasonable possibility" of injury to competition. I do not believe this Commission would care to follow the "possibility" rule. To me, it is repugnant to democratic processes. As long as the courts have indicated Congress gave us that power, I think Congress ought to take it away from us.

3. The Commission announced in a statement of policy dated October 12, 1948, that knowing or conscious parallel action will be viewed as illegal. To me, this means that two competitors knowingly selling at the same price may be successfully prosecuted. In my opinion, similar prices may result from competition as well as from conspiracy. The rule should be limited by Congress to the latter cases.

4. The present confusion of the law resulting from the recent orders and opinions in the Cement, the Rigid Conduit, Steel, Corn Products and Salt cases is such that producers in many cases impose hidden price raises on the public. They do this on the grounds that they want to be certain they are not violating the law as to freight absorption in the above cases. The cumulative effect of these decisions has given validity to the excuse for moving toward an exclusive f. o. b. mill basis. I believe this passing on to the distributor of a cost which in many cases has been heretofore absorbed by the producer, creates unwarranted price raises in the consumer market. Congress should determine whether this hidden price raise effected through f. o. b. mill selling should be required, or whether a seller should legally be permitted to absorb freight systematically to meet competitors' prices.

5. The courts' approval of the Federal Trade Commission decision in the Morton Salt case for all practical purposes eliminates the right to give quantity discounts except in so-called trading items where the purchase price fluctuates in each transaction. I call this

¹ Effective September 1, 1948, amending sec. 1141 (a) of the Internal Revenue Code by adoption of sec. 36 of the new Judicial Code.

to the attention of Congress for such action as it may wish to take to preserve the economies of mass production and distribution.

I wish to repeat my recommendations contained in the Commission's annual report for the fiscal year ended June 30, 1947.

In my opinion, there are new and compelling reasons for recommending to Congress that trade practice conference procedure be given a statutory foundation more specific than the implied authority of the Federal Trade Commission Act. Aside from the efficacy of trade practice conference procedure as an instrumentality to effect a reign of law in commerce, such procedures would, in my opinion, bring businessmen and their trade associations into closer cooperation with Government. The development of such cooperation in peace-time would contribute significantly to national defense planning. The past conflict demonstrated that the production of munitions and supplies was hopelessly foundered at the beginning of the war effort until those men in private industry who were the experts in each line of commerce were bodily lifted from the desks of private industry to Government war production offices. The hiatus between an enemy attack and all-out production of war equipment could be greatly shortened if there were developed under the trade practice conference procedure a closer cooperation between representatives of industry, such as trade associations, and the representatives of Government.

PART I. GENERAL INVESTIGATIONS

During the fiscal year 1948 the Commission completed the following reports which presented the results of general investigations :

The Merger Movement: A Summary Report.

International Steel Cartels.

International Electrical Equipment Cartel.

Manufacture and Distribution of Farm Implements.

In addition, the Commission, in a joint project with the Securities and Exchange Commission, issued a series of Industrial Financial Reports based on the financial operating statements of approximately 8,500 manufacturing corporations. These reports were issued for each of the quarters of 1947, and reports for the first two quarters of 1948 were in preparation at the close of the fiscal year. There is a three-fold significance to the financial reports project : (1) The reports provide for the first time a relatively current record of the profitability and general financial status of corporations in manufacturing as a whole and in the major manufacturing industries.

(2) The 8,500 firms reporting under this program have been selected in such a way as to constitute a scientific sample which yields results that are representative of the nation's manufacturing corporations.

(3) For the first time current financial data are now obtained which are representative not only of the large companies but also of the Nation's medium-sized and smaller manufacturing corporations.

The Commission also presented extensive economic data on mergers and acquisitions before a subcommittee of the Senate Judiciary Committee which was considering the proposed amendment of section 7 of the Clayton Act to give the Commission power to prevent acquisitions of assets generally similar to its present power over acquisitions of stock.

Perhaps the most important feature of the Commission's economic work during the fiscal year was the greater integration of economic analysis with the legal work of the Commission. This integration had two aspects : First, exploratory investigations and analyses designed to provide an economic basis for the development of the Commission's antimonopoly program and, second, a substantial increase in the economic and accounting services rendered to the legal staff in the investigation and trial of antimonopoly cases and in the enforcement of antimonopoly orders. This latter development was due largely to the increased emphasis placed by the Supreme Court on economic considerations in antimonopoly cases. Although the Commission has continued its work of conducting general investigations for use by Congress and the general public, the greater part of its economic personnel during the fiscal year 1948 was engaged in preparing economic analyses for the antimonopoly program and for specific legal cases.

THE MERGER MOVEMENT--A SUMMARY REPORT

In its new report entitled "The Merger Movement: A Summary Report," the Commission again called attention to the loophole in the Clayton Act which permits corporations to purchase the assets rather than (or in addition to) the stock of competing firms, thereby evading the original intent of Congress "to arrest the creation of * * * monopolies in their incipency."¹

In addition to renewing its recommendation that the loophole be closed, the Commission's report presented an extensive review of the legal history of the anti-merger provisions of the Clayton Act and the various court decisions which have rendered section 7 a "virtual nullity." Specific examples are offered to illustrate how the existence of the loophole places a premium upon the attainment of monopolistic ends by the completely final method of consolidation, as against the more vulnerable method of conspiracies among independent firms. Legislation now pending before Congress to amend the act is dis-cussed, and an economic analysis is made of the current merger movement. This movement, under way since 1940, has already resulted in the disappearance of more than 2,450 formerly independent manufacturing and mining companies. These firms held assets aggregating some 5.2 billion dollars, or more than 5 percent of the total assets of all manufacturing corporations in the country.

LEGAL HISTORY

The report points out that it was the great consolidation movement of 1897-1905 which formed the economic background leading to the passage of the Clayton Act. At that time the prevailing method of forming combinations was through the purchase or exchange of the capital stock of competitors. Thus Congress, in attempting to prevent the creation of monopolies in their incipency, prohibited the common and usual practice of forming monopolistic combinations through stock purchases.

Following the passage of the Clayton Act, however, corporations soon found that the law could be circumvented by either of two methods. A corporation could purchase stock control of a competitor and then utilize such control to acquire the assets of the firm ; or assets could be purchased in the first instance without bothering to acquire the stock at all.

There has never been any doubt that the purchase of assets without the transfer of stock being involved is legal under the Clayton Act. It is for this reason that many large corporations have adopted the policy of purchasing assets whenever interstate commerce (and thus the Federal law) is involved, and of making stock acquisitions only when the transaction is confined within the borders of a single state and has no effect on interstate commerce.

Under the other alternative, the acquiring company may buy the stock first. Then, if the Commission takes action against the stock acquisition, the company may follow this purchase with the acquisition of assets before the Commission can enter its order of divestiture.

¹ Senate Committee on the Judiciary, S. Rpt. 695, 63rd Cong., 2d sess.. June 22,

1914, to accompany H. R. 15657, p.1.

THE MERGER MOVEMENT--A SUMMARY REPORT 17

This producer was specifically approved by Supreme Court decisions beginning in the middle 1920's. However, this route of avoidance is important only in those cases in which the acquisition of assets is not feasible unless the stock can be purchased first. Thus, even if this route were closed, there would still be left open the much more important method of acquiring the assets without purchasing the stock at all.

PENDING LEGISLATION

Since 1945 legislation has been pending in both the Senate and House of Representatives to amend section 7 of the Clayton Act. These bills, introduced in both the Seventy-ninth (Democratic) and the Eightieth (Republican) Congresses, have been the subject of extensive hearings, but have failed to reach the floor of either House for consideration. The House bill has twice been approved by both the subcommittee and the full Committee on the Judiciary. In the Eightieth Congress the Senate bill was approved on May 17, 1948, by a subcommittee of the Senate Judiciary Committee.

IMPORTANCE OF THE AMENDMENT TO ANTITRUST POLICY

Not only does the loophole in the Clayton Act permit the continued growth of monopoly and concentration of economic power through mergers and acquisitions, but in the process the fundamental objective of the antitrust laws is plainly circumvented. Both the Sherman Act and the Federal Trade Commission Act condemn attempts to restrain trade by means of mutual understanding or agreement among competitors; but if the same objective is achieved through the purchase of physical property it is lawful, in the absence of monopoly, and the antitrust agencies are powerless to act. This weakness in the law encourages the achievement of monopolistic goals through the more enduring process of corporate consolidation while discouraging the more vulnerable method of achieving the same ends by means of conspiracies among independent firms. Thus the paradox is presented that the more effective is the enforcement of the law against collusion among competitors, the greater is the incentive to achieve the same objectives through purchase, consolidation, and merger.

Recent examples of the use of the merger-escape loophole to defeat the purposes of the antitrust laws are provided by such industries as cement, salt, white lead, fire extinguishers, and book paper.

Climaxing an extensive period of investigation and litigation, dating from 1937, the Supreme Court on April 26, 1948, issued a sweeping affirmation of the Commission's findings and order in the Cement Institute case, ruling that the cement industry's long-established basing-point system (resulting in identical delivered prices at any given destination) was a collusive price-fixing device which violated both the Federal Trade Commission Act and the Clayton Act. The Court agreed with the Commission that this collusive pricing system not only constituted an "unfair method of competition," but also involved unlawful price discrimination.

When the Commission's complaint was issued in 1937, there existed a relatively

high degree of concentration in the industry, with the 5 largest companies accounting for 39 percent of the Nation's cement-

producing capacity, and the 10 largest, 55 percent. Principally as a result of the mergers which have taken place since the Commission entered its order, the degree of concentration has been increased significantly. By 1945 the largest 5 companies controlled about 44 percent and the 10 largest over 60 percent of the industry's capacity. Moreover, because of the regional character of cement marketing (which results from the importance of freight in the delivered cost), the increase in concentration has been considerably greater in a number of important regions.

The action by the Supreme Court in upholding the Commission's order against the cement industry will obviously be nullified insofar as the relationships between the acquired and acquiring firms are concerned, since there will no longer be any occasion for the acquired firms to conspire with their new owners in order to put the basing-point system, or any other pricing practice, into effect. Other examples cited in the report in which legal actions against conspiracies have been followed by acquisition and merger include the pipe, salt, white lead, and book paper industries.

CURRENT TREND OF THE MERGER MOVEMENT

The sharp upward movement in mergers and acquisitions has been most pronounced during the last 3 years. In this respect the present trend has closely followed the pattern established after World War I. Immediately at the end of both wars, merger activity increased sharply, the post-World War I movement extending through 1919, 1920, and the early part of 1921, until it was interrupted by the post-war depression. Again in the middle 1920's, when prosperous conditions had returned, the trend took on new force, reaching all-time heights in 1928 and 1929.

In much the same manner, merger activity turned sharply upward with the end of World War II and has continued at a relatively high level through 1947. In the final quarter of 1947, more mergers and acquisitions were reported than in any fourth quarter since 1930--with the single exception of 1945.

The recent merger movement has extended to virtually all phases of manufacturing and mining, but has been most conspicuous in such industries as food and beverages, textile and apparel, and chemicals (including drugs). Together, these three groups accounted for over one-third of the total number of acquisitions. Other industries in which numerous acquisitions have taken place are nonelectrical machinery, petroleum and transportation equipment. In the aggregate, these six industrial groups accounted for nearly three-fifths of all the mergers and acquisitions for the entire period 1940-47. The new peak of mergers and acquisitions which developed as the war drew to a close has, of course, risen from the plateau of economic concentration which already prevailed in this country.

As in earlier periods, high corporate profits have fed the merger movement. This was true of the great consolidation movement of 1897-1905, the post-World War I movement, and the period of the late 1920's. It is no less true at the present time. Not only do profits provide the financial wherewithal with which to effect mergers, but, more than that, they exert a powerful pressure on business to

expand : both internally, by building new plant and equipment, and externally, by absorbing existing concerns. At the end of June 1947, the 78 largest manufacturing corporations had sufficient net working capital to buy up the assets of some 50,000 manufacturing corporations of less than 1 million dollars in assets each, representing more than 90 percent of all manufacturing corporations in the United States.

MERGERS AND ECONOMIC CONCENTRATION

As contrasted to European countries, in which business combinations have readily taken the form of cartels and loose-knit associations of independent businesses, such combinations in the United States have generally taken the form of the giant corporation, with its typical divorce between ownership and control, its tight centralization of power in the corporate management, its large financial resources, its community of interest with other corporate and financial groups, and its tendency to acquire greater and still greater economic power.

The rise of these great corporations has resulted from two types of expansion--internal and external growth. The former, which is sometimes referred to as "natural" growth, occurs through the building of new facilities or the expansion of existing properties financed out of retained earnings, loans the sale of securities, or similar means. To the extent that such expansion takes place more rapidly in large than in small enterprises, economic concentration is obviously increased. External growth--with which the report is concerned--takes place through the integration of existing firms by means of acquisition, merger, or consolidation, and through the creation of other types of combinations such as trusts and holding companies. To the extent that this process takes the form of the creation of new large enterprises out of existent smaller concerns or the buying up of small concerns by larger enterprises, concentration is, of course, increased.

The report notes that there has been a widespread tendency to under-estimate the importance of external expansion and to attribute nearly all of the increase in economic concentration to internal growth. Although it is impossible to measure with precision the extent to which growth in industry as a whole has resulted from external expansion, the Commission has made a study of the growth of the major companies in the steel industry, covering the period 1915-45. Constituting the foundation of the Nation's immense metal-working economy and often considered the "bellwether" of American enterprise, the steel industry affords a concrete example of the importance of external growth in the rise of big business in America. During the period 1915-45 (which does not include the formation of the U.S. Steel Corp. in 1901) 8 major steel companies acquired some 153 other firms, and approximately one-fourth of the overall growth of these major steel companies was due to external expansion. The estimates of the extent to which long-term growth (following the formation of the original companies) has been due to external expansion were substantially higher in some instances, amounting to as much as one-third in the case of Bethlehem Steel Corp., and two-thirds in the case of Republic Steel Corp.

The importance of external expansion in promoting concentration has never been more clearly revealed than in the acquisition movement that is taking place at the present time--a movement which is strengthening the position of big business in several ways. In the first place, several of the industries in which "small business" is traditional have been affected. The two leading industries, in terms of number of acquisitions, have been textile and apparel, and food and kindred products--both predominantly small business fields. Moreover, in certain small business industries (notably steel drums, tight cooper-age, and wines) virtually all or a substantial part of the industry has been taken over by big corporations. Finally, the outstanding characteristic of the movement has been that of large corporations buying out small companies. Thus, the preponderant number of firms have been acquired by the very largest corporations. Nearly one-third (30 percent) of the companies merged since 1940 have been absorbed by corporations with assets exceeding 50 million dollars. Another 40 percent of the total have been taken over by corporations with assets ranging from 5 million dollars to 49 million dollars. Thus, more than 70 percent of the total number of firms acquired during this period have been absorbed by larger corporations with assets of over 5 million dollars. At the other end of the scale, the distinctly small firms, those with less than 1 million dollars of assets, have made only 11 percent of the acquisitions.

Fully 93 percent of all the firms bought out since 1940 held assets of less than 5 million dollars, and 71 percent had assets of less than 1 million dollars. On the other hand, only 4 percent of the total number of acquired firms had assets of over 10 million dollars.

Of the Nation's 200 largest manufacturing corporations, 123 have made corporate acquisitions since 1940, accounting, in the aggregate, for approximately 27 percent of all the firms bought up. Some 33 of the top 200 corporations have bought out an average of more than 5 companies each, and 13 have purchased more than 10 companies each.

The evidence thus points clearly to the conclusion that, insofar as its impact on concentration is concerned, the outstanding characteristic of the current merger movement has been the absorption of smaller, independent enterprises by larger concerns.

TYPES OF MERGER ACTIVITY

The report points out that mergers and acquisitions take a wide variety of different and sometimes opposite directions, which have traditionally been designated as "horizontal," "vertical," and "conglomerate." Horizontal acquisitions are those in roughly similar lines of production ; vertical acquisitions are those in which the purchase represents a movement either forward or backward in the production process ; and conglomerate acquisitions are those in which there is no discernible relationship in the nature of business between the purchasing and the acquired firms.

A break-down of the more than 2,000 mergers and acquisitions which took place during 1940-47 indicates that more than 60 per cent of all acquisitions were of the horizontal type. Approximately 20 percent were conglomerate acquisitions, and the

remainder were of

the vertical type. In this latter group, the “backward” type pre-dominated, reflecting the efforts of many fabricators to gain control of critical materials, components, parts, etc. On the other hand, a number of important “basic materials” producers reached forward into the production process to take over fabricators.

Horizontal acquisitions predominated throughout the industrial structure, representing the most important type of merger activity in each of the major manufacturing and mining groups, ranging from nearly 90 percent of the total in mining to slightly less than 50 percent in primary metals. Conglomerate acquisitions also were widespread, and were particularly prominent in such diversified industries as beverages, nonelectrical machinery, fabricated metals, transportation equipment (including aircraft) , and drugs and medicines.

Outstanding recent examples of horizontal mergers combining direct competitors have involved such products as wallpaper, canned milk, wooden containers, slide fasteners, oxygen and acetylene gases, and paint. Horizontal acquisitions have also involved combinations of producers of “substitute” products, such as the acquisition of fiber can producers by tin can manufacturers. A third type of horizontal acquisition has taken the form of the acquisition of a large number of independent, small businesses engaged in essentially “local market” operations, in such fields as dairy products and bread. Because of their similarity to the spread of chain stores throughout the country, mergers of this type have been referred to as “chain” acquisitions.

As an example of “forward” vertical acquisitions, the report presents an extensive discussion of the movement of large steel producers into various fabricating fields, a movement which in some fields has proceeded so far as to result in the almost complete disappearance of what have been regarded as typical “small business” industries.

The “backward” vertical acquisition of basic material producers has also had the effect of “drying up” the supplies of materials, components, parts, etc., available for small business. Outstanding examples of this type of merger have been purchases by machinery manufacturers of producers of tool and die shop products, metal stampings, screw machine products, etc.; purchase of iron and steel foundries on the part of automobile manufacturers; acquisitions of producers of pulp (as well as large stands of timber) by large paper companies; and purchases of a wide variety of manufacturing enterprises, including meat packers, cheese factories, etc., by chain stores.

The new wave of acquisitions in the textile industry has moved both “forward” and “backward” in what the report designates as “two-way” vertical acquisitions. On the one hand, manufacturers of gray goods have expanded “forward” into the finishing operations while, on the other hand, the various factors (including converters, selling agents, dry-goods wholesalers, etc.) engaged in the latter stages of the industry have moved “backward” into the, gray goods field.

As examples of the extremes to which conglomerate acquisitions have gone, the report points out that aircraft producers have acquired firms producing such widely diversified products as movie equipment, radios, agricultural equipment, and burial caskets, while

drug firms have expanded into such fields as baby foods, baking mixes, waxes and polishes, dyes, paints, and insecticides.

The report concludes that the ultimate significance of this loophole in the law lies in the question of the public interest. It closes with these words:

No great stretch of the imagination is required to foresee that if nothing is done to check the growth in concentration, either the giant corporations will ultimately take over the country, or the Government will be impelled to step in and impose some form of direct regulation in the public interest. In either event, collectivism will have triumphed over free enterprise, and the theory of competition will have been relegated to the limbo of well-intentioned but ineffective ideals. This is a warning which the Commission has repeated time and again, and one which some of those who have the most to gain by the preservation of competition seem determined to ignore.

The Commission believes that the economic forces, on which it has been basing its warnings, require that a definite choice be made. Either this country is going down the road to collectivism or it must stand and fight for competition as the protector of all that is embodied in free enterprise.

Crucial in that fight must be some effective means of preventing giant corporations from steadily increasing their power at the expense of small business. Therein lies the real significance of the proposed amendment to the Clayton Act, for without it the rise in economic concentration cannot be checked nor can the opportunity for a resurgence of effective competition be preserved.

INTERNATIONAL CARTELS

During the fiscal year 1947, the Commission published studies of the operation of international cartels in the copper and sulphur industries. To those studies there have been added during the past year reports on cartels in the steel and electrical equipment industries.

The term "cartel" applies to a type of combination in restraint of price competition and production which is implemented through agreements among enterprises maintaining separate identities and separate ownerships, stock controls, and managements. From the viewpoint of operation, cartels may be classified as (1) local, (2) national, or (3) international. The Commission's studies have concentrated on agreements among international cartels involving the export trade of the United States, particularly in those types of industries in which cartels can be especially effective, namely, those in which there is a high degree of concentration and control.

INTERNATIONAL STEEL CARTELS

Numerous cartel agreements relating to steel 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.

These restrictive agreements were of two general classes : (1) Agreements relating to specific classes of steel products, such as steel rails, wire rods, wire products,

structural shapes, merchant bars, steel pipe (tubular products), tinplate, etc.; and (2) general agreements, embracing all steel products.

In Europe international agreements of the latter class sometimes attempted to restrain competition both in domestic and international markets by limiting the total tonnage of crude steel to be produced, and by assigning to each national group a fixed tonnage quota.

The Steel Export Association of America was organized on April 21, 1928, as a Webb-Pomerene Export Association. Its organizers were the United States Steel Products Co. and the Bethlehem Steel Export Co., export subsidiaries of United States Steel Corp. and Bethlehem Steel Corp., respectively. By December 31, 1928, 10 other heading steel companies had been admitted to "limited membership." The Steel Export Association of America began active participation in international steel cartels, or "competitors," as early as July 26, 1928, when it became a member of the so-called Two-Party Oil-Country Goods Agreement. Up to the outbreak of World War II, when all international steel agreements were suspended, the Steel Export Association was an active participant in at least 21 out of 25 international steel commodity cartels. In addition, the Steel Export Association actively cooperated with a general, world-wide policy-making cartel including, as participants, the British Federation of Steel Industries and Entente Internationals de l' Aciers, the Continental European steel cartel. This participation followed an understanding arrived at in December 1937.

The International Railmakers Association, formed in 1925, and joined in 1929 by the American group, was a fairly typical "individual product" steel cartel. One of the main objectives of this cartel was to assign to each national group definite percentage quotas which included the total exports from each country both by cartel members and nonmembers. The export markets for the world were divided into "reserved areas" and "unreserved areas." A reserved area was one into which only companies belonging to a particular national group were permitted to sell steel rails. For example, export sales in Cuba and the Republic of Panama were reserved for the American group, unless it had equaled or exceeded its export quota.

In unreserved areas the cartel management committee fixed the minimum prices to apply to all export orders, except in case of competition from nonmembers, in which case the price was fixed by the committee. Whenever, in order to prevent a nonmember from obtaining an order, a cartel member was directed to offer a price lower than the cartel figure, he was compensated for the difference out of the cartel reserve fund. Thus, the steel rail cartel was so operated that it united the combined financial resources of the members against nonmembers to eliminate price competition from the world's steel export market.

It would appear that at least in some respects the cartel agreement worked against long-run interests of the American producers. For example, while the Steel Export Association of America limited the sales by its members in the internal markets of European member groups, it avoided the imposition of like restrictions in the cartel agreements with other nations respecting imports into the United States—apparently for the purpose of complying with the provisions of the Webb-Pomerene Export Act.

INTERNATIONAL ELECTRICAL EQUIPMENT CARTEL

The high degree of economic concentration in the electrical equipment industry, which exists in each of the important industrial nations, has been particularly conducive to the establishment of effec-

tive international cartels. As early as 1923, the two leading American companies produced 72 percent of all types of large power equipment made in this country, with the degree of control ranging from 58 percent in the case of direct-current generators to 96 percent for railway motors. Similarly, in the other important electrical equipment producing countries of Europe and in Japan, three or four interests generally dominated the industry in each country.

In 1928 the Federal Trade Commission called attention to the economic importance and significance of patent agreements between the dominant domestic and foreign electric equipment companies, stating :

Not only is direct foreign competition in the United States eliminated, but the possibilities that other manufacturers will obtain the right to use important foreign patents, trade secrets, and manufacturing information and experience is also forestalled to the extent that the contracts give exclusive rights in America to the two large companies from whom they must be obtained if they are to be used by any other American company.

A world-wide international cartel in the electric equipment export market was executed December 13, 1930, with the adoption of the International Notification and Compensation Agreement. It included as members the principal British, German, and Swiss electrical equipment manufacturers. Export subsidiaries of General Electric and Westinghouse tentatively became members, but when they were advised by counsel that the execution of the cartel agreement in this manner probably constituted a violation of the antitrust laws, there was organized on February 4, 1931, a Webb-Pomerene Export Association known as the Electrical Apparatus Export Association. Its original members were International General Electric Co. and Westinghouse Electrical International Co. Later, other manufacturers of widely diversified types of electrical apparatus and appliances were admitted to membership in various commodity sections organized within the parent association.

The primary functions performed by the Electrical Apparatus Export Association were those of allocating the export business among its members and of agreeing on the prices to be charged for export shipments. The association also served as the agency which agreements and understandings were entered into with foreign cartel members. In practice the export business of the members was conducted by the member companies, themselves, except in those cases where two or more American companies contacted the same foreign project. In such cases, agreement was reached through the association as to (a) which company should make the sale, or (b) the proportion allotted to each company, and (c) the sale price.

The "section" agreements typically included an agreement respecting export prices. In the case of electrical appliances, such as refrigerators, ranges, or washing machines, where rival manufacturers maintained different prices in the United States, no attempt was made to establish uniform export prices. However, each member was supposed to furnish his price lists to every other member, and each member was required to adhere to his listed prices until the lapse of a specified time after he had notified the association "supervisor" of a price change.

MANUFACTURE AND DISTRIBUTION OF FARM IMPLEMENTS 25

Many of the agreements on items other than electrical appliances provided for uniformity of export prices, which were based either on domestic price lists, subject to agreed modifications to cover packing for export and transportation to port of shipment, or on agreed discounts from the domestic price lists.

MANUFACTURE AND DISTRIBUTION OF FARM IMPLEMENTS

In addition to the reports on mergers and cartels the Commission also completed a report on the production and distribution policies of large manufacturers of farm machinery, bringing down to 1947 information respecting a number of important developments and trends in the industry discussed in earlier reports of the Commission.

CONCENTRATION IN MANUFACTURE

As background for study of the effects of production and distribution policies, the report traces the steps by which the principal manufacturers of farm implements have grown to their present positions of size and leadership as manufacturers of long lines. Briefly, each of the seven largest companies began as manufacturers of a single line of implements. From these beginnings, each principal company has grown in size and length of line manufactured, largely through acquisitions and consolidations of previously existing companies. Thus International Harvester Co. was formed in 1902 as a consolidation of previously existing manufacturers of harvesting machinery, and subsequently added other lines, both by acquiring other companies and by itself developing new types of machines. John Deere started as a manufacturer of steel plows and tillage implements, to which it subsequently added--largely by the purchase of other companies--farm wagons, hay tools, manure spreaders, corn shellers, chilled plows, grain drills, gasoline engines, potato machinery, threshers, and deep tillage implements.

Allis-Chalmers, the most recently developed company of the "Big Three," originally made no farm implements. It entered the agricultural field with a tractor in 1915, and since that time has strengthened its position and lengthened its line by acquiring companies making, respectively, tractors, plows and tillage implements, threshers, clover hullers, and deep tillage implements. J. I. Case Co. originally manufactured only threshers, to which it has added, by acquisition, haying, harvesting, threshing, and planting machines. Oliver Corp., originally founded to manufacture chilled plows, has added, by company acquisitions, lines of tractors, feed grinders, potato machinery, threshers, hay presses, corn huskers, and seeding machines. Minneapolis-Moline, originally a manufacturer of plow, tillage, and hay implements, has acquired other companies making tractors, threshers, wagons, and seeding machines. Massey-Harris, Ltd., the Canadian parent company of Massey-Harris Co. (Del.), originally manufactured plows and bay rakes, to which it added, by acquisitions, such lines as wagons, manure spreaders, harvesting and haying machines, plows, and tillage implements.

POSTWAR PRODUCTION POLICIES

As early as 1944 farm machinery manufacturers began planning to increase production to supply the backlog of farm demand growing out of restricted wartime production and a total farm income in 1945 that was nearly twice that of 1929. Producing capacity was modernized and increased, and plans were made to put new machines, and new models of older types, into production. However, shortages of steel, copper, and lead., together with labor troubles and other factors, prevented full attainment of production plans for 2 years after the termination of hostilities. Inability to obtain some kinds of materials, such as steel sheets and shapes, often prevented completion of machines actually in process. One large company was unable up to March 1947 to complete even a pilot lot of an entirely new machine, and another, after retooling at large cost, stated in January 1947 that it had the factories, men, and Capacity, but could not obtain the necessary raw materials to attain its production plans for the year 1947. This situation continued into 1948, especially for the smaller companies. Notwithstanding these limiting factors, however, the industry actually produced more machines of many types in 1946 and 1947 than were produced in any prewar year, without, however, satisfying the demand.

DISTRIBUTION OF FARM IMPLEMENTS

The farm-implement industry provides a striking illustration of two of the end results of economic concentration. The first is the decrease in the number and importance of independent producers, as one manufacturer after another is bought up by the larger companies. The second is the increased control exercised by the large producers over the activities of independent distributors. The large farm implement manufacturers have practically eliminated the farm machinery wholesaler by establishing their own branch-house distribution to serve independent retailers. Moreover, they have strengthened their control over the retailer by the use of annually renewable retail dealer franchise contracts.

A farm-machinery dealer exists by virtue of a dealer-franchise contract, the value of which increases with the length and popularity of the manufacturer's line in the dealer's territory. The possession of a contract with any particular dealer, however, is not equally important to the manufacturer, who operates in accordance with broad policies to which the dealer must conform. The application of these policies through the manufacturer's interpretation of the dealer contract has given rise to many complaints by dealers. Two principal contentions are (1) that the contracts formulated by manufacturers inadequately define the rights and obligations of the parties, and (2) that the contracts are lacking in mutuality.

The Commission's inquiries point to the conclusion that not all dealer complaints are well-founded and that some are baseless. There are however, a sufficient number of instances of well-founded complaint to indicate that undue pressures and inequities often exist in the distribution of farm machinery. Their nature and extent varies as between different companies, and even as between different branch

house territories of the same company. Inequities most often are applied in the form of requirements not definitely stated in dealer contracts as to what constitutes the sales display, service equipment, and selling organization and effort required to represent satisfactorily the contracting manufacturer's line. The long-line manufacturer may also express dissatisfaction because the dealer handles products made by others.

The pressures applied may, but do not necessarily, involve unfair methods of competition or deceptive acts or practices in commerce subject to correction under existing law.

Although a few States have enacted specific legislation designed to deal with this same problem in the motor-vehicle industry no adequate solution to the problem in the various fields in which it exists has yet been developed.

INDUSTRIAL FINANCIAL REPORTS

Quarterly industrial financial reports, showing estimates of aggregate financial data for all American manufacturing corporations, have been made by the Federal Trade Commission in cooperation with the Securities and Exchange Commission for the last two calendar years. The purpose of these reports is to provide accurate current information as to the financial characteristics and operating results of American manufacturing industries without disclosing the individual figures of any particular corporation. The reports present composite financial statements which disclose the relationship between investments, sales, costs, and profits.

The quarterly reports provide a current barometer of conditions in the economy and its various industry segments and should be of increasing value to business and Government in showing the financial trend of industrial activities. From these reports it is possible to determine (1) the general financial situation of manufacturing corporations ; (2) the trend in manufacturing operations ; and (3) variations which may occur in the economic position and operating results of various industries or of corporations of different sizes. Those concerned with the problems of small business use the reports as a primary source of information.

For illustration, the report for the fourth quarter of 1947 showed that the small size classes of corporations experienced a sharp drop in profits during this quarter in comparison to the third quarter of 1947, while corporations in the larger size classes reflected an increase in profits. A further analysis of this sharp drop in the profit margins on sales of the small manufacturing corporations, particularly those with assets of less than \$250,000, revealed that the decline occurred in all of the industry groups except "rubber" and "motor vehicles and parts." It was further noted that the decline was sharper in foods, printing and publishing, chemicals, fabricated metal products, furniture, apparel, and miscellaneous specialties industries.

Although there was marked decline in the profits of the small corporations, the over-all industry groups--including large-size corporations--showed profits that compared favorably with those for the third quarter of 1947. This trend was further supported by the

estimates for the first quarter of 1948 which, in spite of some increase in profit margins for these small manufacturing corporations, indicated that the profits of the small concerns were only about one-half of the rate of profit shown for the first three quarters of 1947.

The reports provide an important source of information for the internal operations of the Federal Trade Commission as well as for a number of other Government agencies.

Prior to the war, pursuant to section 6 of the Federal Trade Commission Act, the Commission collected and analyzed the financial operating statements of corporations in a number of industries and published summaries of the results. Discontinued during the war, when similar work was performed by the Office of Price Administration, the project was resumed early in 1947 after the President, by Executive order, had transferred the financial reporting function back to the Federal Trade Commission.

The plan for resumption of this work was carefully developed after intensive work by an interagency committee on financial statistics representing nine Government agencies. This committee operated under the direction of the Bureau of the Budget as provided for by the Federal Reports Act of 1942 and requested advice from the Industry Advisory Council on Government Reports and the Advisory Council representing labor organizations.

The interagency committee recommended a program of quarterly and annual financial reports, assigning the work jointly to the Federal Trade Commission and the Securities and Exchange Commission. The Securities and Exchange Commission is responsible for the collection and compilation of information from corporations with securities listed on a national stock exchange and the Federal Trade Commission is responsible for the collection of information from a sufficient number of nonlisted corporations so as to effectively round out a representative sample for determining current national estimates for all industrial manufacturing groups.

The annual report phase of this work, which involves a larger sample and additional details as to costs and expenses, has not been inaugurated because the required funds have not been made available. The annual financial reports, when and if resumed, will provide information needed to construct an "index of concentration" for each of the Nation's major manufacturing industries. This index would show the current changes which take place in the level of concentration. Development of such an index was the second recommendation contained in the staff report of the Monopoly Subcommittee of the House Small Business Committee, published in 1946.

PART II. GENERAL LEGAL WORK

DESCRIPTION OF PROCEDURE

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

PROCEDURE UPON APPLICATIONS FOR COMPLAINT

Upon receipt of an application for complaint, the Commission through its Bureau of Legal considers the essential jurisdictional elements before deciding whether it shall be docketed for investigation. When docketed, it is assigned to the Chief of the Division of Radio and Periodical Advertising or the Chief of the Division of Field Investigation, depending upon the type of investigation to be made. Cases requiring field investigations are assigned to the Division of Field Investigation ; other matters as more fully set out on pages 37 to 40 are assigned to the Division of Radio and Periodical Advertising. The matter is thereafter assigned to an attorney for the purpose of developing all the essential facts.

The general procedure in matters requiring field investigations is to interview the party complained against, advise him of the charges and request such information as he may care to furnish in defense or in justification. It is the policy of the Commission not to disclose the identity of the complainant. Where necessary, competitors of the respondent are interviewed to determine the effect of the practice from a competitive standpoint. Often it is desirable to interview consumers and members of the general public to obtain their assistance in determining whether the practice constitutes an unfair method of competition or an unfair or deceptive act or practice, and also to establish the existence of the requisite public interest.

After developing all the facts the examining attorney files a report summarizing the evidence, reviewing the applicable law, and recommending the action he believes the Commission should take. The record is then reviewed by the Chief of the Division of Radio and Periodical Advertising or the Chief of the Division of Field Investigation. If found to be complete, the file is submitted to the Commission through the Director of the Bureau of Legal Investigation, accompanied by a statement setting forth the facts as well as the

¹ A brief statement of the provisions of these laws appears on pp. 2 and 3.

division chief's conclusions and recommendations. The Director attaches his endorsement or submits to the Commission a separate memorandum in which he may set forth his disagreement with the recommendations of the division chief.

The Chief of the Division of Radio and Periodical Advertising or the Chief of the Division of Field Investigation may recommend to the Commission (1) Issuance of a formal complaint ; (2) negotiation of a stipulation agreement in which the respondent agrees to cease and desist from the practices challenged as unlawful; or (3) closing of the case.

If the Commission decides that a formal complaint should issue, the case is referred to the Bureau of Litigation for preparation of the complaint and trial of the case. Should the Commission permit disposition by stipulation, the case is referred to the Bureau of Stipulations.

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

PROCEDURE UPON FORMAL COMPLAINTS

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

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

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

Upon request made within 15 days from service of the complaint , any respondent shall be afforded an opportunity to submit offers of settlement or proposals of adjustment where time, the nature of the proceeding and the public interest permit, and due consideration shall be given to them.

Where evidence is to be taken either in a contested case or in one where the respondent has failed to file answer, the matter is set down for hearing before a trial examiner, which hearing, with due regard to the convenience and necessity of all parties, may be held anywhere in the United States, the Commission's complaint being supported by one of its trial attorneys and the respondent having the privilege of appearing in his own behalf or by attorney.

After the submission of evidence in support of the complaint and on behalf of the respondent, the trial examiner prepares and files a recommended decision which includes a statement of (1) findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record; and (2) an appropriate order. Exceptions to the trial examiner's recommended decision may be taken by either counsel.

Briefs may be filed within a stated time after the trial examiner's recommended decision is made and, in the discretion of the Commission, upon the written application of the attorney for the respondent or the attorney supporting the complaint, oral argument may be had before the Commission. Thereafter, the Commission reaches a decision either sustaining the charges of the complaint or dismissing the complaint, sometimes without prejudice to its right to reopen the proceeding or to take such other action as circumstances may warrant.

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

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

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

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

Under all three acts, the respondent may apply to a circuit court of appeals for review of an order and the court has power to affirm, or to affirm after modification, or to set aside the order. Upon such application by the respondent and cross-application by the Commission, or upon application by the Commission for enforcement of an order under the Clayton Act, the court has power to enforce the order to the extent it is affirmed. In any event, either party may apply to the Supreme Court for review, by certiorari, of the action of the circuit court of appeals.

PROVISIONS OF WHEELER-LEA AMENDMENT FOR PREVENTING DISSEMINATION OF FALSE ADVERTISEMENTS

Sections 12 to 15, inclusive, of the Federal Trade Commission Act, which were added by the Wheeler-Lea Act, approved March 21, 1938, make specific provision for the prevention of the dissemination of false advertisements of food, drugs, cosmetics, and devices (meaning devices for use in the diagnosis, prevention, or treatment of disease). The act as amended also empowers and directs the Commission to prevent advertisers of food, drugs, devices, or cosmetics which may cause injury when used under prescribed or customary conditions from disseminating advertisements that fail affirmatively to reveal that such products are dangerous or that their use under certain conditions may cause bodily injury.

In addition to the regular proceeding by way of complaint and order to cease and desist, the Commission may, in a proper case, bring suit in a United States District Court to enjoin the dissemination of such false advertisements, whenever it has reason to believe that such a proceeding would be to the interest of the public. These temporary injunctions remain in effect until an order to cease and desist has been issued and has become final, or until the Commission's complaint is dismissed by the Commission or set aside by the court on review.

Further, the dissemination of a false advertisement of a food, drug, device, or cosmetic, where the use of the commodity advertised may be injurious to health or where the act of disseminating is with intent to defraud or mislead, constitutes a misdemeanor; and conviction subjects the offender to a fine of not more than \$5,000, or imprisonment of not more than 6 months, or both. Succeeding convictions may result in a fine of not more than \$10,000, or imprisonment of not more than 1 year, or both.

LEGAL INVESTIGATIONS

INQUIRIES PRIOR TO FORMAL COMPLAINT OR STIPULATION

The Commission makes legal investigation of all applications for complaint preliminary to instituting formal action for the elimination of unfair methods of competition or other acts or practices violative of the laws it administers. Its Bureau of Legal Investigation performs all legal investigating work under the various statutes committed to the Commission's jurisdiction, and conducts a continuing survey of radio and periodical advertisements to detect false and misleading representations.

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

At the beginning of the fiscal year, in addition to cases pending as the result of the continuing survey of radio and periodical advertising (see pp.37 to 40), there were pending for investigation² 140 prelimi-

² Statistics reported on pp.32 to 40 concerning the legal investigation work are division records and not the consolidated record of the Commission and therefore do

not coincide with the figures reported in the tabular summary of the legal work for the entire Commission appearing on pp.50-52.

nary or undocketed cases. Forty-eight additional applications of this character were received during the year, making a total of 188 on hand, of which 142 were investigated. Of the investigated matters 118 were docketed for action, and 24 were closed without docketing because of lack of jurisdiction or for other reasons. There remained 46 preliminary cases of this type pending for investigation at the end of the fiscal year.

Three hundred and sixty-four applications for complaint which had been docketed without preliminary investigation were pending for regular investigation at the beginning of the year. Subsequently 385 additional cases of this type were received, making a total of 749 such cases docketed for investigation. Of these, 341 were investigated and transmitted to the Commission for action, leaving 408 cases of this character pending for investigation at the close of the year.

In addition, 165 supplemental or special investigations were made, including inquiries into alleged violations of cease-and-desist orders and stipulations and investigations for the Chief Trial Counsel. At the end of the year, 152 such matters awaited completion of investigation.

Aside from matters handled as the result of the continuing survey of radio and periodical advertising and others of the same type not requiring field investigations, the Bureau of Legal Investigation completed 901 investigations under the laws administered by the Commission, including those made in connection with industry-wide inquiries among automobile dealers in New York and the District of Columbia and in the cast-iron soil-pipe and cheese industries. There were also disposed of in connection with the legal work of the Commission 16,447 pieces of incoming and outgoing mail relating to matters of complaints and inquiries involving varying degrees of research and study.

Price-fixing and other trade restraints.--Investigation of trade practices which, if carried to fruition, would result in monopoly or have a tendency toward that end, constitutes an important segment of the work of the Bureau of Legal Investigation. At the beginning of this fiscal year, 127 cases of this type were either awaiting investigation or being investigated. During the year, 108 additional cases were instituted, making a total of 235 restraint-of-trade matters on the calendar. One hundred and eleven investigations of this type were completed for consideration and disposition by the Commission, leaving 124 such cases pending on the active investigational calendar as of June 30, 1948.

Practically the whole category of trade restraints will be found among the charges in the matters receiving attention of the Commission during the fiscal year. These comprise such practices as price-fixing, conspiracy to boycott or threats of boycott, coercion, collusive bidding, control and limitation of supply, interference with sources of supply of competitors, intimidation, full-line forcing and tying contracts, various forms of basing-point, delivered-price, and zoning systems designed to eliminate price competition, misuse of patents and licensing agreements for monopolistic purposes, resale price maintenance, and selling below cost with the intent and effect of injuring competitors. Of these, price-fixing continues to be the most frequently recurring charge.

The following general classifications of commodities involved convey an idea of the widespread nature of the restraint-of-trade investigations : Building materials, costume jewelry, law books, nails, Ethyl Glycol, paper, chains, women's sportswear, laundry, kapok, railroad car seals, soybeans and soybean products, brick, metal lath, refrigeration units, pharmaceuticals, ice cream and other dairy products, electrical appliances, toys, fish, motor generator welders, tung oil, cottonseed, cheese, pipe nipples, pipe fittings, pipe, textiles, looms, shuttles , dental supplies, conveyor chains, and paperboard.

Included in the above figures are 19 completed matters involving formal docketed cases. Some were to bring up to date investigations of complaints which had not yet been tried, but for the most part they consisted of complete investigations to determine whether the terms of Commission cease-and-desist orders had been violated. Where violations of orders were found, evidence was obtained in appropriate form to support civil penalty actions. Such investigations are equally extensive with those conducted in original cases. Seventeen cases of this character were pending at the close of the fiscal year.

Of the 235 restraint-of-trade investigations in progress during the fiscal year, 13 resulted from applications for complaint filed by Federal, State, or municipal agencies; 20 were submitted by trade associations; 1 by a labor union; and 60 were initiated by the Commission on its own motion. Most of the other cases originated as a result of complaints made by individuals and concerns whose business was being jeopardized by allegedly unfair and illegal practices.

On Act, section 2, as amended by Robinson-Patman Act.--The Robinson-Patman Act, approved June 19, 1936, amended section 2 of the Clayton Act and restated in more inclusive form the basic prohibitions against price discriminations which injuriously affect competition. It also prohibits certain types of other discriminations without regard to their competitive effects in specific cases.

An effort is made by the Commission in preliminary stages of an investigation under the Robinson-Patman Act to determine not only whether the practice in question involves prima facie violation of the statute but whether the defenses available thereunder are present. This frequently necessitates surveys of competitive prices and pricing policies, as well as cost studies in cooperation with the parties charged with violations.

Experience in the administration of the act has made it possible for the Commission, through preliminary inquiry, more readily to clear up misunderstandings among complainants as to the scope of the act and its application to specific situations, as well as to make a more accurate selection for investigation of matters involving probable violation of law. In view of limited funds and personnel, the Commission has endeavored to confine investigations to matters of substantial importance and to eliminate the expenditure of time and money in the investigation of those which possess little practical importance.

At the beginning of the year there were on hand for investigation 95 matters involving the Robinson-Patman Act. The Commission instituted during the year field investigations in 100 additional matters involving alleged violations of that act. At the

close of the year 159

matters were pending. Among them were 8 formal cases and 60 cases being investigated in connection with industry-wide inquiries involving manufacturers of battery chargers and of machine knives for paper-cutting machines.

During the year 96 investigations in connection with 36 Robinson-Patman Act matters were completed. As in previous years, the administration of the statute touched widely varied fields of industry and commerce and involved many classes of commodities.

The proceedings of the Commission and the decisions of the courts Robinson-Patman Act cases have served as useful guides for members of industries in determining their pricing and distribution policies. It is apparent that these guides have been beneficial both in effecting the voluntary elimination of unlawful or doubtful practices before they become the subjects of investigation and in discouraging the inception of such practices.

Clayton Act, section 3.--This section of the act has reference to exclusive-dealing contracts made upon condition that the buyer or lessee will not deal in the goods, wares, or merchandise of a competitor. There were 22 such cases awaiting investigation at the beginning of the fiscal year. Twelve additional cases were instituted, making a total of 34 on hand. Eighteen investigations of this type were completed for consideration and disposition by the Commission, leaving 16 pending on the active investigational calendar.

The following commodities were involved in these investigations : pressure cookers, corn products, riveting machines and rivets, motors and belting leather, and automobiles.

Included in the above figures are 11 completed matters which involved formal docketed cases. No cases of this type were pending at the close of the fiscal year.

Of the 34 exclusive-dealing contract investigations in progress during the fiscal year, some of the applications for complaint were filed by trade associations, some by newspaper companies, and others by the Commission on its own motion. The greatest number, however, resulted from complaints made by individuals, companies, and corporations alleging unfair practices which jeopardized their businesses.

Stock acquisitions, mergers, and consolidations.--The Commission and the Department of Justice are invested with concurrent jurisdiction to restrain violation of the Clayton Act. Section 7 of the act prohibits the direct or indirect acquisition by one corporation engaged in commerce of the stock or other share capital of another corporation engaged also in commerce, or the acquisition by a holding company of the stock or share capital of two or more corporations engaged in commerce, where the effect of such acquisitions, or the use of such stock, may be to substantially lessen competition between the acquiring and the acquired corporations, to restrain such commerce in any section or community, or to tend to create a monopoly of any line of commerce. The formation of subsidiary corporations for the actual carrying on of the immediate lawful business of the acquiring corporation and the acquisition of the capital stock thereof is excepted from the prohibition. The purchase of capital stock

solely for investment purposes, where the stock is not voted or otherwise used to bring about substantial lessening of competition, is also excepted. Neither

the acquisition of the property and assets of competing corporations nor the merger of the assets and businesses of competing corporations is prohibited by the statute, and the courts have held that the Commission is without authority to prevent such acquisitions or mergers notwithstanding their effect on competition and commerce or their tendency to create a monopoly.

There were six matters of this type pending at the beginning of the fiscal year 1948. One application for complaint was received and two matters were completed leaving five pending at the end of the year. The commodities involved were distillery products and plumbing pottery.

Investigations involving food, drugs, devices, and cosmetics.--In the administration of the Wheeler-Lea amendment to the Federal Trade Commission Act, special attention is given to representations concerning medicinal preparations and therapeutic devices, the use of which might be injurious to health.

Since enactment of the amendment, the Commission has completed 2,623 field investigations of alleged violations of section 12 of the act, which relates to false advertising of food, drugs, devices, and cosmetics. Of these, 194 were completed during the fiscal year. This number includes new cases as well as old cases reinvestigated to determine whether orders and stipulation-agreements to cease and desist were being violated, and whether additional practices not previously prohibited were being carried on in contravention of the law.

At the close of the year, 113 applications for complaint respecting allegedly false advertising of food, drugs, devices, and cosmetics were under investigation.

Wool Products Labeling Act.--Investigations of applications for complaint alleging violations of the Wool Products Labeling Act and of the regulations promulgated thereunder present many complex problems. It is necessary to identify accurately the true fiber content of wool products, the labeling of which is questioned, and to ascertain whether the false and improper labeling is willful and with intent to violate the criminal provisions of the law. In many instances the products must be traced through the various classes of traders handling them in order to determine who is primarily responsible for the alleged violations. It is also necessary in most cases to examine the records of manufacturers and others to identify accurately the various constituent fibers and to determine their weights in the products under investigation. Frequently laboratory tests are required.

Violations of the Wool Act generally are coupled with other unfair methods of competition or unfair and deceptive practices, such as false advertising and misrepresentation. Investigation and proceedings under both the Wool Act and the Federal Trade Commission Act are required in these cases.

Since the effective date of the act--July 14, 1941--there have been completed 248 field investigations of applications for complaint involving alleged violations of the Wool Products Labeling Act. Of these, 14 were completed during the 1948 fiscal year. Eight such applications were in the process of investigation as the year ended.³

³ For additional work under the Wool Act and the regulations, see p. 68.

Export Trade Act.--In its administration of the Export Trade (Webb-Pomerene) Act, the Commission directed the Legal Investigations Division to investigate the organization and operation of certain export-trade associations organized and functioning under the act, and in particular to ascertain whether they (a) are artificially or intentionally enhancing or depressing domestic prices; (b) are used to eliminate competition in the purchase of raw materials in the United States; (c) are in any way restraining trade within the United States; or (d) are engaging in unfair methods of competition in foreign trade.

Preliminary investigations were completed of the activities and operations of one export-trade association whose members are important producers and distributors of rubber. Investigations of three other associations were pending at the close of the year. These involved producers and distributors of alkali and lumber. 4

Industry investigations.--Continuing the policy established 2 years ago, the Commission directed that investigations be conducted on an industry-wide scale when practicable. Such investigations may be authorized by the Commission when it appears that there exist in an industry practices that may call for corrective action under any of the laws administered by the Commission. The purpose is to avoid, as far as possible, widely separated actions which might place some members of an industry in an unfair or disadvantageous position. Industry-wide investigations may terminate in a trade-practice conference, the simultaneous negotiation of stipulations, or in separate proceedings brought simultaneously against each member of an industry using the allegedly unlawful practice or method.

Six industry investigations were pending at the beginning of the fiscal year 1948; three were instituted during the year; and four were completed, leaving five pending as of June 30, 1948. The completed investigations covered the individual activities of 77 different concerns, as follows :

Industry :	<i>Number of companies investigated</i>
Cast iron soil pipe	35
Automobile dealers, New York	19
Automobile dealers, District of Columbia	21
Cheese	2
Total	77

SURVEY OF RADIO AND PERIODICAL ADVERTISING

Through its Division of Radio and Periodical Advertising, the Commission conducts expeditious investigations of certain cases involving false and misleading advertising violative of the Federal Trade Commission Act, as well as other types of cases not requiring field investigations, including certain industry-wide investigations.

The survey of advertising was inaugurated by the Commission in 1929. At that time it was limited to magazines and newspapers. Expanded in 1934 to cover radio

commercial continuities, it also has included, since 1939, mail-order catalogs and foreign-language news-

⁴ For further details of the administration of the Export Trade Act, see p.67.

papers, and early in 1948 it was extended to include commercial television broadcasts. Questioned advertisements noted in these surveys form the bases of prospective investigations, and also provide a means of determining whether advertisers are complying with orders and stipulations to discontinue false and misleading representations.

Where the advertising is determined by the Commission to be false or misleading, and circumstances warrant, the advertisers are extended the privilege of disposing of the matters through an informal procedure more fully explained on page 53, which permits their executing stipulations to cease and desist from the use of the acts and practices involved. A large majority of the cases are adjusted in this manner.

In matters involving advertising, the investigations cover the practices of all advertising agencies which participated in the preparation of the advertisements to determine whether they should be joined as parties in any corrective action by the Commission.

The only objective of the Commission's continuous survey of advertising is to prevent the dissemination of false and misleading advertising representations. It does not undertake to dictate what an advertiser shall say, but merely indicates what he may not say under the law.

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

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

Through such systematic calls during the fiscal year, the Commission procured 1,619 editions of representative newspapers of established general circulation and 1,173 editions of magazines and farm and trade journals of interstate distribution. These periodicals included 249 issues of farm journals, 159 issues of trade journals and specialty publications, and 10 issues of domestic foreign-language publications.

In these newspapers, magazines, and farm and trade journals, 308,544 advertisements were examined, of which 11,119 were noted as containing representations that appeared to warrant investigation as to the facts.

Mail-order advertising.--The Commission procured mail-order catalogs and circulars containing an aggregate of 12,903 pages, examination of which resulted in 325 advertisements being marked as containing possibly false and misleading representations. Of the 50 mail-order houses included in the survey, 5 had combined annual sales in excess of \$3,365,117,524.

Radio advertising.--The Commission has issued calls for commercial continuities from each individual radio station three times yearly since January 1, 1947. National and regional networks respond on a continuous weekly basis, submitting copies of the commercial advertising parts of all programs wherein linked hook-ups are used involving two or more stations. Producers of electrical transcription recordings each month submit typed copies of the commercial portions of all recordings produced by them for radio broadcast. This material is supplemented by periodic reports from individual stations listing the identities of recorded commercial transcriptions and related data.

The Commission received copies of 748,284 commercial radio broadcast continuities and examined 643,604. The continuities received amounted to 1,580,543 typewritten pages, and those examined totaled 1,423,515 pages, consisting of 538,950 pages of network script, 852,165 pages of individual station script, and some 32,400 pages of script representing the built-in advertising portions of transcription recording productions destined for radio broadcast through distribution of multiple pressings of such recordings to individual stations. An average of 5,582 pages of radio script was read each working day. From this material 8,819 advertising broadcast statements were marked for further study as containing representations that might be false or misleading.

Television advertising.--Mounting public interest as reflected in the accelerated sales of television receiving equipment, the actual operation of 28 television stations in highly populated metropolitan areas, and the issuance of 109 construction permits for additional stations, provided ample reason for the Commission's attention to this type of advertising. Therefore, during the first quarter of the calendar year 1948, the Commission initiated its coverage of television advertising.

Arrangements have been made to receive from television networks, as rapidly as they go into operation, weekly submittals of advertising script used during the course of network telecasts. In addition, individual television stations are scheduled to furnish four times yearly their commercial script on a "sampling" staggered basis for specified 15-day broadcast periods.

To assure expanding coverage as new television stations go into operation, contacts have been made with persons and companies authorized to construct television stations, and to proposed network groups, acquainting them with work of the Commission as it pertains to broadcast periods.

Cooperation of radio and publishing industries.--In general, the Commission has received the cooperation of the 4 Nation-wide network chains, 16 regional network groups, and transcription producers engaged in preparing commercial radio recordings; and of 1,244 commercial radio stations, 497 newspaper publishers, and 436 publishers of magazines, farm journals, and trade publications. It has observed a desire on the part of these broadcasters and publishers to aid in the elimination of false and misleading advertising.

Number of cases handled.--At the close of the year 572 cases were pending, as compared with 630 at the close of the previous fiscal year. During the fiscal year, 390 investigations were completed, and 332 new

investigations were initiated, 140 of which originated through the division's continuing survey of advertising, 46 through letters of complaint, and 146 by reference from the Commission. Settlement by stipulation was recommended in 43 cases; issuance of complaint in 2 cases.

Correspondence handled by the division during the year totaled 3,180 incoming pieces of mail and 9,175 outgoing pieces.

Procedure in advertising cases.--If it appears to the Commission that a published advertisement may be misleading, a contact letter is sent to the advertiser and request is made for a sample of the product advertised if this is practicable, and the quantitative formula if the product is a compound. Representative specimens of all advertising copy containing all claims made for the product during a 6-month period also are requested.

Upon receipt of these data, scientific opinions are obtained based upon the sample and formula. Then a list of the claims that appear to be false or misleading is sent to the advertiser, together with a statement based upon the scientific opinion. The advertiser is invited to submit informally by letter, in person, or by counsel evidence in support of his claims.

If, after a consideration of all available evidence, including that furnished by the advertiser, the questioned claims appear not to be false or misleading, the division reports the matter to the Commission with the recommendation that the case be closed. If it appears from the weight of the evidence in the investigational files that the advertising is false and misleading, the matter is referred to the Commission, through the Director of the Bureau of Legal Investigation, with a recommendation either that complaint issue or that negotiation of an appropriate stipulation-agreement to cease and desist be authorized.

Industry-wide investigations.--During the year, the Commission, through its Division of Radio and Periodical Advertising, completed industry-wide investigations of the simulated and cultured pearl industry, dealing with the advertising and promotional practices of 122 separate companies; and of the floor wax products industry, involving 107 manufacturers and distributors of floor wax. The division also completed a survey of advertising and promotional practices of manufacturers and distributors of 127 shampoos and scalp preparations.

At the close of the year, the division was conducting industry-wide investigations with respect to the advertising of manufacturers and distributors of wallpaper cleaning preparations, involving 18 companies; manufacturers and distributors of crib and carriage mattresses, involving 42 companies; and manufacturers and distributors of so-called orthopedic or "health" shoes involving 94 companies.

DISPOSITION OF CASES BY STIPULATION

Instead of disposing of cases by the formal complaint and trial method, the Commission under certain circumstances affords respondents the opportunity of signing a statement of facts and an agreement to cease and desist from most types of unfair methods of competition and unfair or deceptive acts or practices in commerce. The policy of the Commission with respect to stipulations of this type is set forth in

its Statement of Policy. (See p.113.)

I. COMPLAINTS UNDER FEDERAL TRADE COMMISSION ACT 41

During the fiscal year the Commission approved 99 stipulations. (See p. 53 for report of Bureau of Stipulations.)

FORMAL COMPLAINTS

During the fiscal year the Commission issued 70 formal complaints alleging violations of the laws it administers and reopened 1 case. Of these 71 cases, 53 charged violation of the Federal Trade Commission Act; 14, violation of the Clayton Act; 1, violation of the Federal Trade Commission and Clayton Acts; and 3, violation of the Wool Products Labeling and Federal Trade Commission Acts.

I. COMPLAINTS UNDER FEDERAL TRADE COMMISSION ACT

A. PRICE-FIXING COMBINATIONS AND RESTRAINT-OF-TRADE PRACTICES

[Complaints referred to are identified by accompanying docket numbers]

In each of six complaints issued by the Commission competing manufacturers and sales organizations were charged with combining, through their trade associations and otherwise, to fix prices and re-strain trade in the sale of their products. The products involved were steel (5508); bobbins (5543); coupons and tickets (5532); ply-wood (5529); fir doors (5528); and rubber heels and accessories (5527).

In complaint 5508, the American Iron & Steel Institute and 101 corporations controlling more than 95 percent of all the steel produced and sold in the United States were charged with combining and conspiring to promote and maintain monopolistic and noncompetitive prices and conditions in connection with the sale of their products. The complaint alleged that, among other unlawful practices, they collusively maintained a uniform basing-point, delivered-pricing system by which their price offers to purchasers at any given point were matched.

Another complaint (5531) charged a manufacturer of pressure cookers and canners with use of coercive practices to enforce exclusive dealing contracts. Violation of section 3 of the Clayton Act was also alleged in this complaint.

B. FALSE ADVERTISING AND MISREPRESENTATION

A total of 47 complaints charged false and misleading advertising. The majority may be classified broadly as follows, although some involved more than one classification:

Seven complaints alleged false and misleading representations with respect to the therapeutic properties of medicinal preparations and devices, and in some cases the advertisements also were alleged to be false and misleading because they failed to reveal the potential danger in the use of the advertised products; five charged misrepresentation with regard to the results to be obtained; seven, misrepresentations as to origin, composition, condition, quality, ingredients, or price; two,

misrepresentations in connection with the sale of correspondence school courses; four, misrepresentations in connection with so-called special offers or “free” goods; two, misleading use of trade name; one, misrepresentations concerning a so-called university as to size, status, and

advantages; and one misrepresentations as to demand, public acceptance, and terms of sale for an intercommunication device.

C. MISCELLANEOUS COMPLAINTS

Complaints issued under this heading alleged such practices as supplying and using lottery devices to promote the sale of merchandise; misrepresenting the demand for and guarantee on certain goods; the use of special "push money" sales schemes and disparagement of competitors' products; and misrepresentation in connection with the sale of magazines.

II. COMPLAINTS UNDER WOOL PRODUCTS LABELING ACT

Three complaints alleged that wool products were misbranded in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, in that they were not so labeled as to disclose the kinds and percentages of the different fibers of which the fabrics were made, including the respective percentages of wool, reprocessed wool, or reused wool, together with the identity of the manufacturer or distributor or reseller of the products (5506, 5510, and 5518). One of these also charged false and misleading advertising in violation of the Federal Trade Commission Act.

III. COMPLAINTS UNDER CLAYTON ANTITRUST ACT

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

Thirteen complaints alleged violation of section 2 (a), which prohibits discrimination in price when it may have adverse effects on competition. Ten of these involved confectionery products (5544 through 5553), while the others concerned rubber stamps (5516 and 5517) and a degreasing solvent (5526).

D. VIOLATION OF SECTION 2 (f) OF CLAYTON ACT, AS AMENDED BY ROBINSON-PATMAN ACT

Eleven complaints alleged violation of section 2 (c) , which prohibits, in connection with the interstate sale or purchase of merchandise, the granting by a seller or acceptance by a buyer of brokerage fees on purchases made for the buyer's own account. Ten of these involved confectionery products (5544 through 5553), and one, dried fruits (5534).

C. VIOLATION OF SECTIONS 2 (d) AND 2 (e) OF CLAYTON ACT, AS AMENDED BY ROBINSON-PATMAN ACT

In 10 complaints (5544 through 5553), respondents engaged in the manufacture and

sale of candy and confectionery products were charged with granting to certain customers discounts for alleged services and facilities rendered or benefits conferred, without making the same privilege available on proportionally equal terms to other competing customers. These acts and practices were alleged to be in violation of section 2 (d). Respondents were also charged with vio-

lating section 2 (e) by furnishing certain services and facilities to favored customers without making them available on proportionally equal terms to other competing customers.

D. VIOLATION OF SECTION 3 OF CLAYTON ACT

A manufacturer of pressure cookers and canners was charged with making sales contracts on the condition, agreement, and understanding that purchasers should not use or deal in competitive products (5531). Violation of the Federal Trade Commission Act was also alleged in this complaint.

ORDERS TO CEASE AND DESIST

The Commission during the fiscal year issued 73 orders to cease and desist from the use of unfair methods of competition and other violations of the laws it administers. The following cases are illustrative of the orders issued :

I. ORDERS UNDER FEDERAL TRADE COMMISSION ACT

A. PRICE-FIXING AND RESTRAINT-OF-TRADE CASES

Sheffield Farms Co., Inc., New York.--This respondent, one of the largest distributors of milk in the United States, was ordered to cease and desist from unfair competitive practices in connection with its purchase of milk products from organizations of milk producers. The order forbids the corporation to dominate or control any association of milk producers organized for the purpose of selling to the respondent, in any form or in any amount, the milk produced by members of the association, when, the object or the effect or such domination or control is to cause the association, or its officials, to act solely in the interest of or for the benefit of the respondent and to the detriment of the association. Attempts to dominate or control such an organization, together with specified practices tending toward such a result, are also prohibited by the order (4647).

Minneapolis -Honeywell Regulator Co., Minneapolis --This company, one of the largest manufacturers of automatic temperature controls in the United States, was ordered to cease and desist from practices which unlawfully tend to restrain, trade and create a monopoly. Among the practices prohibited were "tying" and exclusive-dealing contracts and patent-licensing agreements requiring that unpatented controls be purchased from Minneapolis-Honeywell or sold only at prices established by it (4920). (For that part of the order dealing with sec. 2 (a) of the Clayton Act, see p.45; for that part of the order dealing with Sec. 3 of the Clayton Act, see p.47,.)

Six orders to cease and desist from engaging in any combination or conspiracy to fix prices and restrain competition were issued against various groups of manufacturers, trade associations, and others. The respondents and products involved were : American Refractories Institute, St. Louis, and others (4900), refractory products; The Rubber Manufacturers Association, Inc., New York, and others (5448), rubber heels and soles; Structural Clay Products, Inc., Washington, and

others (5467), glazed facing the; Structural Clay Products, Inc., Washington, and others (5468), Sand-struck brick; Master Engravers Guild, Paterson, N. J., and others (5088), engravings and etchings used in the textile industry; and Pure Carbonic, Inc., New York, and others (5143), solid and liquid carbon dioxide.

B. FALSE ADVERTISING OF FOOD, DRUGS, DEVICES, AND COSMETICS

American Dietoids Co., Inc., Yonkers, N. Y., and others.--In this case the respondents were ordered to discontinue false advertising of 10 vitamin, medicinal and food preparations. In addition, the order requires that advertisements containing representations as to the effectiveness of some of the preparations in the treatment of certain symptoms must affirmatively disclose that the value of the products is limited to those cases in which the symptoms are due to certain specified conditions, and that such symptoms frequently arise because of other conditions for which the preparations will be ineffective (5070).

United Diathermy, Inc., Philadelphia.--Respondent was ordered to cease and desist from advertising a diathermy device unless the advertisements clearly reveal that its unsupervised use by laymen is not safe. Advertisements of the device must disclose that it is not safe to use unless competent medical authority has determined that its use is indicated and has prescribed the frequency of treatments, and the user has been trained in its use (4952).

M. A. Clemens (formerly trading as Clark's Drugs & Sundries), Los Angeles.--Respondent was ordered to cease and desist from disseminating any advertisements of male and female sex hormone preparations which fail to reveal that their unsupervised use by unskilled persons may result in serious injury (4968).

C. MISREPRESENTATION OF PRODUCTS OTHER THAN FOOD, DRUGS, DEVICES, AND COSMETICS

Sorbtex Foundation, Inc., Richmond, Va.--This respondent was ordered to cease and desist from representing that its chemical solution "Sorbtex" makes towels more absorbent, increases the dryability of towels, or causes towels to dry faster unless such representations be limited to towels prior to laundering. Other provisions of the order prohibit representations that effects produced by use of the product are permanent; that it remains in the fabric of towels after repeated laundering; and that it increases the tensile strength of towels (4989).

The Staffin Johns Co., Chicago.--The copartners composing this firm were ordered to cease and desist from representing that they are the world's largest manufacturers of baby bedding or from misrepresenting in any manner their size or production capacity. They are also required to stop claiming that their mattresses are recommended or prescribed by doctors or are manufactured under medical supervision (5120).

Blackstone College of Law, Inc., Chicago, and others.--This correspondence school was ordered to stop misrepresenting its status as an educational institution, its courses of instruction, and the number and qualification of its instructors. Representations forbidden by the order are to the effect that Blackstone is a large law school; that

it has a faculty of many well-known and scholarly instructors; that its methods of teaching or courses of instruction are comparable with those used by leading resident law schools; that it is a recognized or standard law school; or that it has been approved or given any rating by the Association of American Law Schools. Holding that the manner in which “purported degrees” are granted constitutes “an imposition and fraud upon the public and upon the Nation’s educational system,” the Commission ordered the respondents to stop issuing diplomas or degrees, other than so-called honorary degrees, unless the recipients have actually completed satisfactorily a regularly prescribed course of study under competent supervision. The respondents are also directed to stop “conferring or granting so-called honorary degrees where the sole or primary basis for such action is the payment by the recipient of a monetary consideration” (4929).

II. ORDERS UNDER WOOL PRODUCTS LABELING ACT

This act and the rules and regulations promulgated thereunder provide that woolen or purported woolen merchandise shall have attached thereto a stamp, tag, label, or other means of identification showing the kinds and percentages of the different fibers of which the product is made, including the respective percentages of wool, reprocessed wool, or reused wool; the maximum percentage of any non-fibrous loading or adulterating material used; the name of the manufacturer or qualified distributor of the product, or the manufacturers registered identification number and the name of the reseller. The label or a proper substitute must be on the article when it is delivered to the consumer. The following cases are illustrative of the orders issued :

Brooks Clothes, Pittsburgh.--The copartners in this retail clothing store were found to have mutilated or removed labels from certain garments which were later sold to the general public. These labels had been affixed by the manufacturers and contained the requisite information. The order requires the respondents to refrain from such practices and to stop selling woolen products which are misbranded because of the absence of the required labels (5518).

Harry Bank & Son, Philadelphia, and others.--The respondents in this case--one a manufacturer, the other a retailer of men’s trousers--were ordered to cease and desist from misbranding the products by failing to label them with the required information (5510).

III. ORDERS UNDER THE CLAYTON ANTITRUST ACT

A. VIOLATIONS OF SECTION 2(a) OF CLAYTON ACT, AS AMENDED BY ROBINSON-PATMAN ACT

Minneapolis-Honeywell Regulator Co., Minneapolis.--This respondent was ordered to cease and desist from discriminating in price between competing purchasers of automatic temperature controls and other furnace controls of like grade and quality, when the differences in price are not justified by differences in the cost of manufacture sale, or delivery resulting from differing methods or quantities in which such products

are sold or delivered (4920). (For that part of

the order dealing with sec. 3 of the Clayton Act, see p.47; for that part of the order dealing with sec. 5 of the Federal Trade Commission Act see p.43.)

Unity Stamp Co., Inc., New York.--This respondent was ordered to cease and desist from discriminating in the price of rubber stamps of like grade and quality by selling them to some purchasers at prices materially different from those charged other competing customers (5048).

Two manufacturers of candy and confectionery products were ordered to cease and desist from discriminating in the price of confectionery products of like quality and grade (where the price differences are not justified by cost differences) by selling to some purchasers at prices different from those charged other competing customers. These respondents were : Walter H. Johnson Candy Co., Chicago (4677), and The Curtis Candy Co., Chicago (4556 and 4673). (For part of the latter order dealing with sec. 3 of the Clayton Act, see p. 47; sec. 2 (d), see below; sec. 2(e), see p.47; and sec. 2 (f), see p.47.)

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

Five orders were directed against violations of the brokerage section of the Robinson-Patman Act, which prohibits, in connection with transactions in interstate commerce, the payment by a seller or acceptance by a buyer of brokerage fees or other compensation in lieu thereof on purchases made by such a buyer in his own behalf or by an agent or other intermediary acting for him or subject to his control.

Food dealers paying unlawful brokerage to buyers.--The respondents in three orders were directed, in connection with the interstate sale of seafood products, to cease and desist from paying to any buyer anything of value as a commission, brokerage or other compensation, or any allowance or discount in lieu thereof, upon purchases made by such buyer for his own account. The respondents named in the orders are : New England Fish Co., Seattle (5471); Ketchikan Packing Co., Ketchikan, Alaska, and others (5164); Columbia River Packers Association, Inc., Astoria, Oreg. (5033).

Dealers accepting unlawful brokerage from sellers.--The following two respondents, in connection with the interstate purchase of merchandise, were directed to cease and desist from accepting from any seller anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon purchases made for their respective accounts : Jesse C. Stewart Co. and others, Pittsburgh (5494); Gevertz Buying Corp. and others, New York (5501).

C. VIOLATION OF SECTIONS 2(d) AND 2(e) OF CLAYTON ACT. AS AMENDED BY ROBINSON-PATMAN ACT

The Curtiss Candy Co., Chicago.--This manufacturer of candy and confectionery products was ordered to cease and desist from paying certain purchasers for advertising or promotion services or facilities without making such payment available

to competing purchasers on proportionally equal terms. This practice was found to be in violation of section 2 (d).

III. ORDERS UNDER THE CLAYTON ANTITRUST ACT 47

The company was also ordered to cease and desist from furnishing services and facilities to some customers when such services or facilities are not accorded on proportionally equal terms to other competing purchasers. These practices were found to be in violation of section 2 (e) (4556 and 4673). (For part of the order dealing with sec. 2 (a) , see p.46; Sec. 2 (f) , see below; sec. 3, see below.)

D. VIOLATION OF SECTION 2 (f) OF CLAYTON ACT. AS AMENDED BY ROBINSON-PATMAN ACT

The Curtiss Candy Co., Chicago.--The order in this case directed that the respondent, in connection with the purchase of glucose used in the manufacture of its candy, cease and desist from knowingly inducing and receiving from any seller any discrimination in price, either directly or through discounts or allowances made by such means as booking practices or extension of delivery time (4556 and 4673). (For that part of the order dealing with sec. 2 (a) , see p.46; sec. 2 (d) , seep. 46; sec. 2 (e) , see above; and sec. 3, see below.)

E. VIOLATION OF SECTION 3 OF CLAYTON ACT

Minneapolis-Honeywell Regulator Co., Minneapolis.--The Commission ordered this manufacturer of automatic temperature controls to cease and desist from selling or contracting to sell primary controls on the condition, agreement, or understanding that the purchaser shall not use with them any limit controls or thermostats other than those acquired from the respondent or from some source authorized by the respondent (4920). (For part of the order dealing with sec. 5 of the Federal Trade Commission Act , see p.43; for part of the order dealing with sec. 2 (a) of the Clayton Act, seep. 45.)

The Curtiss Candy Co., Chicago.--The Commission ordered the respondent to cease and desist from selling or contracting to sell candy products on the condition, agreement, or understanding that purchasers shall not use or deal in competitive products, and from enforcing or continuing in operation or effect any condition, agreement, or understanding in connection with any existing contract of sale which is to the effect that the purchaser will deal in and sell only candy products supplied by the respondent (4556 and 4673). (For part of the order dealing with sees. 2 (a) , 2 (d) , 2 (e), and 2 (f) of the Clayton Act , see pp.46 and 47, respectively.)

CASES IN FEDERAL COURTS COMMISSION ACTIONS IN THE UNITED STATES SUPREME, CIRCUIT, AND DISTRICT COURTS

During the fiscal year there were 20 cases in the United States Supreme Court and circuit courts of appeals in which the Commission was a party.

Rulings favorable to the Commission were obtained in six cases in circuit courts of

appeals and in two cases in the Supreme Court. Three cases in circuit courts of appeals were dismissed by stipulation. There were no decisions adverse to the Commission during the fiscal year.

In each of two cases in which circuit courts of appeals approved Commission actions, the Commission's orders to cease and desist were

813610-49----5

dismissed as to one petitioner. In one of the cases in the Supreme Court the Commission's order was slightly modified.

At the end of the fiscal year there were no cases pending in the Supreme Court, but nine petitions to review cease-and-desist orders were pending in circuit courts of appeals.

One writ of certiorari was granted to the Commission; by the Supreme Court; none was granted to others. Six petitions to review Commission orders to cease and desist were filed in circuit courts of appeals.

Although one petition for rehearing filed by the Commission in a circuit court of appeals was denied, that court was later reversed by the Supreme Court. The Supreme Court denied one petition for rehearing on a decision in that court favorable to the Commission. Three petitions for rehearings in circuit courts of appeals to reverse decisions affirming Commission orders were denied.

Four civil penalty involving violations of orders to cease and desist, were pending in United States district courts at the end of the fiscal year.

Two proceedings were brought by the Attorney General at the Commission's request in the United States District Court for the Northern District of Illinois, seeking mandatory injunctions to compel two corporations to file special reports under section 6 (a) and (b) of the Federal Trade Commission Act, and also judgments of \$100 for each day they have failed to file the reports. A petition to review a similar order requiring a special report was filed in a circuit court of appeals by another corporation. These three matters were pending as the fiscal year ended.

PETITIONS TO REVIEW CEASE AND DESIST ORDERS

Cases in United States circuit courts of appeals and in the Supreme Court involving Commission cease and desist orders are summarized below. (Except where otherwise indicated, cases involve violation of the Federal Trade Commission Act. Circuit courts of appeals are designated as First Circuit (Boston), etc.)

CASES DECIDED BY THE COURTS

Allied Paper Mills, Kalamazoo, Mich., and others.--The Seventh Circuit (Chicago) affirmed the Commission's order prohibiting a combination in restraint of trade in the sale of book print and coated paper, except as to Consolidated Water Power & Paper Co.

Amasia Importing Corp., New York.--The Second Circuit (New York) dismissed the petition to review in accordance with stipulation of counsel. This case involved charges of misrepresentation of women's girdles.

American Association of Law Book Publishers, Rochester, N. Y., and others.--The Second Circuit (New York) affirmed the Commission's order against a price-fixing combination in the sale of lawbooks and legal publications, except as to Frank Shepherd Co. A petition for rehearing was denied.

A. P. W. Paper Co., Inc., Albany, N. Y.--This case was remanded to the Commission during the previous fiscal year for modification of its order banning use of the Red Cross name and symbol in the sale of toilet tissue and paper towels. During the fiscal year 1948, the

modified order, permitting qualified use of the Red Cross name and symbol, was submitted to the Second Circuit (New York) and was affirmed.

The Cement Institute, Chicago, and others.--The Supreme Court of the United States reversed the Seventh Circuit (Chicago) and affirmed the Commission's order to cease and desist from a Nationwide combination and conspiracy to restrain price competition in the sale of Portland cement and to discriminate in price through the agreed use of a multiple basing-point, delivered-price system and other collusive practices. Petitions for rehearing were denied.

Consumers Home Equipment Co. and others, Detroit.--The Sixth Circuit (Cincinnati) affirmed the Commission's order prohibiting false and misleading representations as to silverware, mattresses, and other household goods.

Morton Salt Co., Chicago.--The Seventh Circuit (Chicago) denied the Commission's petition for rehearing. The Supreme Court granted a writ of certiorari, reversed the Seventh Circuit and affirmed the Commission's order against price discrimination in the sale of salt in violation of section 2 (a) of the Robinson-Patman Act.

Ox'O-Gas Co., New York.--The Second Circuit (New York) dismissed the petition to review in accordance with stipulation of counsel. This case involved misrepresentation in connection with the sale of gasoline and gasoline intensifiers.

Edward P. Paul & Co., New York.--The United States Court of Appeals for the District of Columbia affirmed the Commission's order forbidding false and misleading advertising of lamps, dishes, and other articles. A petition for rehearing was denied.

Scotch Woolen Mills, Chicago.--The Seventh Circuit (Chicago) modified the Commission's order to cease and desist and dismissed the petition for review in accordance with stipulation of counsel. The charge was misrepresentation of the petitioner's business status and of the place of origin of men's clothing.

Triangle Conduit & Cable Co., Elmhurst, N. Y., and others (Rigid Steel Conduit Association).--The Seventh Circuit (Chicago) affirmed the Commission's order against a price-fixing combination in the sale of rigid steel conduit, involving the use, among other matters, of a basing-point, delivered-price system. A petition for rehearing was denied.

CASES PENDING IN THE COURTS

Alberty Food Products, and others, Hollywood, Calif.--United States Court of Appeals for the District of Columbia, misrepresenting the therapeutic properties of food and drug products.

Canute Co., Milwaukee.--Seventh Circuit (Chicago), false and misleading advertising of Canute Water, a hair dye.

Decker Products Co. and others, Pelham, N. Y.--United States Court of Appeals for the District of Columbia, false and misleading advertising of "Vacudex," a device represented to save gasoline.

Elgin Razor Corp., Chicago, and others.--Seventh Circuit (Chicago), false and misleading advertising in sale of razors, clocks, and other merchandise. (Petition for

review filed by Jack Galter and others.)

Hillman Periodicals, Inc., and others, New York.--Second Circuit (New York) ,
misrepresentation in the sale of books.

Minneapolis-Honeywell Regulator Co., Minneapolis, Minn.--Seventh Circuit (Chicago), sales practices which tend to restrain trade and to create a monopoly in the sale of automatic temperature controls in violation of the Federal Trade Commission Act and sections 2 (a) and 3 of the Clayton Act.

Standard Oil Co. (an Indiana corporation), Chicago.--Seventh Circuit (Chicago), price discrimination in the sale of gasoline in violation of the Clayton Act.

Tag Manufacturers Institute, New York, and others.--First Circuit (Boston), conspiracy to fix prices and otherwise restrain competition in sale of tags and tag products.

United States Steel Corp., New York, and others.--Third Circuit (Philadelphia) and Fifth Circuit (New Orleans), use of "Pittsburgh-plus" basing-point system of fixing prices for rolled-steel products in alleged violation of the Clayton Act and the Federal Trade Commission Act.

PENDING CASES INVOLVING SPECIAL ORDERS OF THE COMMISSION

The following cases involve orders issued by the Commission under sections 6 (a) and (b) of the Federal Trade Commission Act :

Morton Salt Co., Chicago, and International Salt Co., Scranton, Pa.--United States District Court, Northern District of ILLINOIS (Chicago) ' initiated by the Attorney General at the Commission's request seeking mandatory injunctions and forfeitures of \$100 per day for failure to file special reports.

General Foods Corp., New York.--Seventh Circuit (Chicago), petition for review of order requiring a special report, and for interim stay of proceedings before the Commission.

TABLES SUMMARIZING LEGAL WORK OF THE COMMISSION AND COURT PROCEEDINGS, 1915-48

TABLE 1.--*Applications for complaints*

FISCAL YEAR ENDED JUNE 30, 1948 TO JUNE 30, 1948		CUMULATIVE SUMMARY, 1915	
Pending beginning of year	1,140	Applications docketed	21,783
Applications docketed	884	Previous action reconsidered :	
Previous action reconsidered :		To complaints	10
To complaints	0	Settled by stipulation to cease	
Settled by stipulation to cease		and desist	240
and desist	15	Settled by acceptance of TPC	
Settled by acceptance of TPC		rules	12
rules	6	Consolidated with other pro-	
Consolidated with other pro-		ceedings	1
ceedings	0	Dismissed	81
Dismissed	0	Closed without further proceed-	
Closed without further proceed-		ings 1	45
ings 1	0	Total for disposition	
22,172			
Total for disposition	2,045		
		To complaints	
5,059		Settled by stipulation to cease and	
To complaints	66		

Settled by stipulation to cease and desist	99	desist	6,773
97		Settled by acceptance of TPC rules	
Settled by acceptance of TPC rules	0	Consolidated with other proceedings	180
Consolidated with other proceedings	8	Dismissed	3,863
Dismissed	0	Closed without further proceedings ¹	4
Closed without further proceedings ¹	494	Total disposition	20,794
Total disposition during year	667	Pending June 30, 1948	1,378
Pending end of year	1,378		

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

TABLE 2.-*Complaints*

FISCAL YEAR ENDED JUNE 30, 1948		CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1948	
Pending beginning of year	392	Complaints	5,573
Complaints docketed	70	Previous action reconsidered :	
Previous action reconsidered :		Orders to cease and desist	70
Orders to cease and desist	1	Settled by stipulation to cease and desist	1
Settled by stipulation to cease and desist	0	Dismissed	12
Dismissed	0	Closed without further proceedings	12
Closed without further proceedings	0	Total for disposition	5,658
Total for disposition	463		
		Complaints rescinded	12
Complaints rescinded	0	Orders to cease and desist	3,964
Orders to cease and desist	73	Settled by stipulation to cease and desist	75
Settled by stipulation to cease and desist	9	Settled by acceptance of TPC rules	40
Settled by acceptance of TPC rules	2	Dismissed	1,009
Dismissed	34	Closed without further proceedings 1	238
Closed without further proceedings 1	25	Total disposition	5,338
Total disposition during year	143	Pending June 30, 1948	320
Pending end of year	320		

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

TABLE 3.--*Court proceedings--orders to cease and desist--petitions for review to circuit courts of appeals*

FISCAL YEAR ENDED JUNE 30, 1948		CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1948	
Pending beginning of year	11	Appealed	381
Appealed	6	Resubmitted (remand)	1
Resubmitted (remand)	1	Total for disposition	382
Total for disposition	18		
		Decisions for Commission	200
Decisions for Commission	6	Decisions for others 1	103
Decisions for others	0	Petitions withdrawn	68
Petitions withdrawn	3	Cases remanded to Commission	2
Cases remanded to Commission	0	Total disposition	373
Total disposition during year	9	Pending June 30, 1948	9
Pending end of year	9		

1 This table lists a cumulative total of 103 decisions in favor of respondents in Commission cases before the United States circuit courts of appeals. However, the Grand Rapids furniture (vener) group (with 25 different docket numbers) was in reality 1 case, with 25 different subdivisions. It was tried, briefed, and argued as 1 case and was so decided by the court of appeals. The same held true of the curb-pump group (with 12 different subdivisions), the Royal Milling Co. group (with 6 different subdivisions), and the White Pine cases (12 subdivisions). In reality, therefore, these 55 docket numbers mean but 4 cases ; and, if cases and not docket numbers are counted, the total decisions in favor of the respondents would be 52.

NOTE.--During the fiscal years 1919-48, inclusive, 60 petitions by the Commission for enforcement of orders to cease and desist were passed upon by courts. Of these proceedings, 56 were decided in favor of the Commission ; 4 in favor of adversaries. Petitions for enforcement of orders issued under the Federal Trade Commission Act were made unnecessary by amendment of the Federal Trade Commission Act (Mar.21, 1938) making orders finally effective unless review is sought by respondents within 60 days after service of an order.

TABLE 4.--*Court proceedings--orders to cease and desist--petitions for review to the Supreme Court of the United States*

FISCAL YEAR ENDED JUNE 30, 1948		CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1948	
Pending beginning of year	1	Appealed by Commission	50
Appealed by Commission	1	Appealed by others	55
Appealed by others	0	Total for disposition	105

Total for disposition	2	Decisions for Commission	31
Decisions for Commission	2	Decisions for others	15
Decisions for others	0	Petitions withdrawn by Commission	2
Petitions withdrawn by Commission	0	Certiorari denied Commission	9
Certiorari denied Commission	0	Certiorari denied others	48
Certiorari denied others	0	Total disposition	105
Total disposition during year	2	Pending June 30, 1948	0
Pending end of year	0		

52 ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION , 1948

TABLE 5.--*Court proceedings--madamus, injunction, etc.--district courts and circuit courts of appeals*

FISCAL YEAR ENDED JUNE 30, 1948		CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1948	
Pending beginning of year	0	Instituted by Commission	74
Instituted by Commission	2	Instituted by others	43
Instituted by others	1	Total for disposition	117
Total for disposition	3		
		Decisions for Commission	83
Decisions for Commission	0	Decisions for others	18
Decisions for others	0	Petitions withdrawn by Commission	5
Petitions withdrawn by Commission	0	Petitions withdrawn by others	7
Petitions withdrawn by others	0	Cases remanded to Commission	1
Cases remanded to Commission	0	Total disposition	114
Total disposition during year	0	Pending June 30, 1948	3
Pending end of year	3		

TABLE 6.--*Court proceedings--mandamus, injunction, etc.--Supreme Court of the United States*

FISCAL YEAR ENDED JUNE 30, 1948		CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1948	
Pending beginning of year	0	Appealed by Commission	9
Appealed by Commission	0	Appealed by others	4
Appealed by others	0	Total for disposition	13
Total for disposition	0		
		Decisions for Commission	3
Decisions for Commission	0	Decisions for others	5
Decisions for others	0	Certiorari denied Commission	1
Certiorari denied Commission	0	Certiorari denied others	4
Certiorari denied others	0	Total disposition	13
Total disposition during year	0	Pending June 30, 1948	0
Pending end of year	0		

PART III. SETTLEMENT OF CASES BY STIPULATION

CORRECTIVE ACTION THROUGH INFORMAL CONFERENCES

Through its Bureau of Stipulations, the Commission affords businessmen an opportunity to settle by agreement, without the necessity of formal adversary proceedings, certain types of cases¹ involving unfair methods of competition or unfair or deceptive practices.

To this bureau, consisting of a Director, an Assistant Director, a staff of attorney conferees, and a small clerical force, the Commission refers all cases considered appropriate for settlement by Stipulation. The bureau takes no part in the investigation or prosecution of any matter. Instead, its procedure is to serve upon the proposed respondent in any case so referred a statement of the practices which the Bureau of Legal Investigation recommends should be discontinued as being violative of law. The proposed respondent may reply by letter or confer in person or through an authorized representative with the Director of the Bureau of Stipulations or with a designated attorney-conferee. Usually these conferences are presided over by an attorney-conferee. Participants in these informal hearings, besides the proposed respondent and his representatives include one or more representatives of the Bureau of Legal investigation and any other interested bureaus. Through frank, informal, and thorough discussion of the facts and the issues involved, amicable settlements may be reached whereby unfair and deceptive practices are eliminated in the public interest on a cooperative basis. As to charges deemed to have been substantially proved, a stipulation of facts and agreement to cease and desist from the practices in question is forthwith drafted, signed, and presented to the Commission for its consideration in settlement of the case. Or this informal hearing may result in a recommendation for closing the case in whole or in part, or for such other action as appears to be in accordance with law and the public interest.

Whenever it appears in the course of negotiations for a stipulation that the practices charged are generally in use in the industry involved, the bureau recommends the institution of investigations on an industry-wide basis. The objective is to provide uniform and concurrent voluntary corrective action, if any action is indicated, applicable to all the members of the various industries, so that all may be placed on an equal competitive basis.

The Bureau of Stipulations is also charged with the duty of obtaining from parties who have entered into voluntary agreements to cease and desist reports showing in detail the manner and form of their compliance.

During the fiscal year, upon the recommendation of the bureau, the Commission disposed of 231 cases as follows :

¹ The policy of the Commission with respect to disposition of cases by stipulation is set forth in its Statement of Policy on p. 113.

Accepted executed stipulations	1	152
Closed without prejudice		53
Referred for further investigation		13
Directed issuance of complaints		12
Placed on suspense		1
Total		231

¹This figure includes 53 amendment stipulations.

A recapitulation of the bureau's work during the fiscal year follows :

Cases pending June 30, 1947		88
Cases referred to bureau during fiscal year		263
Total for disposition		351
Cases disposed of during fiscal year		231
Balance	1	120

¹ 11 additional stipulations were negotiated and accepted by the Commission, which were not wholly dispositive of the cases in which the stipulations were obtained, but which cases were completed and disposed of so far as the Bureau of stipulations is concerned, and are therefore no longer pending. With this adjustment, cases pending in the bureau July 1, 1948, totaled 109.

PART IV. TRADE PRACTICE CONFERENCES

ESTABLISHMENT AND ADMINISTRATION OF TRADE PRACTICE RULES FOR INDUSTRIES

Trade practice conferences provide a means whereby members of an industry may cooperate with the Commission in the establishment of rules for the prevention on an industry-wide basis of unfair competitive practices.¹ Rules promulgated under this procedure define and catalog unfair methods of competition and other unlawful business practices. In the establishment of these rules, industry members and other interested and affected parties, including consumer representatives, are given full opportunity to express their views regarding the proposed rules, including opportunity to be heard at public hearings.

Being industry-wide in scope, conference proceedings serve to place all industry members on a fair and equal competitive basis. The procedure provides a common ground upon which competitors may meet and freely discuss practices which are unfair or harmful or otherwise contrary to the public interest. It thus becomes possible for members of an industry voluntarily to abandon condemned and questionable practices in an atmosphere of mutual understanding and confidence. Through cooperative action, observance of the law is effectuated in a wide area of business activity, with resulting economies in the cost of law enforcement both to Government and to industry.

The work of administering promulgated rules is directed to the maintenance of active cooperation between the industry and the Commission in promoting voluntary observance of the rules and in ascertaining new industry situations which may require amendment of the rules or other action. Industry members are afforded guidance designed to assure business conduct in accordance with law.

Trade practice conference procedure.--The procedural requirements applicable to proceedings for establishment of trade practice rules are covered in the Commission's Rules of Practice. (See p.109.) Trade practice conference proceedings may be instituted by the Commission upon its own motion or upon application by an industry whenever this action appears to the Commission to be in the public interest. Any interested party or group in an industry, large or small, may apply to the Commission for the institution of such proceedings. When a conference is authorized, industry representatives are invited to meet together to discuss proposed rules.

At all stages of the proceedings, members of the staff are available to aid industry representatives in working out constructive solutions of problems encountered in conforming trade practices to the law.

¹ The Commission policy with respect to settlement of cases by means of this procedure is set forth at

Before promulgation of trade practice rules, public hearings are held to give all interested or affected parties or groups, including members of the general public, opportunity to present their views, suggestions, or objections.

GROUP I AND GROUP II RULES EXPLAINED

The public as well as honest business is entitled to the benefits which flow from fair competition. Trade practice rules may include not only provisions for the elimination of practices which are illegal per se or conducive to unfair competitive conditions in the industry, but also provisions for fostering and promoting fair competition in the public interest. The Commission classifies promulgated rules as group I and group II rules, respectively.

Group I rules.--Rules in this category embrace trade practices considered illegal under laws administered by the Commission, as construed in the decisions of the Commission and the courts, and include unfair methods of competition and unfair or deceptive acts and practices. The Commission is empowered to take appropriate action in the public interest to prevent the use of these unlawful practices in commerce by any person, partnership, corporation, or other organization subject to its jurisdiction.

Group II rules.--These rules are wholly voluntary as distinguished from the mandatory requirements expressed in group I rules. They embrace industry practices to be encouraged as promotive of fair competition, or condemned as being conducive to unfair competitive conditions although not per se illegal. The Commission will not accept for promulgation such an industry rule unless the provision is in harmony with law and the public interest.

CONFERENCE AND RULE MAKING ACTIVITIES DURING YEAR

Besides conference proceedings resulting in the promulgation of rules for four industries during the fiscal year, proposed rules for four other industries were released and public hearings held thereon. Formal trade practice conferences were held for five other industries. In all, seven formal conferences and a like number of public hearings were held. Other pending and newly instituted proceedings progressed to various stages of completion by the end of the fiscal year. In addition, practices of other industries were surveyed, and informal preliminary conferences were held with industry representatives looking toward the initiation of conference proceedings.

Trade practice rules, specifically applicable to the problems of each industry concerned and covering a wide variety of practices, were promulgated for four industries which have an estimated annual volume of business aggregating more than a billion dollars. These rules are summarized below :

Rules for the watch case industry.--Defining and inhibiting various trade practices as unfair, these rules include comprehensive specifications for the proper marking of watch cases to reveal their true metal composition so that purchasers may be correctly informed and deception prevented. The rules provide that the precious metal content

of watch cases represented as being composed of or coated with gold

or gold alloy is not to fall below a specified minimum fineness. Cases made of alloys which do not meet this minimum are to bear markings disclosing the deficiency. Purchasers may also learn from the mark whether the watch case is made of precious metal throughout or merely "filled," "plated," or otherwise "coated" with precious metal. Other provisions define proper use of such terms as "gold filled," "rolled gold plate," and "gold electroplate."

Additional rules cover such proscribed practices as fictitious pricing; deception as to foreign origin of product; misrepresentation of character of business; imitation of trade-marks and trade names; use of misleading or warranties; misuse of certain significant words and phrases; use of lottery schemes; commercial bribery; deceptive selling of used, refinished, or second-hand products; false invoicing; full-line forcing; unlawful discriminations in prices, rebates, discounts or allowances; and various types of false advertising and deceptive selling.

Rules for the office machine marketing industry.--Members of this industry engage in the marketing of typewriters, stenotype machines, bookkeeping machines, adding machines, addressing machines, calculating machines, duplicating machines, autographing registers, and dictating machines, as well as other mechanical devices used in the performance of or training for office work. In addition to defining practices which are to be avoided as unfair, the rules contain minimum specifications for the proper use of such terms as "demonstrator," "factory rebuilt" "rebuilt," "reconditioned," and "overhauled" as applied to typewriters. They include inhibitions against the sale of typewriters as "new" when they have been utilized as demonstrators or otherwise used to such an extent as to make it improper to classify them as new. These and other provisions afford specific guidance, on an officially recognized basis, for eliminating misunderstanding, confusion, deception, and unfair methods of competition.

Rules for the wholesale confectionery industry.--This industry consists of some 8,000 wholesalers engaged in the sale and distribution of candy, chewing gum, and related confectionery products. Rules for this industry are designed to prevent such unfair practices as use of lottery schemes; imitation of trade-marks and trade names; misuse of the word "free"; misrepresentation as to character of business; deception through failure to differentiate between wholesale and retail transactions; deception as to available supply of advertised merchandise; false invoicing; coercing purchase of one product as a pre-requisite to the purchase of other products; combination or coercion to fix prices, suppress competition, or restrain trade; and prohibited discrimination in prices, discounts, or allowances.

Rules for the hand knitting yarn industry.--These rules are directed to the maintenance of free and fair competition and the elimination of unfair or deceptive practices and other trade abuses in an industry whose annual volume of sales at retail prices exceeds \$40,000,000. Of special public interest are provisions inhibiting misrepresentation as to weight and measure and specifying the maximum amount of absorbed moisture which may be included in the declared weight of consumer units of yarn. Other rules afford guidance as to the use of such terms as "Zephyr," "Tweed,"

“Crepe,” “Cashmere,” “Mohair,”

and "Angora," as descriptive of yarn, and call for proper disclosure of fiber or material content. Additional inhibitions relate to such practices as commercial bribery; unfair consignment distribution; exclusive dealing; imitation or simulation of trade-marks and trade names of; defamation of competitors or disparagement of their products ; and illegal discrimination.

PENDING TRADE PRACTICE PROCEEDINGS

Pending conference proceedings in which public hearings were held during the year relate to the following industries : fountain and mechanical pencil, baby chick, rendering, and hosiery. Industries for which trade practice conferences were held during the year include the following: rayon, nylon, and silk converting, fountain pen and mechanical pencil, fine and wrapping paper distributing, water resistant fabrics and apparel, trade pamphlet binding, and handkerchief.

In other conference proceedings--some initiated upon industry application and others upon the Commission's own motion--such preliminary steps as studying and surveying industry practices, holding informal conferences with representatives of various industry groups, and conducting the necessary correspondence, had been undertaken preparatory to formal conferences.

ADMINISTRATION OF RULES

At the close of the fiscal year there were under administration promulgated rules for over 160 industries, comprising some 2,500 separate rule provisions. Rule administration embraces all cooperative compliance activities, including interpretation of the rules in their application to diversified industry situations. During the fiscal year, activities in this field were conducted to the extent possible with the personnel available. The results are reflected in many instances in which unfair practices have been eliminated through cooperative effort without resort to compulsory proceedings. In addition to general rule administration, several industries received special consideration.

Luggage and related products industry.--Some 50 firms engaged in the manufacture, sale, or distribution of small leather goods, such as billfolds, key cases, and coin purses, were afforded opportunity to correct voluntarily labeling which were contrary to the industry rules. The results achieved demonstrate a primary objective of trade-practice proceedings; that is, the wholesale elimination of unfair competitive practices by voluntary action.

Hosiery industry.--These rules are of an active type requiring constant administration. Among other hosiery matters handled during the year was the question presented by the industry respecting the propriety of applying the term "gauge" to circular-knit or seamless hose. This necessitated a conference-hearing to consider the interpretation of the rule in question, and what amendment, if any, was required. The inquiry entailed considerable research, correspondence; and some field investigation.

Radio receiving set manufacturing industry.--A special problem in this industry concerned the reported use by several industry members of various types of sales promotional plans under conditions condemned as unfair in the industry rules. These members were advised of the objectionable features of their sales promotional plans and were afforded the opportunity of voluntarily discontinuing them. In every instance observance of the requirements was accomplished expeditiously without resort to litigation.

Watch rules (respecting use of such designations as "waterproof," "shockproof," and "nonmagnetic")--Special consideration was also given to problems arising under these rules. Through cooperative compliance activities, the advertising and marking practices of industry members were substantially improved during the year, particularly with regard to use of the terms "waterproof," "watertight," "moistureproof," "shockproof," "shock protected," and "nonmagnetic" as applied to watches, watch cases, and watch movements.

Artificial limb industry.--These rules have as their principal objective the protection of some 600,000 physically handicapped persons in the United States against the harmful effects of deceptive trade methods and monopolistic practices in the sale of artificial limbs or other prosthetic devices. A survey of the promotional literature of industry members was completed during this fiscal year to determine the degree of compliance with rules inhibiting misrepresentation and deceptive sales methods. This survey was followed by corrective action wherever necessary to obtain full observance of the rules.

Masonry waterproofing products industry.--Advertising and labeling practices in this industry were examined, and cooperative compliance with the rules was brought about through informal conferences and correspondence. Exaggerated and deceptive claims as to the effectiveness of industry products were among the unfair trade practices corrected through this administrative compliance work.

Other industry rules receiving special attention.--Other rules receiving special attention during the fiscal year include those for the following industries: Fur, household fabric dye, linen, musical instrument and accessories, rayon, shrinkage of woven cotton yard goods, watch case, and wholesale jewelry.

TYPES OF PRACTICES COVERED IN PROMULGATED RULES

The following are illustrative of the variety of subjects covered by trade practice rules now in effect

Misrepresentation in various forms, including false or misleading advertising; misbranding; defamation of competitors or disparagement of their products; commercial bribery in purchasing or selling supplies; inducing breach of competitor's contract; false invoicing; imitation of competitor's trade-marks or trade names; substituting inferior products for those ordered; lottery schemes; use of consignment distribution to close competitor's trade outlets; enticing away employees of a competitor; giving "push money" or gratuities under circumstances involving commercial bribery, deception, or restraint of trade; full-line forcing as a monopolistic weapon; combination or conspiracy to fix prices, suppress competition, or restrain trade; unfair bidding methods; discriminations in price, services, or facilities, such

discrimination effected through rebates, refunds, discounts, credits, returns, or other means; prohibited brokerage or commissions; making advertising or promotional allowances or furnishing services or facilities without according them to all customers on proportionally equal terms; and aiding or abetting another in the use of unfair trade practices.

Other subjects covered in the rules are : Use of slack-filled or short-weight containers, or those of odd size simulating standard and generally recognized types; use of deceptive photographs or engravings in describing industry products; use of false or misleading guarantees, warranties, price quotations, price lists, or terms of sale; misrepresentation as to possible earnings or opportunities afforded on completion of correspondence school courses, or as to Government connection with, or indorsement of, any school or the training or services offered; falsely representing offers as "special" or "limited" ; misrepresenting regular lines of merchandise as "close-outs" to induce belief that bargains are available ; misrepresenting products as conforming to recognized industry standards ; misrepresenting kind, quality, thickness, or backing of mirrors ; use of fictitious animal designations in descriptions of furs ; misrepresenting character , extent, or type of business engaged in ; misrepresentation as to installment sales contracts, their terms and conditions; representing retail prices as wholesale, or deception through failure to differentiate between wholesale and retail transactions ; use of false or misleading testimonials, guar-an tees, or warranties ; use of "blind" advertisements in such manner as to mislead or deceive ; representing domestic products as imported or imported products as domestic; use of misleading or deceptive representations in procuring sales representatives; use of deceptive titles or names in selling book s under the subscription plan; false representations respecting tube capacity of radio sets and their range or receptivity; and short weight, short measure, and misrepresentation as to quantity or linear measure of hand knitting yarn.

The rules also cover the following : Misuse of terms such as "perfect," "perfect cut," "commercially perfect," "real," "genuine," or "natural" in describing precious stones or their imitations ; deceptive use of word "Crookes" as applied to sun glasses ; improper use of terms "pullorum tested" and "blood tested" as applied to baby chicks; misuse of words "all fabric," "all purpose," "fast," "fadeless," "fade-proof," "unfadeable," "sunfast," or "wash-fast" as descriptive of products of the household fabric dye industry ; deceptive use of such terms as "all-wave," "world-wave," or "world-wide wave" with reference to radio receiving sets ; improper use of words "bristle" and "pure bristle" in the sale of toilet brushes ; misuse of terms "extra fancy," "extra select," "extra quality," "deluxe," or "choice" to describe tuna-fish products ; improper use of words "lisle cotton" or "cotton lisle" as applied to hosiery products ; deceptive use of terms "hand woven," "hand loomed," "hand printed," and "hand embroidered" in describing linen products ; misuse of term "waterproof" as applied to watches, watch cases, or watch movements, or to luggage or related products, or to masonry waterproofing products, or of the expression "water resistant" to describe watches, watch cases, or watch movements or masonry waterproofing products, or of the words "water repellent"

as descriptive of watches, watch cases, or watch movements, or of luggage or related products ; improper use of terms “water tight,” “moistureproof,” or “water sealed” as applied to watches, watch cases, or watch movements, or to masonry waterproofing products; misuse of terms “vaporproof,” “dampproof,” “dampproofing,” “damp-resistant,” “weatherproof,” “weatherproofing,” “perpetual,” “everlasting,” “eternal,” “permanent,” or “permanently” to describe products of the masonry waterproofing industry ; deceptive use of words “water protected,” “shockproof,” “shock protected,” “shock absorbing,” “shock resistant,” “unconditionally shock resistant,” “jarproof,” “nonmagnetic,” or “antimagnetic” in referring to watches, watch cases, or watch movements ; misuse of words “dustproof” or “warp-proof” as applied to luggage and related products ; misuse of terms “new,” “demonstrator,” “factory rebuilt,” “rebuilt,” “remanufactured,” “reconditioned,” and “overhauled” as descriptive of typewriters; misuse of words “zephyr,” “tweed,” “crepe,” “cashmere,” “mohair,” “angora rabbit,” and “angora rabbit hair” as applied to hand knitting yarns; and improper use of terms “rolled gold plate,” “gold plated,” “plate,” “plated,” “gold fill ed,” “gold electroplated,” “gold electroplate,” gold,” “karat gold,” “karat,” “carat,” “sterling,” “sterling silver,” “silver,” “solid silver,” “sterline,” “duragold,” “dirigold,” “noblegold,” “goldine,” and “miragold” in connection with watch cases.

Subjects embraced in other rules include : Exclusive or preemptive deals to eliminate or suppress competition ; improper use of demonstrators and payment of “spiffs” or “push money” in the sale of industry products; deceptive concealment of name of sponsor and other pertinent information respecting product offered for sale ; persuading distributors to refrain from submitting independent bids and price quotations to buyers; coercing adherence to published rental rates or trade-in values ; furnishing property on condition of exclusive right to service the same ; deception of customers of competitors as to identity ; and prejudicing competitors’ relationships with their agents.

In addition, there are rules providing for disclosure of fiber content of textile merchandise made of rayon, or of two or more fibers containing either rayon, silk or linen ; disclosure as to remaining shrinkage in so-called preshrunk merchandise ; disclosure that apparently new products are not new, but are secondhand, used, rebuilt, or renovated ; disclosure that products are artificial or imitations and not real or genuine; disclosure of country of origin of imported products ; prevention of marketing of substandard or imitation products as standard or genuine, and the specification of minimum requirements for standard or genuine products ; proper nomenclature for industry products ; disclosure as to true composition of paint and varnish brushes, as to imperfect or defective merchandise, as to use of adulterant or substitute for linseed oil in respect to putty products, as to presence of metallic weighting in silk or silk products, as to minimum yardage of ribbons, as to true functions of radio parts and accessories, as to quality, quantity, and size of ripe olives packed in cans and other opaque containers, as to latent defects in artificial limbs or devices, as to price charged for so-called premiums in sale of piston rings, as to use and application of masonry waterproofing products, and as to true metal composition of watch cases.

INFORMATIVE LABELING

Informative labeling enters extensively into the work of the Commission under trade-practice conference rules. Fiber identification, or what is generally referred to as "Truth in Fabrics," forms a large part of informative labeling work. While consumer goods containing or purporting to contain wool are subject to Wool Act labeling, similar fiber identification of other textiles under certain circumstances, and informative labeling of various lines of merchandise outside the field of textiles, are covered by trade-practice rules.

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

The value of such labeling is widely recognized as a necessary and effective preventive of confusion or deception of the public and of unfair competitive conditions.

Products containing rayon in whole or in part are covered by the rules for the rayon industry, promulgated October 26, 1937. Those containing silk in whole or in part are covered by the rules for the silk industry, issued November 4, 1938. Corresponding rules for linen and part-linen merchandise were promulgated February 1, 1941. Informative labeling for all types of hosiery is the subject of trade practice rules for the hosiery industry, issued May 15, 1941. Similar rules covering fur garments and fur products generally were promulgated June 17, 1938. Informative labeling provisions on the subject of shrinkage of woven cotton merchandise were put into effect on June 30, 1938. Other textile provisions are found in the rules promulgated for infants' and children's knitted outerwear industry, June 28, 1939; uniform industry, May 18, 1940; and ribbon industry, June 30, 1942.

Provisions on the subject of informative labeling are also contained in rules promulgated for the following industries on the dates mentioned : Rubber tire, October 17, 1936; toilet brush manufacturing, December 31, 1937; wholesale jewelry, March 18, 1938; paint and varnish brush manufacturing, January 14, 1939; putty manufacturing, June 30, 1939; mirror manufacturing, July 19, 1939; curled hair, January 12, 1940; luggage and related products, September 17, 1941; sunglasses, December 23, 1941; razor and razor blade, June 19, 1945; wood-cased lead pencil, June 29, 1945; artificial limb, April 16, 1946; masonry waterproofing, August 31, 1946; household fabric dye, May 29, 1947; watch case, January 30, 1948; office machine marketing, February 26, 1948; and hand knitting yarn, June 18, 1948.

Rules providing for informative disclosure in advertising and selling also have been issued for such industries as macaroni, noodles, and related products, July 7, 1938; tomato paste manufacturing, September 3, 1938; sardine, March 5, 1940; and tuna (revised and extended rules), June 23, 1945.

PART V. WOOL PRODUCTS LABELING ACT

INFORMATIVE LABELING FOR PROTECTION OF INDUSTRY AND THE PUBLIC

The Wool Products Labeling Act of 1939 provides, in substance, that purchasers shall be informed as to the true content of articles which are made or appear to be made in whole or in part of woolen fiber, and that producers, manufacturers, merchants, and the public generally shall be safeguarded against the deception and unscrupulous competition arising from misbranding and nondisclosure of content. The act, approved by the President October 14, 1940, and effective July 14, 1941, is enforced and administered by the Federal Trade Commission.

The fiber content of articles containing, purporting to contain, or represented as containing "wool," "reprocessed wool," or "reused wool" is required by the act to be disclosed by appropriate stamp, tag, label, or other means of identification. The act applies to such articles when manufactured for, or marketed in, "commerce" as defined by section 2, excepting carpets, rugs, mats, and upholsteries exempted by section 14.

The act requires that the label or other identification mark disclose the kind and percentage of each different fiber contained in the product, including the respective percentages of "wool," "reprocessed wool," and "reused wool." Disclosure of the maximum percentage of loading and adulterating material, if any, and the name of the manufacturer of the wool product or the name of a qualified distributor or reseller, must also appear on the label. The label, or a proper substitute specified by the statute, is to remain on the merchandise when it is delivered to the consumer.

Products covered by the act include wearing apparel and blankets, the yarns and fabrics of the wool textile industry and the products of manufacturing industries using these yarns and fabrics. These products come from approximately 100 industries and are marketed through distributor and dealer outlets estimated to number in excess of 250,000.

Rules and regulations under Wool Act.--The act authorizes and directs the Commission to make such rules and regulations as may be necessary and proper for its administration and enforcement. Comprehensive rules and regulations were issued by the Commission, effective July 15, 1941. They are published in booklet form and may be obtained upon application to the Commission. They afford instruction and guidance as to how manufacturers, distributors, dealers, and others may proceed in various situations and assure themselves of being within the requirements of the law in its application

to merchandise covered by the act.¹ Collaboration of industry members and other interested parties was invited in the preparation of the rules and regulations. Hearings were held and all concerned were afforded opportunity to contribute their views and suggestions in arriving at rules, consonant with law, which would be of maximum assistance to business and also would afford full protection of the public interest.

Manufacturers' registered identification numbers.--Under rule 4 of the regulations manufacturers of wool products residing in the United States may have assigned to them registered identification numbers. Such a number may be used upon the manufacturer's label instead of his name as a means of identifying the manufacturer when the label carries the name of the dealer or reseller. At the close of the fiscal year, 6,823 registered identification numbers had been assigned, an increase of 584 over the preceding fiscal year. Numbers may be canceled when the firm goes out of business or changes its form of organization or for other sufficient reasons. Up to the close of the fiscal year, a total of 1,916 manufacturers' registered identification numbers had been canceled.

Continuing guaranties.--For the purpose of protecting distributors dealers, and other resellers from the charge of misbranding when relying in good faith upon the manufacturer's statement of content provision is made in section 9 of the act for a guaranty on the part of the supplier. It may be either (1) a separate guaranty specifically designating the wool product guaranteed, or (2) a continuing guaranty applicable to all products handled by a guarantor. Continuing guaranties must be filed with the Commission in the form prescribed by rule 33 of the rules and regulations. This rule also provides for renewal of the continuing guaranties annually or whenever any change in ownership or management of the guarantor is made. At the close of the fiscal year, 8,671 continuing guaranties had been properly filed with the Commission, as against 7,552 at the end of the fiscal year 1947. These have been duly recorded and are maintained as documents open to public inspection.

Enforcement.--In cases of alleged violation requiring corrective action by formal proceedings, the use of the cease-and-desist-order procedure prescribed in the Federal Trade Commission Act, which is also authorized by the Wool Act, has proved adequate. The supporting peremptory remedies specifically provided by the Wool Act are available when needed, however, and, in cases of deliberate or willful violation, misdemeanor proceedings may be applied.

Administrative compliance work includes inspection, examination, and correction of in practices of specific concerns. Inspections of labeling and related matters during the year concerned 8,966 manufacturers, distributors, and other dealers in wool products. Field inspections covered more than 23 million articles. During the preceding fiscal year, field inspections totaled 8,322 and covered more than 18 million articles.

¹ The Commission has issued a publication (W-31) setting forth illustrations, with explanatory text, of certain forms of labels and tags which are acceptable under the act. Manufacturers, distributors, dealers, and other interested parties may obtain the leaflet upon request to the Commission.

Cases of improper labeling under the act were handled for the most part through cooperative voluntary action without resort to compulsory proceedings. Relatively few cases have arisen in which it has been necessary to invoke mandatory processes.² Administrative compliance work has proved an effective and economical method of protecting the public interest in this field.

² For complaints alleging violations of the wool Products Labeling Act, see p.42 ; for Commission orders directed against such violations, see, p.45.

PART VI. BUREAU OF MEDICAL OPINIONS

DATA USED IN CASES RELATING TO FOOD, DRUGS, DEVICES AND COSMETICS

The Bureau of Medical Opinions furnishes the Commission with scientific facts and opinions concerning the composition and efficacy of food, drugs, curative devices, cosmetics, and other commodities in relation to questioned advertising claims. It arranges for analyses of samples of products under investigation and gathers information with respect to their nature.

The Bureau provides medical opinions and scientific information required in the preparation of formal complaints and the negotiation of stipulation agreements. During the fiscal year it prepared 225 written opinions and presented many oral opinions. A substantial amount of time was devoted to assisting the Commission's staff in connection with hearings involving questions of science, and to obtaining expert scientific witnesses whose testimony was essential to the determination of scientific questions. Thirty-six such experts served as witnesses during the year.

The Commission directed that attention be given to questions involving economic poisons such as insecticides, fungicides, rodenticides, and herbicides. To insure coordinated and effective action in this field, the Director of the Bureau of Trade Practice Conferences and Wool Act Administration and the Director of the Bureau of Medical Opinions were designated liaison officers to represent the Commission in all official contacts with the Insecticide Division, Livestock Branch, Production and Marketing Administration of the Department of Agriculture, relative to economic poisons. Thus has resulted in a cooperative arrangement which provides the Commission with needed scientific information and assistance, particularly with respect to new economic poisons, and effectively coordinates the work of the two agencies.

The Director of the Bureau of Medical Opinions continues as the Commission's liaison officer with the Food and Drug Administration.

PART VII. FOREIGN TRADE WORK

EXPORT TRADE ACT

The Export Trade Act, commonly referred to as the Webb-Pomerene Law, is administered by the Commission. Under this act, cooperatives or associations engaged solely in export trade are granted exemption from the antitrust laws under specified conditions.

Export associations are required to file with the Commission copies of their organization papers, periodic reports on their operations, and such other information as may be requested from time to time. If the Commission has reason to believe that an association is not operating in accordance with law, an investigation may be made and recommendations issued for readjustment of the association's business.

The law prohibits restraint of the trade of a domestic competitor of the association, artificial enhancement or depression of prices within the United States and substantial lessening of competition or other restraint of trade in this country.

ASSOCIATIONS OPERATING UNDER THE ACT

At the close of the fiscal year, the following 51 export associations were registered with the Commission:

American Hardwood Exporters, Inc., 706 International Building, New Orleans.	American Tire Manufacturers Export Association, 30 Church Street, New York.
AMTEA Corp. (American Machine Tool Export Association), 30 Church Street, 608 New York.	California Alkali Export Association, Latham Square Building, Oakland, Calif.
American Phonograph Cooperative, Ltd., 134 North La Salle Street, Chicago.	California Dried Fruit Export Associa- tion, 1 Drumm Street, San Francisco.
American Provisions Export Co., c/o Armour & Co., Foreign Sales Department, Union Stock Yards, Chicago.	California Prune Export Association, 1 Drumm Street, San Francisco.
American Soda Pulp Export Associa- tion, 230 Park Avenue, New York.	California Rice Exporters, 351 California Street, San Francisco.
American Spring Manufacturers Export	Carbon Black Export, Inc., 500 Fifth Avenue, New York

Association,
50 Church Street,
New York.

Citrus Corporation of America,
Box 231, Lake Wales, Fla.

- Door Export Co.,
Washington Building,
Tacoma, Wash.
- Douglas Fir Export Co.,
530 Henry Building,
Seattle.
- Durex Abrasives Corp.,
63 Wall Street,
New York.
- Easco Lumber Association,
216 Pine Street,
San Francisco.
- Electrical Export Corp.,
122 East Fifty-first Street,
New York.
- Electrical Manufacturers Export Association,
70 Pine Street,
New York.
- Export Screw Association of the United States,
21 Stevens Street,
Providence, R. I.
- Flints Export Agency,
50 Broad Street,
New York.
- Florida Hard Rock Phosphate Export Association,
318 East Main Street,
Lakeland, Fla.
- Flour Millers Export Association,
859 National Press Building,
Washington, D. C.
- Friction Materials Export Association, Inc.,
c/o Johns-Manville International Corp.,
22 East Fortieth Street,
New York.
- General Milk Sales, Inc.,
19 Rector Street,
New York.
- Goodyear Tire & Rubber Export Co., The,
1144 East Market Street,
Akron, Ohio.
- Maine Sardine Packers' Export Association,
Eastport, Maine.
- Metal Lath Export Association, The
205 East Forty-second Street,
New York.
- Motion Picture Export Association, Inc.,
546 Fifth Avenue,
- Pacific Fresh Fruit Export Association,
333 Pine Street,
San Francisco.
- Pencil Industry Export Association,
167 Wayne Street,
Jersey City, N. J.
- Pipe Fittings & Valve Export Association, The
347 Madison Avenue,
New York.
- Potash Export Association, Inc.,
420 Lexington Avenue,
New York.
- Railway Car Export Corp. of America,
1025 Connecticut Avenue,
Washington, D. C.
- Redwood Export Co.,
405 Montgomery Street,
San Francisco.
- Rubber Export Association, The,
1185 East Market Street,
Akron, Ohio.
- Steam Locomotive Export Association, Inc.,
30 Church Street,
New York.
- Sulphur Export Corporation,
420 Lexington Avenue,
New York.
- Texas Rice Export Association,
407 Jensen Drive,
Houston, Tex.
- Textile Export Association of the United States,
271 Church Street,
New York.
- Typewriter Manufacturers Export Association,
1611 Forty-fourth Street,
Washington, D. C.
- United States Alkali Export Association ,
11 Broadway,
New York.
- United States Scientific Export Association, Inc.,
50 Broadway,
New York.
- Universal Dairy Products Co.,
80 East Jackson Boulevard,
Chicago.
- Walnut Export Sales Co., Inc.,
540 Postal Station Building,
Indianapolis.

New York.

Pacific Forest Industries,
1219 Washington Building,
Tacoma, Wash.

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

Wescosa Lumber Association,
2 Pine Street,
San Francisco.

Wire Rope Export Trade Association,
The,
19 Rector Street,
New York.

Wine & Brandy Export Association of
California,
717 Market Street,
San Francisco.

Wood Naval Stores Export Association,
Gulfport, Miss.

NEW ASSOCIATIONS

Four new export associations were formed during the fiscal year ending June 30 1948:

Electrical Manufacturers Export Association, New York, formed in July 1947, includes some companies that were members of Electrical Apparatus Export Association, which was dissolved in June 1947. The new group comprises the International General Electric Co., Inc., Westinghouse Electric International Co., Electric Service Manufacturing Co., Goodman Manufacturing Co., Jeffrey Manufacturing Co., Line Material Co., and Ohio Brass Co.

Wood Naval Stores Export Association, Gulfport, Miss., formed in July 1947, includes six producers of wood naval stores : Alabama Naval Stores Co., Continental Turpentine and Rosin Corp., Delta Pine Products Corp., Dixie Pine Products Co., Inc., Gulf Naval Stores Co. , and the Southern Naval Stores Division of Leach Bros., Inc.

California Rice Exporters, San Francisco, formed in October 1947, includes eight companies in California: Cal-Oro Rice Growers, Inc., Capital Rice Mills, M. D. Green Rice Milling Co., C. E. Grosjean Rice Milling Co., Producers Rice Milling Co., Rice Growers Association of California, Rosenberg Bros. & Co., and Woodland Rice Co.

General Milk Sales, Inc., New York, formed in March 1948, replaced General Milk Co., Inc., which had formerly operated under the act, and includes the same membership: Carnation Co. and Pet Milk Co.

EXPORTS IN 1947 TOTAL \$1,083,788,921

Exports by the associations in 1947 showed a substantial increase over 1946 in all lines except metals :

	1946	1947
Metals and metal products	\$93,435,947	\$59,904,442
Products of mines and wells	29,320,916	38,043,675
Lumber and wood products	9,636,851	18,951,866
Foodstuffs	131,623,782	233,969,556
Miscellaneous	58,579,728	732,919,382
Total	322,597,224	1,083,788,921

INQUIRIES AND RECOMMENDATIONS

Several inquiries as to the operation of certain export associations were in progress during the fiscal year:

Hearings have been held in reference to the operation of Carbon Black Export, Inc . (Docket 202-5) and The Pipe Fittings & Valve Export Association (Docket 202-9), and the cases are now awaiting final action. The final report on Pacific Forest Industries (Docket 202-1), a reopened inquiry, is also pending.

The inquiry involving Electrical Apparatus Export Association (Docket 202-204) was dismissed in July 1947 after dissolution of the association in June of that year.

After formal hearings, the Commission issued recommendations on September 10, 1947, for the readjustment of the business of General Milk Co., Inc; (Docket 202-207).

The Commission ruled that General Milk, while operating under the provisions of the Export Trade Act, should hold no stock or other beneficial interest in companies engaged in the manufacture of milk products in foreign countries or in the sale of milk products of non-American origin . It recommended that the corporation divest itself of the stock it owns in such foreign enterprises and to rescind all existing agreements growing out of its affiliations with such companies or, in the alternative, withdraw as an export trade association qualifying under the provisions of the statute.

General Milk Co. complied with the recommendations by withdrawing as an association operating under the act. A new association, General Milk Sales, Inc., which will not have investments in foreign plants, was formed.

TRUST LAWS AND TRADE REGULATION ABROAD

Under section 6 (h) of the Federal Trade Commission Act, the Commission compiles information as to trust laws, unfair competition, and regulation of trade and industry in foreign countries. A few of the more important measures are noted :

Argentina.--A National Economic Council was created by decree in July 1947 as part of the President's 5-year plan. The plan includes an intensive industrialization program to foster industries necessary for national economy or defense. A law passed on June 13, 1947, also a part of the plan, created a corporation to develop the steel industry with Government subscription for 90 percent of the capital.

Australia.--Nationalization of the Australian banks was effected by a law dated November 27, 1947.

Bolivia.--A Board of Industrial Development, created by decree in January 1948, will advise the Government on industrial policy, direct and supervise industrial production, and handle questions relating to production of raw materials, their prices, and their utilization in national industries.

Brazil.--A law granting tax exemption to new industries for 5 years was passed by the State of Para in December 1947. The term may be extended to encourage industries food products. Under the new import and export licensing law of February 1948, 75 percent of Brazil's dollars will be applied to purchase of goods of prime necessity, 20 percent for less urgently needed goods, and 5 percent for luxuries.

Canada.--The Combines Investigation Commission issued a report in April 1948 charging an unlawful combination in the manufacture, distribution, and sale of optical goods. As a result of a prior investigation by the Commission, criminal proceedings against manufacturers and distributors of dental supplies were started in January 1948 in the Ontario Supreme Court. An informal report on an alleged combine in newsprint manufacture was made in 1947. Other investi-

gations by the Commission during the year involved radio sets and tubes, small arms ammunition, building materials, and household supplies.

An extensive decontrol measure was made effective in September 1947, confining price ceilings to a small number of key or very scarce items. Consumer rationing was ended in November 1947.

Chile.--The price control campaign initiated in August 1947 continued into 1948 under the direction of a Price and Supply Control Board assisted by provincial committees. A National Foreign Trade Council, created by decree in December 1947, is the official foreign trade licensing bureau.

Colombia.--A decree in May 1948 froze salaries and wages in any type of professional, industrial, commercial, or agricultural activity to rates being paid on April 8.

Czechoslovakia.--A land reform measure in March 1948 provided for confiscation of land holdings in excess of 50 hectares (125 acres). Foreign trade will be nationalized and it is proposed to extend the nationalization of industry to cover all undertakings employing more than 50 persons.

Denmark.--In 1947 price controls and the subsidy program were continued, and the rationing system was extended.

Dominican Republic.--An emergency law in March 1948 gave the President extraordinary powers to regulate by decree the importation, exportation, distribution, sale, consumption, and rationing of certain essential products including foodstuffs; and to control hours of work in agricultural, industrial, and commercial enterprises. Under the law, congressional approval is not necessary.

Ecuador.--The emergency foreign exchange law of June 5, 1947, created a Department of Exchange in the Central Bank of Ecuador to control foreign trade, and provided for three lists of importable merchandise; essential, useful, and luxury.

France.--After reports by the Economic Council on the price-wage situation, a new price-control law was passed in February 1948. In March, price reductions were announced amounting to from 2 to 10 percent on essential products that affect the workers' cost of living.

Great Britain.--At the end of the war, committees termed "Working Parties" were set up in 17 of the most important consumer goods industries. Reports of these groups recommended permanent bodies to be made up of representatives of employers, workers, and independent members, to be known as Development Councils. The Industrial Organization Development Act passed in 1947 authorized certain ministers to issue orders establishing Development Councils in the various industries to improve or develop their service. A Cotton Industry Development Council was set up under an order effective in April 1948.- Other councils are to be created for the pottery, wool, hosiery, furniture, jewelry, and silverware industries. Working Party reports were completed in 1947 for the hand-blown glassware industry and for the cutlery industry; and in 1948 for the china clay, clothing, and carpet industries.

The Town and Country Planning Act for development and use of land was passed in August 1947. Under the Agriculture Act, passed

also in August 1947, the Government announced an expansion program to increase output through central planning. The Overseas Development Act, passed in February 1948, created the Colonial Development Corp. and the Overseas Food Corp. to finance and promote the development of overseas resources. Legislation for nationalization of electric utilities in Britain was passed in August 1947. The Transport Act, under which the inland transportation system was taken over by the Government on January 1 1948 was also passed in August. A bill for nationalization of the gas industry now under consideration by Parliament, would complete Government control of fuel. (The Coal Nationalization Act was passed in July 1946.)

Prices are still under Government control, and rationing is still in effect. A Prices Standstill Order in February 1948, effective on March 15, fixed manufacturers' prices on a large number of products at the level of prices charged during December 1947 and January 1948.- Profits of wholesalers were restricted at different levels. A further price freeze for an extended list of manufactured goods was effected in May 1948.

A monopoly (inquiry and control) bill introduced in March 1948 would create a Commission to make investigations under direction of the Board of Trade and report on alleged restrictions in the supply, processing, or export of goods.

In August 1947 the President of the Board of Trade appointed a committee to inquire into the practice of resale price maintenance, the fixing of minimum wholesale and retail prices or margins of producers, and the consequent effects upon the supply, distribution, and consumption of goods; and to report as to whether any steps to prevent or regulate the continuance of these practices are desirable.

Guatemala.--The Law of Industrial Development, passed in December 1947, provided for establishment and development of industries which will facilitate the more effective stabilization of national resources, and granted tax exemption to industries that manufacture or prepare necessary products and use only raw materials of the country. An Executive Resolution in November 1947 created the Directorate General of National Economy, which will be charged with such Government controls as have been retained over exports, imports, and price and distribution of commodities in short supply.

Hungary.--A 3-year plan has been introduced involving imposition of Government control; in almost every field of economic activity. Nationalization of industry was extended by a law affecting banks, passed in November 1947, and an amendment to the nationalization law, dated January 1948, which extends supervisory powers of the Minister of Finance. The Government is claiming control of all enterprises in which the nationalized banks have 20 percent interest or more.

Iceland.--An anti-inflation law, passed in December 1947, increased taxes and reduced price levels.

International.--An International Conference on Trade and Employment, meeting at Havana, Cuba, drafted the Havana Charter for an International Trade Organization. It was signed March 24, 1948, by representatives of 53 countries, including the United States, and now

awaits ratification. The charter covers employment and economic activity, economic development and reconstruction, commercial policy, restrictive business practices, and intergovernmental commodity agreements, such as the proposed International Wheat Agreement which was opened for signature on March 6, 1948. This agreement is now pending before the United States Senate.

An International Organization of American States was created by a charter signed by representatives of 21 Western Hemisphere republics at an Inter-American conference in Bogota, Colombia, on April 30, 1948.- The Pan American Union will serve as the central and permanent organ of the new organization.

Iran.--The Government's 7-year plan includes development schemes for agriculture and irrigation, industry, public health, roads and rail-ways, posts and telegraphs.

Italy.--The Government that took office in June 1947 was pledged to adopt anti-inflationary measures, including control of credit, a system of differential rationing of foodstuffs; plans for production of cereals, land reclamation, irrigation, and other improvements. Capital of the Italian Industrial Reconstruction Institute has been increased to further nationalization of industries.

Japan.--The Enterprise Reconstruction and Reorganization law, passed in December 1947, provided for breaking up larger Japanese corporations into smaller units.

Mexico.--New industrial enterprises may be given 5-year exemption from taxes if the Federal district in which the plant is proposed shall so determine.

Pakistan.--The newly created State of Pakistan, which was a part of India, has made wide plans for development of natural resources and for Government control of factory location, allocation of materials, determination of industrial projects, and fair labor standards.-For this purpose an Industrial Finance Corporation, a Development Board, and a Planning Advisory Board will be set up.

Peru.--A 4-year plan presented by the President in July 1947 included plans for the development of agriculture, mining and industry. Foreign trade will be regulated by the National Council of Foreign Commerce.

Rumania.--A law passed in April 1947 granted sweeping power to a reorganized Ministry of Industry and Commerce. The Industrial Offices Act of May 1947 authorized close regulation by Government offices of every phase of industry and trade, including production, distribution, domestic and foreign trade, prices, wages, profits, investments, and credits.

South Africa, Union of.--The report of the Distribution Costs Commission in 1947 covered a study of expenses and services and margins and profits of distributors.- It recommended further investigation of advertising practices and encouragement and supervision of cooperatives. As to price agreements and monopolistic practices, the report said the Commission "does not consider that the Union should follow the example of the United States of America in its prohibitory legislation. * * * It should not seek to disturb arrangements which on investigation prove to have effected savings, provided these savings accrue to the benefit of buyers as well as sellers.

Switzerland.--A voluntary stabilization program was adopted by the principal labor, employers' and other economic organizations in February 1948. Under the program, wages and prices prevailing at the beginning of the year are to be frozen until October 31, 1948.

Sweden.--Reports of the Cartel Register maintained by the Monopoly Investigation Bureau list 185 cartel agreements filed with the Bureau since the Register was created in 1946, including manufacturers' cartels controlling prices, production, the selection of customers and agents, commissions, discounts, and other sales and delivery terms; agreements on farm produce by farmers' organizations and retailers; and agreements controlling the Opening or expansion of whole-sale and retail firms and stores for sale of foodstuffs.

Venezuela.--Under a new constitution, adopted in July 1947, the economic life of the nation will be planned and regulated by a Council of National Economy. It will be representative of capital, labor, the liberal professions, and the State. Retail prices and, in some cases, wholesale prices and prices to producers, are fixed by a National Supply Commission under the Ministry of Development.

Yugoslavia.--The process of nationalization continues, with a decree in February 1948 effecting complete nationalization of the wholesale agricultural trade. Practically all trade and industry are now in the hands of the Government.

PART VIII. FISCAL AFFAIRS

APPROPRIATION ACTS PROVIDING FUNDS FOR COMMISSION WORK

The Independent Offices Appropriation Act, 1948 (Public Law 269, 80th Cong.), approved July 30, 1947, provided funds for the fiscal year 1948 for the Federal Trade Commission as follows :

FEDERAL TRADE COMMISSION

Salaries and expenses.--For necessary expenses, including personal services in the District of Columbia; health service program as authorized by act of August 8, 1946 (Public Law 658); payment of claims determined and settled pursuant to part 2 of the Federal Tort Claims Act (act of August 2, 1946, Public Law 601); contract stenographic reporting services; newspapers not to exceed \$500; not to exceed \$8,000 for deposit in the general fund of the Treasury for cost of penalty mail as required by section 2 of the act of June 28, 1944; and purchase of one passenger motor vehicle; \$2,900,120, of which not less than \$228,695 shall be available for the enforcement of the Wool Products Labeling Act: *Provided*, That no part of the funds appropriated herein for the Federal Trade Commission shall be expended upon any investigation hereafter provided by concurrent resolution of the Congress until funds are appropriated subsequently to the enactment of such resolution to finance the cost of such investigation.

Printing and binding.--For all printing and binding for the Federal Trade Commission, \$55,000.

APPROPRIATIONS FOR FISCAL YEAR

Funds appropriated to the Commission for the fiscal year 1948 as cited above amounted to \$2,955,120.00. In addition the Commission received \$14,879.72 reimbursement for work performed for other Government agencies, making a total available of \$2969,999.72. This sum was made up of two items : (1) \$2,914,999.72 for the general work of the Commission, and (2) \$55,000 for printing and binding.

Appropriations, allotments, expenditures, liabilities, and balances for the fiscal year ended June 30, 1948

	Amount available	Amount expended	Liabilities	Expenditures and liabilities	Balance
Federal Trade Commission 1948-salaries, Commissioners and all other authorized expenses	\$2,914,999.72	\$2,859,057.97	\$47,508.70	\$2,900,566.73	
\$8,432.99					
Printing and binding, Federal Trade Commission, 1948	55,000.00	17,344.00	30,587.20	47,931.20	
7,068.80					
Total fiscal year 1948	2,969,999.72	2,870,401.97	78,095.96	2,954,497.93	
15,501.79					
Unexpended balances:					
Federal Trade Commission, 1947	235,956.06	104,910.32	3,283.24	168,193.56	
67,762.50					
Printing and binding, Federal Trade					

Commission, 1947	40,453.37	13,098.40	10,869.12	24,567.52
15,885.85				
Transfer from Office of Price Administration, 1947	39,290.07	10,430.31	1,064.30	11,494.61
27,795.46				
Federal Trade Commission, 1946	11,449.50	21.27		21.27
11,428.23				
Printing and binding, Federal Trade Commission, 1946	24,384.75	13,429.03		13,429.63
10,955.12				
Total	3,321,533.47	3,078,891.90	93,312.62	3,172,204.52
149,328.95				

Detailed statement of costs for the fiscal year ending June 30, 1948

	Salary	Travel	Other	Total
Commissioners	\$51,922.35	\$1,316.76	\$3.37	\$53,242.48
Office of Commissioners	73,920.99			73,920.99
Office of the Secretary	39,616.85			39,616.85
Total	165,460.19	1,316.76	3.37	166,780.32
Administration:				
Budget and Planning	52,465.81			52,465.81
Library	17,376.70			17,376.70
Personnel	30,593.95			30,593.95
Stenographic	133,391.89			133,391.89
Information Service	20,291.57			20,291.57
Legal Research and Publications	41,821.58			41,821.58
Legal Records	63,456.75			63,456.75
Economic and Administrative Records	14,686.35			14,686.35
Services and Supplies	82,288.89			82,288.89
Communications			23,313.64	23,313.64
Contract Services			12,504.72	12,504.72
Equipment			23,817.27	23,817.27
Rents			7,330.40	7,330.40
Supplies			19,864.26	19,864.26
Transportation of things			547.17	547.17
Travel Expense			124.50	124.50
Refunds, Awards, and Indemnities			50.00	50.00
Total	456,373.49	124.50	87,427.46	543,925.45
Legal:				
Preliminary inquiries	103,312.18	2,413.97	21.27	105,747.42
Application for complaints	488,230.53	28,710.71	629.39	517,570.63
Complaints	829,112.07	37,789.91	5,564.52	872,466.50
Export trade associations	37,703.32	703.10	4.03	38,410.45
Trade practice conferences	118,489.01	1,125.70	7.23	119,621.94
Wool Products Labeling Act	206,755.72	25,605.77	195.62	232,557.12
Stipulations	78,562.02			78,562.02
Legal aids to Commission	18,809.37			18,809.37
Industry wide investigations	32,543.13	1,642.37	14.89	34,200.39
Total	1,913,517.35	97,991.53	6,436.96	2,017,945.84
General investigations:				
Accounting work unlawful practices	96,079.37	1,136.20	34.83	97,250.40
Export trade study	4,687.80			4,687.80
Study of production and distribution policies	19,281.16	18.57		19,299.73
Financial reporting program	122,319.10	815.91	4,833.49	127,968.50
Study of the steel situation for Senate Committee on Small Business	3,806.29			3,806.29
Current analysis reports	5,435.45			5,435.45
Study of cost of manufacture of stamped envelopes for Post Office Department	9,382.20	1,207.56		10,589.76
Joint Congressional Committee on Housing	3,557.14	405.02		3,962.16
Study of the size and efficiency of manufacturing enterprises	495.20			495.20
Reports on hearings to amend the Clayton Act	8,260.73			8,260.73
Study of price levels	23,697.69	310.34	4.21	24,012.24
Total	297,002.13	3,893.60	4,872.53	305,768.26
Printing and binding			44,472.03	44,472.03
Summary:				
Commissioners and Secretary	165,460.19	1,316.76	3.37	166,780.32
Administration	456,373.49	124.50	87,427.46	543,925.45
Legal	1,913,517.35	97,991.53	6,436.96	2,017,945.84
General investigations	297,002.13	3,893.60	4,872.53	305,768.26
Printing and binding			44,472.03	44,472.03

Total	2,832,153.16	103,326.39	143,212.35	3,078,891.90
-------	--------------	------------	------------	--------------

Detailed statement of costs for the fiscal year ending June 30, 1948-Continued

RECAPITULATION OF COSTS, BY DIVISION

	Salary	Travel	Other	Total
Commissioners and Secretary	\$165,460.19	\$1,316.76	\$3.37	\$166,780.32
General Counsel	118,703.96	5,836.97	309.97	124,850.90
Bureau of Litigation	373,675.94	15,843.31	896.24	390,415.49
Bureau of Industrial Economies	297,508.68	3,877.63	4,871.23	356,257.54
Bureau of Legal Investigations	778,645.69	38,232.55	817.16	817,695.49
Bureau of Hearing Examiners	188,595.45	10,816.28	11.73	199,423.46
Bureau of Medical Opinions	31,347.78	546.92	4,200.30	36,095.00
Bureau of Trade Practice Conferences and Wool Act Administration	325,244.73	26,731.47	202.86	352,179.06
Bureau of Stipulations	78,562.02			78,562.02
Legal Aids to Commission	18,809.37			18,809.37
Bureau of Administration	455,799.35	124.50	87,427.46	543,351.31
Printing and binding			44,472.03	44,472.03
	2,832,353.16	103,326.39	143,212.35	3,078,891.90

APPROPRIATIONS AND EXPENDITURES, 1915--48

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

Year	Nature of appropriations	Appropriations	Expenditures and liabilities	Balance
1915	Lump sum	\$184,016.23	\$90,442.05	\$93,574.18
	Printing and binding	12,386.76	9,504.10	2,882.60
1916	Lump sum	430,964.08	379,927.41	51,636.67
	Printing and binding	15,000.00	14,997.55	2.45
1917	Lump sum	542,025.92	448,890.66	93,135.26
	Printing and binding	25,000.00	23,610.54	1,389.48
1918	Lump sum	1,578,865.92	1,412,280.19	166,585.73
	Printing and binding	30,000.00	11,114.06	18,885.94
1919	Lump sum	1,693,622.18	1,491,637.39	201,984.97
	Printing and binding	14,934.21	14,934.21	0
1920	Lump sum	1,206,587.42	1,007,593.30	198,994.12
	Printing and binding	28,348.97	28,348.97	0
1921	Lump sum	938,609.94	842,991.24	95,618.70
	Printing and binding	37,182.56	37,182.56	0
1922	Lump sum	952,505.45	878,120.24	74,385.21
	Printing and binding	22,801.73	22,801.73	0
1923	Lump sum	952,020.11	948,293.07	3,727.04
	Printing and binding	22,460.21	22,400.21	0
1924	Lump sum	990,000.00	900,020.93	29,979.07
	Printing and binding	20,000.00	19,419.25	580.75
1925	Lump sum	990,000.00	988,082.37	1,917.63
	Printing and binding	20,000.00	19,866.14	133.86
1926	Lump sum	990,000.00	976,957.02	13,042.98
	Printing and binding	18,000.00	18,000.00	0
1927	Lump sum	980,000.00	943,881.99	36,118.01
	Printing and binding	17,000.00	17,000.00	0
1928	Lump sum	967,850.00	951,965.15	15,884.85
	Printing and binding	16,500.00	16,500.90	0
1929	Lump sum	1,135,414.83	1,131,521.47	3,893.36
	Printing and binding	27,777.69	27,777.69	0
1930	Lump sum	1,440,971.82	1,430,084.17	10,887.65
	Printing and binding	35,363.58	35,363.58	0
1931	Lump sum	1,932,857.81	1,808,463.35	124,454.46
	Printing and binding	39,858.73	39,858.73	0
1932	Lump sum	1,808,097.19	1,749,484.00	58,612.59
	Printing and binding	30,000.00	30,000.00	0
1933	Lump sum	1,421,714.70	1,378,973.14	42,741.56
	Printing and binding	30,000.00	20,000.00	10,000.00
1934	Lump sum	1,273,763.49	1,273,006.38	157.11
	Printing and binding	40,250.00	40,250.00	0
1935	Lump sum	2,063,398.01	1,922,313.34	141,084.67
	Printing and binding	34,000.00	34,000.00	0
1936	Lump sum	1,998,665.58	1,788,729.76	209,935.82
	Printing and binding	36,800.00	32,996.05	3,803.95
1937	Lump sum	1,895,571.94	1,850,673.82	44,898.12
	Printing and binding	43,353.95	43,353.95	0
1938	Lump sum	1,950,000.00	1,895,519.47	54,480.35
	Printing and binding	46,000.00	46,000.00	0
1939	Lump sum	2,236,795.00	2,150,474.40	86,320.60
	Printing and binding	46,700.00	46,709.00	0
1940	Lump sum	2,285,500.00	2,214,889.07	70,610.93
	Printing and binding	60,000.00	60,000.00	0
1941	Lump sum	2,240,000.00	2,167,256.24	72,743.76
	Printing and binding	60,000.00	59,000.00	1,000.00
1942	Lump sum	2,373,822.00	2,296,921.13	76,900.87
	Printing and binding	60,000.00	42,000.00	18,000.00
1943	Lump sum	2,237,705.00	2,100,783.09	138,921.91
	Printing and binding	50,250.00	32,210.75	18,039.25
1944	Lump sum	2,040,050.00	1,917,307.50	122,742.50
	Printing and binding	43,000.00	39,848.47	3,151.55
1945	Lump sum	2,016,070.00	1,957,818.31	58,251.69
	Printing and binding	43,000.00	39,728.72	3,271.23
1946	Lump sum	2,129,833.00	2,118,404.77	11,428.28
	Printing and binding	44,000.00	33,044.88	10,955.12
1947	Lump sum	2,925,120.00	2,826,817.64	98,302.36
	Printing and binding	50,000.00	33,902.35	16,097.65

1948	Lump sum	2,915,596.92	2,898,884.76	16,912.16
	Printing and binding	55,000.00	53,957.43	1,042.57

APPENDIXES

FEDERAL TRADE COMMISSION ACT

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

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

other purposes

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a commission is hereby created and established, to be known as the Federal Trade Commission (hereinafter referred to as the Commission) , which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from the date of the taking effect of this Act, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed : *Provided, however*, That upon the expiration of his term of office a commissioner shall continue to serve until his successor shall have been appointed and shall have qualified. The Commission shall choose a chairman from Its own membership. No commissioner shall engage in any other business, vocation, or employment. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the Commission shall not impair the right of the remaining commissioners to exercise all the powers of the Commission.

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

SEC. 2. That each commissioner shall receive a salary of \$10,000 a year, payable in the same manner as the salaries of the judges of the courts of the United States. The commission shall appoint secretary who shall receive a salary of \$5,000 a year, 1 payable in like manner, and it shall have authority to employ and fix the compensation of such attorneys, special experts, examiners, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

With the exception of the secretary, a clerk to each commissioner, the attorneys, and such special experts and examiners as the Commission may from

time to time find necessary for the conduct of its work, all employees of the commission shall be a part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the Commission and by the Civil Service Commission.

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

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

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

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the Commission. 2

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

All clerks and employees of the said bureau shall be transferred to and become clerks and employees of the Commission at their present grades and salaries. All records, papers, and property of the said bureau shall become records, papers, and property of the Commission, and all unexpended funds and appropriations for the use and maintenance of the said bureau, including any allotment already made to it by the Secretary of Commerce from the contingent appropriation for the Department of Commerce for the fiscal year nineteen hundred and fifteen, or from the departmental printing fund for the fiscal year nineteen hundred and fifteen, shall become funds and appropriations available to be expended by the Commission in the exercise of the powers, authority, and duties conferred on it by this Act.

The principal office of the Commission shall be in the city of Washington, but it may meet and exercise all Its powers at any other place. The Commission may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in *any* part of the United States. SEC. 4. The words defined in this section shall have the following meaning when found in this Act, to wit:

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

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

“Documentary evidence” includes all documents, papers, correspondence, books of account, and financial and corporate records.

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

“Antitrust Acts” means the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” approved July 2, 1890; also sections 73 to 77, inclusive, of an Act entitled “An Act to reduce taxation, to provide revenue for

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

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

The Commission Is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers, subject to the Acts to regulate commerce, air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938, ³ and persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 406 (b)

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

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

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

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

Provided, however, That the said person, partnership, or corporation may, within sixty days after service upon him or it of said report or order entered after such a reopening, obtain a review thereof in the appropriate circuit court of appeals of the United States, in the manner provided in subsection (c) of this section.

(c) Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or act or practice may obtain a review of such order in the circuit court of appeals of the United States, within any circuit where the method of competition or the act or practice in question was used or where such person, partnership, or corporation resides or carries on business, by filing in the court, within sixty days ⁴ from the date of the service of such order, a written petition praying that the order of the Commission be set aside. A copy of such petition shall be forthwith served upon the Commission, and thereupon the Commission

forthwith shall certify and file in the court a transcript of the entire record in the proceeding, including all the evidence taken and the report and order of the Commission. Upon such filing of the petition and transcript the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, evidence, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the Commission, and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite. The findings of

⁴ Section 5 (a) of the amending Act of 1938 provides :

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

the Commission as to the facts, if supported by evidence, shall be conclusive. To the extent that the order of the Commission is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the Commission. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code.

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

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

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

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

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

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

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

(4) Upon the expiration of thirty days from the date of issuance of the mandate of

the Supreme Court, if such Court directs that the order of the Commission be affirmed or the petition for review dismissed.

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

(i) If the order of the Commission is modified or set aside by the circuit court of appeals, and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or (2) the petition for certiorari has been denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered in accordance with the mandate of the circuit court of appeals shall become final on the expiration

of thirty days from the time such order of the Commission was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected so that it will accord with the mandate, in which event the order of the Commission shall become final when so corrected.

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

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

(l) Any person, partnership, or corporation who violates an order of the Commission to cease and desist after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than \$5,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

Sec. 6. That the commission shall also have power--

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

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

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

(d) Upon the direction of the President or either⁵ House of Congress to investigate and report the facts relating to any alleged violations of the antitrust Acts by any corporation.

(e) Upon the application of the Attorney General to investigate and make

recommendations for the readjustment of the business of any corporation alleged to be violating the antitrust Acts in order that the corporation may thereafter maintain Its organization, management, and conduct of business in accordance with law.

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

5 The Independent Offices Appropriation Act of 1984 provided that future investigations by the Commission for Congress must be authorized by concurrent resolution of the two Houses. Under the Appropriation Act of 1950, funds appropriated for the Commission are not to be spent upon any investigation thereafter called for by congressional concurrent resolution “until funds are appropriated subsequently to the enactment of such resolution to finance the cost of such investigation.”

(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 Untied States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the commission made in pursuance thereof.

The commission may order testimony to be taken by deposition in any proceeding or investigation pending under this Act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the

commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided.

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

No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpoena issued by it ; *Provided*, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

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

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this Act, or who shall willfully neglect or fail to make, or cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000 or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

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

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

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

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

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

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

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

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

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

(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or the order of the Commission to cease and desist made thereon has become final within the meaning of section 5, would be to the interest of the public, the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States or In the United States court of any Territory, to enjoin the dissemination or the causing of the dissemination of such advertisement. Upon proper showing a temporary injunction or 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 news-paper, magazine, periodical, or other publication, published at regular intervals--

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

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

Sec. 14. ⁶ (a) Any person, partnership, or corporation who violates any provision of section 12 (a) shall, if the use of the commodity advertised may be injurious to health because of results from such use under the conditions prescribed in the advertisement thereof, or under such conditions as are customary or usual, or if such violation is with intent to defraud or mislead, be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than six months, or by both such fine and imprisonment ; except that if the conviction is for a violation committed after a first conviction of such person, partnership, or corporation, for any violation of such section, punishment shall be by a fine of not more than \$10,000 or by imprisonment for not more than one year, or by both such fine and imprisonment : *Provided*, That for the purposes of this section meats and meat food products duly inspected, marked, and labeled In accordance with rules and regulations issued under the Meat Inspection Act approved March 4, 1907, as amended, shall be conclusively presumed not injurious to health at the time the same leave official "establishments."

(b) No publisher, radio-broadcast licensee, or agency or medium for the dissemination of advertising, except the manufacturer, packer, distributor, or seller of the

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

⁶ Section 5 (b) of the amending Act of 1938 provides :

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

SEC. 15. For the purposes of section 12, 13, and 14--

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

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

(c) The term "drug" means (1) articles recognized In the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them ; and (2) articles intended for use In the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals ; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals ; and (4) articles intended for use as a component of any article specified in clause (1), (2) , or (3); but does not Include devices or their components, parts, or accessories.

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

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

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

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

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

Original act approved September 26, 1914.

Amended act approved March 21, 1938.

In addition to the Federal Trade Commission Act, the Commission also administers section 2 of the Clayton Act (15 U.S. C., sec. 13), as amended by the Robinson-Patman Anti-discrimination Act, and sections 3, 7, and 8 of the Clayton Act (15 U.S. C., secs. 14, 18, and 19); the Export Trade Act (15 U.S. C., secs. 61-65) ; the Wool Products Labeling Act (15 U. S. C., sec. 68); and certain sections of the Trade-Mark Act of 1946 (15 U.S. C., secs. 1051-1072, 1091-1096, and 1111-1127).

TYPES OF UNFAIR METHODS AND PRACTICES

TYPICAL METHODS AND PRACTICES CONDEMNED IN ORDERS TO CEASE AND DESIST

The following list illustrates unfair methods of competition and unfair or deceptive acts and practices condemned by the Commission from time to time in its orders to cease and desist. The list is not lim-

ited to orders issued during the fiscal year. Because of space limitation it does not include specific practices outlawed by the Clayton Act and committed to the Commission's jurisdiction, namely, various forms of price discrimination, exclusive and tying-dealing arrangements, competitive stock acquisition, and certain kinds of competitive interlocking directorates.

1. The use of false or misleading advertising concerning, and the misbranding of, commodities, respecting the materials or ingredients of which they are composed, their quality, purity, origin, source, attributes, or properties, or nature of manufacture, and selling them under such 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 contacts, 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) The use of the “free goods” or service device to create the impression that something is actually being thrown in without charge, when it is fully covered by the amount exacted in the transaction as a whole, or by services to be rendered by the recipient.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Claiming falsely or misleadingly 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 include all charges not specified as extra.

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

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

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

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

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

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

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

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

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

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

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

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

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

26. Coercing and forcing uneconomic and monopolistic reciprocal dealing.

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

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

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

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

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

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

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

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

Government agency.

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

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

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

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

RULES OF PRACTICE¹

RULE I. THE COMMISSION

Offices.--The principal office of the Commission is at Washington, D. C.

All communications to the Commission must be addressed to Federal Trade Commission, Washington 25, D. C., unless otherwise specifically directed.

Branch Offices are maintained at New York, Chicago, San Francisco, Seattle, and New Orleans.

Their addresses are : Federal Trade Commission, Room 501, 45 Broadway, New York , N. Y.; Federal Trade Commission, 1118 New Post Office Building, 433 West Van Buren Street, Chicago 7, Ill.; Federal Trade Commission, Federal Office Building, Room 133, Civic Center, San Francisco 2, Calif.; Federal Trade Commission, 447 Federal Office Building, Seattle 4, Wash.; Federal Trade Commission, Room 652, Federal Office Building, 600 South Street, New Orleans 12, La.

Hours.--Offices are open on each business day from 8: 30 a. m. to 5 p. m.

Sessions.--The Commission may meet and exercise all its powers at any place, and 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.

Sessions of the Commission for hearings will be held as ordered by the Commission.

Sessions of the Commission for the purpose of making orders and for transaction of other business unless otherwise ordered will be held at the principal office of the Commission at Pennsylvania Avenue at Sixth Street, Washington, D. C., on each business day at 10 a. m.

Quorum.--A majority of the members of the Commission shall constitute a quorum for the transaction of business.

Public information.--All requests, whether for information or otherwise, and submittals shall be addressed to the principal office of the Commission.

RULE II. THE SECRETARY

The Secretary is the executive officer of the Commission and shall have the legal custody of its seal, papers, records, and property; and all orders of the Commission shall be signed by the Secretary or such other person as may be authorized by the Commission,

¹ The rules of practice which follow are published as amended by the Commission on September 2, 1947, and promulgated through the Federal Register for September 10, 1947, and then effective.

RULE III. INVESTIGATIONAL HEARINGS

Investigational hearings, as distinguished from formal hearings in adversary proceedings, shall be held only as ordered by the Commission and shall be held before the Commission, one or more of its members, or a duly designated representative for the purpose of hearing the testimony of witnesses and receiving documents and other data relating to subjects within the investigational jurisdiction of the Commission. Unless otherwise ordered by the Commission, such hearings shall be public. Hearings shall be stenographically reported and a transcript thereof shall be made which shall be a part of the record of the investigation.

Every person required to attend and testify or submit documents or other data shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript of such person's testimony or documents produced.

RULE IV. APPLICATIONS FOR COMPLAINT

Any person, partnership, corporation, or association may apply to the Commission to institute a proceeding in respect to any violation of law over which the Commission has jurisdiction.

Such application for complaint shall be in writing, signed by or in behalf of the applicant, and shall contain a short and simple statement of the facts constituting the alleged violation of law and the name and address of the applicant and of the party complained of.

RULE V. COMPLAINTS

Whenever the Commission shall have reason to believe that there is a violation of law over which the Commission has jurisdiction, and in case of violation of the Federal Trade Commission Act, if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, the Commission shall issue and serve upon the proper parties a complaint stating its charges and containing a notice of a hearing upon a day and at the place therein fixed, at least thirty (30) days after the service of said complaint.

Upon request made within 15 days after service of the complaint, any party shall be afforded opportunity for the submission of facts, arguments, offers of settlement, or proposals of adjustment where time, the nature of the proceeding, and the public interest permit, and due consideration shall be given to the same. Such submission shall be in writing. The filing of such request shall not operate to delay the filing of the answer.

RULE VI. SERVICE

Complaints, orders, and other processes of the Commission, and briefs in support of

the Complaint, will be served by the secretary of the Commission by registered mail, except when service by other method shall be specifically ordered by the Commission, by registering and mailing a copy thereof addressed to the person, partnership, or corporation to be served at his or its principal office or place of business. When proceeding under the Federal Trade Commission Act

service may also be made at the residence of the person, partnership, or corporation to be served.

When service is not accomplished by registered mail complaints, orders, or other processes of the Commission, and briefs in support of the complaint may be served by anyone duly authorized by the Commission, or by any examiner of the Commission,

(a) By delivering a copy of the document 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, partnership, or corporation. When proceeding under the Federal Trade Commission Act service may also be made at the residence of the person, partnership, or corporation to be served.

The return post-office receipt for said complaint, order, or other process or brief registered and mailed as aforesaid, or the verified return by the person serving such complaint, order, or other process or brief, setting forth the manner of said service, shall be proof of the service of the document.

RULE VII. APPEARANCE

Any individual or member of a partnership which is a party to any proceeding before the Commission may appear for himself, or such partnership upon adequate identification, and a corporation or association may be represented by a bona fide officer of such corporation or association upon a showing of adequate authorization therefor.

A party may also appear by an attorney at law possessing the requisite qualifications, as hereinafter set forth, to practice before the Commission.

Attorneys at law who are admitted to practice before the Supreme Court of the United States, or the highest court of any State or Territory of the United States, or the United States Court of Appeals for the District of Columbia, or the District Court of the United States for the District of Columbia, may practice before the Commission.

No register of attorneys who may practice before the Commission is maintained. No application for admission to practice before the Commission is required. A written notice of appearance on behalf of a specific party or parties in the particular proceeding should be submitted by attorneys desiring to appear for such specific party or parties, which notice shall contain a statement that the attorney is eligible under the provisions of this rule. Any attorney practicing before the Commission or desiring so to practice may, for good cause shown, be disbarred or suspended from practicing before the Commission, but only after he has been afforded an opportunity to be heard in the matter.

No former officer, examiner, attorney, clerk, or other former employee of this Commission shall appear as attorney or counsel for or represent any party in any proceeding resulting from any investigation, the files of which came to the personal attention of such former officer, examiner, attorney, clerk, or other former employee

during the term of his service or employment with the Commission.

RULE VIII. ANSWERS

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Ten (10) copies of answers shall be furnished. The original of all answers shall be signed in ink, by the respondent or by his attorney at law. Corporations or associations shall file answers through a bona fide officer or by an attorney at law. Answers shall show the office and post-office address of the signer.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Such answer will constitute a waiver of any hearing as to the facts alleged in the complaint and the Commission may proceed to make its findings as to the facts and conclusions based upon such answer and enter its order disposing of the matter without any intervening procedure. The respondent may, however, reserve in such answer the right to other intervening procedure, including a hearing upon proposed conclusions of fact or law, in which event he may, in accordance with Rule XXIV, file his brief directed solely to the questions reserved.

Requests for leave to withdraw an answer and file a substitute or amended answer made prior to the appointment of a trial examiner shall be addressed to the Commission, and if made subsequent to such appointment shall be addressed to and ruled upon by the trial examiner subject to the provisions of Rule XX.

RULE IX. INTERVENTION

So far as the responsible conduct of public business shall permit, any interested person, after leave granted, may appear before the Commission, or its delegated responsible officer, for the presentation, adjustment, or determination of any issue, request, or controversy in any proceeding or in connection with any function of the Commission.

Any person, partnership, corporation, or association desiring to intervene in a contested proceeding shall make application in writing, setting out the grounds on which lie or it claims to be interested

The Commission may, by order, permit intervention by counsel or in person to such extent and upon such terms as it shall deem proper.

RULE X. MOTIONS

Motions before the Commission or the trial examiner shall state briefly the purpose thereof and all supporting affidavits, records, and other papers, except such as have been previously filed, shall be filed with such motions and clearly referred to therein.

Motions in any proceeding before a trial examiner which relate to the introduction or striking of evidence, to matters of procedure, or to any other matters coming within the scope of the trial examiner's authority shall be made to the trial examiner and shall be ruled on by him. All other motions in any proceeding, except as otherwise provided in these rules, shall be addressed to and shall be ruled on by the Commission, but in the case of motions to dismiss for alleged failure of proof based upon testimony taken before a trial examiner, the motion will be referred to the trial examiner for report and recommendation before a ruling is made by the Commission.

Ten (10) copies of all written motions shall be filed with the Commission.

Prompt notice shall be given of the granting or denial, in whole or in part, of any written application, petition, or other request of any interested person made in connection with any formal proceeding. Except in affirming a prior denial or where the denial is self-explanatory, such notice shall be accompanied by a simple statement of grounds.

RULE XI. CONTINUANCE AND EXTENSION OF TIME

Except as otherwise expressly provided by law, the Commission, for cause shown, may extend any time limits prescribed in these rules. A hearing before a trial examiner shall begin at the course of the hearing shall be regulated by the trial examiner subject to the provisions of Rule XX.

Applications for continuances and extensions of time should be made prior to the expiration of time prescribed by these rules.

RULE XII. DOCUMENTS

Filing.--All documents required to be filed with the Commission in any proceeding shall be filed with the Secretary of the Commission.

Title.--Documents shall clearly show the docket number and title of the proceeding.

Copies.--Documents, other than correspondence, shall be filed *in triplicate*, except as otherwise specifically required by these rules.

Form.--Documents not printed shall be typewritten, on one side of paper only; letter size, eight (8) inches by ten and one-half (10 1/2) inches; left margin, one and one-half (1 1/2) inches; right margin, one (1) inch.

Documents may be printed, in ten (10) or twelve (12) point type, on good, unglazed paper, of the dimensions and with the margins above specified.

Documents shall be bound at *left side only*.

The originals of all answers, briefs, motions, and other documents shall be signed in ink, by the respondent or his duly authorized attorney. Where the respondent is an individual or a partnership, the originals of said documents shall be signed by said individual or by one of the partners, or by his or its attorney. Where the respondent is a corporation, the originals of said documents shall be signed under the corporate name by a duly authorized official of such corporation, or by its attorney. Where the respondent is an association, the originals of said documents shall be signed under the association name for said association by a duly authorized official of such association, or by its attorney.

One copy of a brief or other document required to be printed shall be signed as the original.

RULE XIII. ADMISSION AS TO FACTS AND DOCUMENTS

At any time after answer has been filed counsel or parties In any controversy may serve upon the opposing side a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request or the admission of the truth of any relevant matters of fact set forth in such documents.

Copies of the documents shall be delivered with the request unless copies have already been furnished. Each of the matters on which an admission is so requested shall be deemed admitted unless, within a period designated within the request, not less than ten days after service thereof or within such further time as the Commission or the trial examiner may allow on motion and notice, the party so served serves upon the party making the request, a sworn statement either denying specifically the matters of which an admission is requested, or setting forth in detail the reasons why he can neither truthfully admit nor deny those, matters. Service required hereunder may be made upon a respondent either by registering and mailing or by delivering a copy of the documents to be served to the respondent or his attorney, or by leaving a copy at the principal office or place of business of either. Service upon the attorney supporting the complaint may be either by registering and mailing or by delivering a copy of the documents to be served to such attorney.

RULE XIV. TRIAL EXAMINERS

All hearings pursuant to formal complaints shall be presided over by the Commission, a member of the Commission, or by a trial examiner appointed by the Commission and duly qualified as an examiner or hearing officer within the meaning of the Administrative Procedure Act. So far as practicable trial examiners shall be assigned to cases in rotation.

Subject to the published rules of the Commission and within Its authority, officers presiding at hearings shall have the following powers and duties In all cases to which they are assigned by the Commission, to wit:

- (1) To administer oaths and affirmations.

(2) To issue subpoenas authorized by law.

- (3) To rule upon offers of proof and receive relevant evidence.
- (4) To take or cause depositions to be taken whenever the ends of justice would be served thereby.
- (5) To regulate the course of the hearings.
- (6) To hold conferences for the settlement or simplification of the Issues by consent of the parties.
- (7) To dispose of procedural requests or similar matters.
- (8) To make and submit to the Commission a recommended decision as provided by Rule XXII.
- (9) To certify questions to the Commission for its determination.
- (10) To take any other action authorized by Commission rule consistent with the Administrative Procedure Act.

Trial examiners shall perform no duties inconsistent with their duties and responsibilities as such. Save to the extent required for the disposition of *ex parte* matters as authorized by law, no trial examiner shall consult any person or party as to any fact in issue unless upon notice and opportunity for all parties to participate.

Trial examiners shall not be responsible to, or subject to the supervision or direction of, any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for the Commission.

The trial examiner is charged with the duty of conducting a fair and impartial hearing and of maintaining order in form and manner consistent with the dignity of the Commission. He will note on the record any disregard by counsel of his rulings on matters of order and procedure and where he deems it necessary shall make special written report thereof to the Commission. In the event that counsel supporting the complaint or counsel for any respondent shall be guilty of disrespectful, disorderly, or contumacious language or conduct In connection with any hearing, the trial examiner may suspend the proceeding and submit to the Commission his report thereon, together with his recommendations as to whether any rule should be issued to show cause why such counsel should not be suspended or disbarred pursuant to Rule VII or subjected to other appropriate action in respect thereto. A copy of such trial examiner's report shall be furnished to any counsel upon whose language or conduct such report Is made, and the Commission will take disciplinary action only after an opportunity for hearing has been accorded such counsel.

RULE XV. HEARINGS IN ADVERSARY PROCEEDINGS

All hearings pursuant to formal complaint shall be public unless otherwise ordered by the Commission, and such hearings shall be subject to the following conditions and requirements

- (a) Every party respondent shall have the right of due notice, cross-examination, presentation of evidence, objection, exception, motion, argument, appeal and all other fundamental rights.
- (b) The taking of evidence and subsequent proceedings shall proceed with all reasonable diligence and with the least practicable delay.
- (c) Not less than five (5) days notice of the time and place of any indefinitely postponed hearing shall be given to counsel of record or

to parties, but In appointing such hearing due regard shall be had for the convenience and necessity of all parties or their representatives.

(d) The trial examiner may withdraw from a case when he deems himself disqualified, or he may be withdrawn by the Commission after timely affidavits alleging personal bias or other disqualification have been filed and the matter has been heard by the Commission or by a trial examiner whom It has delegated to Investigate and report.

(e) Hearings shall be stenographically reported by the official reporter of the Commission under supervision of the presiding trial examiner. A transcript of said report shall be a part of the record and the sole official transcript of the proceeding. Transcripts will be supplied to respondents and to the public by the official reporter at rates not to exceed the maximum rates fixed by contract between the Commission and the reporter.

(f) Changes in the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. No physical changes shall be made In or upon the official record or copies thereof In the custody of the Commission. Lists of changes agreed to in writing by opposing counsel may be incorporated into the record, if and when approved by the trial examiner, at the close of evidence in support of the complaint, or at the final hearing before the trial examiner, or at any time thereafter before he files his report, and at no other times. If any changes are ordered by the trial examiner without such written agreement between opposing counsel they shall be subject to objection and exception.

RULE XVI. SUBPOENAS

Subpoenas requiring the attendance of witnesses or the production of documentary evidence from any place in the United States, at any designated place of hearing, may be issued by the presiding trial examiner or a member of the Commission. Application therefor may be made either to the presiding trial examiner or to the Commission.

Application for subpoenas for the production of documentary evidence shall be made in writing to the presiding trial examiner or to the Commission. The application must have reasonable scope and specify as exactly as possible the documents desired, and show their general relevancy. The application shall be verified by oath or affirmation.

An appeal may be taken to the Commission by the parties from the presiding trial examiner's denial of a motion to quash or refusal to issue a subpoena for the production of documentary evidence.

RULE XVII. WITNESSES AND FEES

Witnesses at formal hearings shall be examined orally. Witnesses summoned in support of the complaint shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

Witnesses whose depositions are taken, and the persons taking such depositions,

shall severally be entitled to the same fees as are paid for like services In the courts of the United States.

Witness fees and mileage, and fees for depositions, shall be paid by the party at whose instance witnesses appear.

RULE XVIII. EVIDENCE

In general.--Counsel supporting the complaint shall have the general burden of proof and the proponent of any factual proposition shall be required to sustain the burden of proof with reference thereto. The trial examiner, subject to appeal to the Commission as provided in Rule XX, shall admit relevant, material and competent evidence, but shall exclude irrelevant, immaterial and unduly repetitious evidence.

Documentary.--Where relevant and material matter offered in evidence is embraced in a document containing other matter not material or relevant and not intended to be put in evidence, such immaterial or irrelevant parts shall be excluded, and shall be segregated insofar as practicable.

Official notices of facts.--Where any recommended decision of the trial examiner or any decision of the Commission, or part thereof, rests upon the taking of official notice of a material fact not appearing in the evidence in the record, any party shall, upon timely motion, be afforded an opportunity to show the contrary.

Objections.--Objections to evidence shall be in short form, stating the grounds relied upon, and the transcript shall not include argument or debate thereon except as ordered by the presiding officer. Rulings on such objections shall appear in the record.

RULE XIX. DEPOSITIONS

For good and exceptional cause the testimony of any witness may be taken in any case whether at issue or not, by deposition de bene esse or, prior to the pendency of a case, according to the common usage in Chancery. Depositions may be taken orally or upon interrogatories before any person having power to administer oaths and who has been duly designated by the Commission or the presiding trial examiner.

Unless notice be waived, no deposition shall be taken except after at least five (5) days written notice to the parties within the United States, and fifteen (15) days notice when deposition is to be taken elsewhere.

Any party desiring to take the deposition of a witness shall make application in writing to the Commission or the presiding trial examiner setting out the reasons why such deposition should be taken, the character of the deposition, the time when, the place where, and the name and post office address of the person before whom such deposition is to be taken, the name and post office address of each witness, and the subject matter concerning which the witness is expected to testify. If good and exceptional cause be shown, an order containing such instruction will be made and served upon the parties.

Upon application granted, such deposition may be taken before a person having power to administer oaths other than the person designated in the notice, provided reasonable written notice of such change is given the opposing party. Each witness so testifying shall be duly sworn and the adverse party shall have the right to cross examine such witnesses. The questions propounded to the witnesses and the

answers thereto shall be reduced to writing, and, in the presence of the officer taking the deposition, read to the witness and subscribed by the witness and certified in usual form by said officer. Thereafter the said officer shall forward said deposition with three copies thereof, in an envelope under seal, endorsed with the title of the case, and addressed to the Commission at its office in Washington, D. C. If in a pending case, such sealed deposition shall immediately be forwarded to the presiding trial examiner and at a time of hearing read in evidence subject to such objections to the questions and answers as were noted at the time of taking the deposition or as would be valid were the witness personally present at such hearing.

RULE XX. APPEALS TO THE COMMISSION FROM RULINGS OF TRIAL EXAMINERS

Except as provided for in rule XVI, parties shall not have the right to prosecute interlocutory appeals from rulings of a trial examiner during the time the proceeding is pending before him unless it be shown to the Commission that the prompt decision of such appeal is necessary to prevent unusual delay and expense.

Motions for reconsideration and reversal of previous rulings may be made before the trial examiner at the termination of the reception of evidence. In such motions each exception shall be separately set out, with exact citations to each portion of the record involved and references to the principal authorities relied upon. The trial examiner shall rule upon each exception. An appeal may be taken to the Commission from any adverse ruling on any such motion and the record relating thereto shall be certified to the Commission. Notice of such appeal shall be made on the record when the rulings are made and thereupon the trial examiner shall fix a time, not exceeding fifteen (15) days unless the necessity for further time shall clearly appear, for filing the appeal and a like time for filing the answer. Pending Commission decision and action upon such appeal the case shall remain open. Any such matters not thus laid before the Commission shall be deemed waived.

RULE XXI. PROPOSED FINDINGS AND CONCLUSIONS BEFORE TRIAL EXAMINER

At the close of the reception of evidence before the trial examiner in all formal proceedings, or within a reasonable time thereafter to be fixed by the trial examiner, parties may file for consideration by the trial examiner their proposed findings and conclusions, together with their reasons therefor. Such proposals shall be in writing and shall contain exact references to the record and authorities relied on. Copies thereof shall be furnished all parties, and three copies, including the signed original, shall be filed with the Commission.

Oral argument may be allowed at the discretion of the trial examiner. The record shall show the ruling on each such proposal. Exceptions to such rulings shall be subject to appeal under Rule XXIII only.

**RULE XXII. TRIAL EXAMINER'S RECOMMENDED DECISION
IN ADVERSARY PROCEEDINGS**

The trial examiner, as soon as practicable and within thirty (30) days after receipt of the complete transcript and all exhibits in adversary proceedings, shall make and file a recommended decision which shall become a part of the record and include a statement of (1) findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record; and (2) an appropriate order.

In cases in which the issues of fact are to be determined upon complaint and admission answer or stipulation of facts, no recommended decision will be made if waived by respondent, but in any case where evidence has been taken and must be considered in the decision thereof, a recommended decision will be made regardless of any waiver by the parties.

Except where he shall have become unavailable to the Commission, the recommended decision shall be made by the trial examiner who presided at the hearing.

No officer, employee or agent, engaged in the performance of investigative or prosecuting functions for the Commission, and no party respondent or his agent or counsel in any case shall, in that or a factually related case, participate or advise in the recommended decision of the trial examiner, except as a witness or as counsel in public proceedings.

All findings, conclusions and orders recommended by the trial examiner shall be based upon the whole record and supported by reliable, probative and substantial evidence (including facts of which he may take official notice). No findings shall be recommended except such as he deems supported by the greater weight of the evidence.

At any time prior to the filing of his recommended decision the trial examiner may, for good cause shown, reopen the case for the reception of further evidence.

A copy of the trial examiner's recommended decision shall be served upon each party, counsel or other representative, who has appeared pursuant to Rule VII.

RULE XXIII. EXCEPTIONS

Any party may, within ten (10) days after receipt of a copy of the trial examiner's recommended decision, file with the Commission exceptions to any part thereof and to the trial examiner's failure to include proposed findings and conclusions requested under Rule XXI. Each exception shall specify the portions of the record and the authorities relied on to sustain each point.

Ten (10) copies of the exceptions shall be filed. All exceptions and rulings thereon shall become part of the record.

A copy of such exceptions shall forthwith be furnished the trial examiner and a copy served upon each of the parties and counsel who were served with a copy of the trial examiner's recommended decision.

If exceptions are to be argued, they shall be argued at the time of final argument

upon the merits, except as otherwise provided in Rule XX.

RULE XXIV. BRIEFS AND ORAL ARGUMENTS BEFORE THE COMMISSION

A. QUESTIONS FOR PRESENTATION

Questions which may be presented for consideration and decision by the Commission on final hearing include the following :

(1) Whether the findings and conclusions recommended by the trial examiner are relevant and material to the issues and are supported by reliable, probative, and substantial evidence and by the greater weight of the evidence;

(2) Whether additional findings and conclusions, not recommended by the trial examiner, should be made either with or without sending the case back to the trial examiner for the reception of further evidence;

(3) Whether the trial examiner was justified in having taken official notice of any fact and whether the Commission should take official notice of any other fact;

(4) Whether due process was observed and whether there was any prejudicial irregularity in procedure or prejudicial error in the rulings of the trial examiner;

(5) Whether the facts show a violation of law amenable to redress by the Commission and what conclusions of law are justified and requisite in the premises; and

(6) Whether an order to cease and desist, an order of dismissal, or other order, should be entered and issued, and the substance and form thereof.

B. BRIEFS

Filing.--Any party to a proceeding may file a brief in support of his contentions within the time limits fixed by these rules.

Briefs not filed on or before the time fixed in the rules will be received only by special permission of the Commission.

Time.--Opening brief shall be filed by the attorney supporting the complaint within twenty (20) days after service upon him of a copy of the recommended decision of the trial examiner.

Brief on behalf of respondent shall be filed within twenty (20) days after service upon respondent or respondent's attorney of copy of brief in support of the complaint.

Where respondent shall have filed an answer admitting all material allegations of fact, the time so limited shall begin to run at the time of filing such answer.

In the event permission is granted for filing reply brief in support of the complaint, it shall be filed within ten (10) days after filing of brief on behalf of respondent. No further brief on behalf of respondent shall be filed.

Number.--Twenty (20) copies of each brief shall be filed. *Contents.*--Briefs, except the reply brief in support of the complaint, shall contain, in the following order :

(a) A concise abstract or statement of the case.

(b) A brief of the argument, exhibiting a clear statement of the points of fact or law to be discussed, with references to the pages of the record and the authorities relied

upon in support of each point.

The exceptions, if any, to the recommended decision of the trial examiner may also be included in the brief.

Index--Briefs comprising more than ten (10) pages shall contain on their top flyleaves a subject index with page references. The subject index shall be supplemented by an alphabetical list of all cases referred to, with references to pages where references are cited.

Form--*Briefs* shall be printed, multigraphed, or otherwise neatly processed on good unglazed white paper in type not smaller than ten (10) point double leaded, citations and quotations single leaded; footnotes not less than eight (8) point single leaded. Type page shall not be more than twenty-nine (29) picas wide by approximately forty-eight (48) picas deep and trimmed page shall be seven (7) Inches by ten (10) inches, with an inside margin of not less than one (1) inch.

Length--Unless leave be granted, briefs shall not exceed seventy-five (75) printed pages.

Signing--At least one copy of each brief shall be signed in ink, by the respondent or his duly authorized attorney, as prescribed in Rule XII.

C. ORAL ARGUMENTS

Oral arguments before the Commission shall be had as ordered, on written application of the Chief Trial Counsel of the Commission, or of the respondent, or of attorney for respondent, filed within fifteen (15) days after filing of brief on behalf of respondent.

Oral arguments before the Commission shall be reported stenographically unless otherwise ordered by the Commission.

RULE XXV. COMMISSION'S ADJUDICATION

Upon submittal of a case to the Commission for final decision on the merits the Commission will consider the whole record, including the recommended decision of the trial examiner and the exceptions thereto, will resolve all questions of fact by what it deems to be the greater weight of the evidence thereon, will make its decision stating the reasons or basis therefor and enter an appropriate order, and wherever it decides that an order to cease and desist should be entered will also make, as provided by law, a report in writing stating its findings as to the facts. As authorized under the various statutes defining its powers and duties the Commission adjudicates all formal proceedings brought before It and as authorized under the Administrative Procedure Act reserves such adjudications exclusively to itself.

No officer, employee or agent, engaged in the performance of investigative or prosecuting functions for the Commission, and no party respondent or his agent or counsel In any case shall, in that or a factually related case, participate or advise in the decision of the Commission, except as a witness or as counsel in public proceedings.

**RULE XXVI. REPORTS SHOWING COMPLIANCE WITH ORDERS
AND WITH STIPULATIONS**

In every case where an order to cease and desist is issued by the Commission for the purpose of preventing violations of law and in every Instance where the Commission approves and accepts a stipulation in which a party agrees to cease and desist from the unlawful methods, acts, or practices involved, the respondents named in such orders and the parties so stipulating shall file with the Commission, within sixty days of the service of such order and within sixty days of the approval of such stipulation, a report, in writing, setting forth in detail the manner and form in which they have complied with said order or with said stipulation; provided, however, that if within the said sixty (60) day period respondent shall file petition for review in a circuit court of appeals, the time for filing report of compliance will begin to run *de novo* from the final judicial determination; and provided further that where the order prevents the use of a false advertisement of a food, drug, device, or cosmetic, which may be Injurious to health because of results from such use under the conditions prescribed in the advertisement, or under such conditions as are customary or usual, or if the use of such advertisement is with intent to defraud or mislead, an interim report stating whether and how respondents intend to comply shall be filed within ten days.

Within its sound discretion, the Commission may require any respondent upon whom such order has been served and any party entering into such stipulation, to file with the Commission, from time to time thereafter, further reports in writing, setting forth in detail the manner and form in which they are complying with said order or with said stipulation.

Reports of compliance shall be signed in ink by respondents or by the parties stipulating.

RULE XXVII. REOPENING OF PROCEEDINGS

In any case where an order to cease and desist has been issued by the Commission it may, upon notice to the parties, modify or set aside, in whole or in part, Its report of findings as to the facts or order in such manner as it may deem proper at any time prior to expiration of the time allowed for filing a petition for review or prior to the filing of the transcript of record in the proceeding in a Circuit Court of Appeals of the United States pursuant to a petition for review or for enforcement of such order.

In any case where an order to cease and desist issued by the Commission has become final by reason of court affirmance or expiration of the statutory period for court review without a petition for such review having been filed, the Commission may at any time after reasonable notice and opportunity for hearing as to whether changed conditions of fact or of law or the public interest so require, reopen and alter, modify or set aside in whole or in part its report of findings as to the facts or order therein whenever in the opinion of the Commission, after such hearing, such action is required by said changed conditions or by the public interest.

In any case where an order dismissing a formal complaint of the Commission has been entered the Commission may, upon reasonable notice to the parties and opportunity for a hearing as to whether said proceeding should be reopened, issue an order reopening the same whenever, in the opinion of the Commission, changed conditions of fact or of law or the public interest so require.

RULE XXVIII. TRADE PRACTICE CONFERENCE PROCEDURE

(a) *Purpose.*--The trade practice conference procedure has for its purpose the establishment, by the Commission, of trade practice rules in the interest of industry and the purchasing public. This procedure affords opportunity for voluntary participation by industry groups or other interested parties in the formulation of rules to provide for elimination or prevention of unfair methods of competition, unfair or deceptive acts or practices, and other illegal trade practices. They may also include provisions to foster and promote fair competitive conditions and to establish standards of ethical business practices in harmony with public policy. No provision or rule, however, may be approved by the Commission which sanctions a practice contrary to law or which may aid or abet a practice contrary to law.

(b) *When authorized.*--Trade practice conference proceedings may be authorized by the Commission upon its own motion or upon application therefor whenever such proceedings appear to the Commission to be in the interest of the public. In authorizing proceedings, the Commission may consider whether such proceedings appear to have possibilities (1) of constructively advancing the best interests of industry on sound competitive principles in consonance with public policy, or (2) of bringing about more adequate or equitable observance of laws under which the Commission has jurisdiction, or (3) of otherwise protecting or advancing the public interest.

(c) *Application.*--Application for a trade practice conference may be filed with the Commission by any Interested person, party, or group. Such application shall be in writing and be signed by the applicant or the duly authorized representative of the applicant or group desiring such conference. The following information, to the extent known to the applicant, shall be furnished with such application or in a supplement thereto :

- (1) A brief description of the industry, trade, or subject to be treated.
- (2) The kind and character of the products involved.
- (3) The size or extent and the divisions of the industry or trade groups concerned.
- (4) The estimated total annual volume of production or sales of the commodities involved.
- (5) List of membership of the industry or trade groups concerned in the matter.
- (6) A brief statement of the acts, practices, methods of competition or other trade practices desired to be considered, or drafts of suggested trade practice rules.

(d) *Informal discussions with members of the Commission's staff.*--Any interested person or group may, upon request, be granted opportunity to confer in respect to any proposed trade practice conference with the Commission's trade practice conference office, either prior or subsequent to the filing of any such application. They may also submit any pertinent data or information which they desire to have considered. Such submission shall be made during such period of time as the Commission or its duly authorized official may designate.

(e) *Industry conferences.*--Public notice of the time and place of any such authorized conference shall be issued by the Commission. A member of the Commission or of its staff shall have charge of the conference and shall conduct the conference pursuant to direction of the Commission and in such manner as will facilitate the proceeding and afford appropriate consideration of matters properly coming before the conference. A transcript of the conference proceedings shall be made, which, together with all rules, resolutions, modifications, amendments or other matters offered, shall be filed in the office of the Commission and submitted for its consideration.

(f) *Public hearing on proposed rules.*--Before final approval by the Commission of rules for an industry, and upon public notice, further opportunity shall be afforded by the Commission to all interested persons, corporations or other organizations, including consumers, to submit in writing relevant suggestions or objections and to appear and be heard at a designated time and place.

(g) *Promulgation of rules.*--When trade practice rules shall have been finally approved and received by the Commission, they shall be promulgated by official order of the Commission and published, pursuant to law, in the Federal Register. Said rules shall become operative thirty (30) days from date of promulgation or at such other time as may be specified by the Commission. Copies of the final rules shall be made available at the office of the Commission. Under the procedure of the Commission a copy of the trade practice rules as promulgated by the Commission is sent to each member of the industry whose name and address is available, together with an acceptance form providing opportunity to such member to signify his intention to observe the rules in the conduct of his business.

(h) *Violations.*--Complaints as to the use, by any person, corporation or other organization, of any act, practice or method inhibited by the rules may be made to the Commission by any person having information thereof. Such complaints, if warranted by the facts and the law, will receive the attention of the Commission in accordance with the law. In addition, the Commission may act upon its own motion in proceeding against the use of any act, practice or method contrary to law.

(i) *Amendment of rules.*--Trade Practice rules may be amended or rescinded by the Commission upon its own motion or upon application filed with it by any interested person, party or group. Such application shall be in writing, signed by the applicant or his duly authorized representative, and shall set forth the reasons for the requested action.

RULE XXIX. PUBLIC INFORMATION

The Rules of Practice of the Commission, and such amendments as may be made thereto, shall be published in the Federal Register and may be obtained from the Commission upon application.

The findings, conclusions of law, and final orders of the Commission in respective formal proceedings and a digest of accepted stipulations to desist from unlawful practices shall be published in the official reports of the Commission.

Trade Practice Conference Rules for respective industries, issued under Rule XXVIII hereto, may be obtained upon application to the Commission and shall be published in the Federal Register.

Information concerning the activities of the Commission will be released from time to time under the direction or pursuant to the authority of the Commission.

In proceedings instituted by the issuance of formal complaint, the pleadings, transcript of testimony, exhibits, and all documents received in evidence or made a part of the record therein shall be available for inspection and copying by the public at the convenience of the Commission.

Documents, records, and reports made public by the Commission, including stipulations to cease and desist, certain trade practice conference records, and certain papers filed under the Wool Products Labeling Act, shall be available for inspection and copying at the convenience of the Commission.

The records and files of the Commission, and all documents, memoranda, correspondence, exhibits, and information of whatever nature, other than the documentary matters above described, coming into the possession or within the knowledge of the Commission or any of Its officers or employees in the discharge of their official duties, are confidential, and none of such material or information may be disclosed, divulged, or produced for inspection or copying except under the following circumstances :

Upon good cause shown, the Commission may by order direct that certain records, files, papers, or information be disclosed to a particular applicant.

(a) Application by a member of the public for such disclosure shall be In writing, under oath, setting forth (1) the interest of the applicant in the subject matter; (2) a description of the specific information, files, documents, or other material inspection of which is requested; (3) whether copies are desired; and (4) the purpose for which the information or material, or copies, will be used if the application is granted. Upon receipt of such an application the Commission will take action thereon, having due regard to statutory restrictions, its rules of practice, and the public interest.

(b) In the event that confidential material is desired for inspection, copying, or use by some agency of the Federal or a State Government, a request therefor may be made by the administrative head of such agency. Such request shall be in writing, and shall describe the information or material desired, its relevancy to the work and function of such agency and, if the production of documents or records or the taking of copies thereof is asked, the use which, is intended to be

made of them. The Commission will consider and act upon such requests, having due regard to statutory restrictions, its rules of practice, and the public interest.

In cases in which an officer or employee of the Commission has been lawfully served with a subpoena duces tecum, material designated herein as confidential shall be produced only when and as authorized by the Commission. Service of such subpoena shall immediately be reported to the Commission with a statement of all relevant facts. The Commission will thereupon enter such order or give such instructions as it shall deem advisable in the premises. If the officer or employee so served has not received instructions from the Commission prior to the return date of the subpoena, he shall appear in response thereto and respectfully decline to produce the documents or records subpoenaed (pointing out that he is not permitted to do so under this rule, and request a continuance pending action by or instructions from the Commission. If, notwithstanding, the court or other body orders the production of any of the material subpoenaed, the officer or employee shall immediately report the facts to the Commission.

STATEMENT OF POLICY¹

STATUS OF APPLICANT OR COMPLAINANT

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

POLICY AS TO PRIVATE CONTROVERSIES

It is the policy of the Commission not to institute proceedings against alleged unfair methods of competition or unfair or deceptive acts or practices where the alleged violation of law is a private controversy redressable in the courts, except where said practices tend to affect the public. In cases where the alleged injury is one to a competitor only and is redressable in the courts by an action by the aggrieved competitor and the interest of the public is not involved, the proceeding will not be entertained.

SETTLEMENT OF CASES BY TRADE PRACTICE CONFERENCE AND STIPULATION AGREEMENTS

Upon the promulgation of trade practice conference rules for an industry, an examination will be made of all charges of law violations by members of that industry then pending before the Commission which have not reached the formal stage through the issuance of complaint. In those instances in which the pending charges are adequately covered by the trade practice conference rules, and which are not excluded by the exceptions hereinafter stated, the Commission will consider the advisability of closing the matters without prejudice to reopening whenever that action appears to be warranted. In such instances consideration will be given to whether or not a proposed respondent has subscribed to the trade practice conference rules for his industry, to whether or not there is adequate reason to believe that he is in fact complying with such rules and will continue to do so, and to whether or not the public interest or the applicable statute requires any further proceedings.

Upon the promulgation of trade practice conference rules for an industry, formal complaints which have not then been adjudicated and

¹ The statement of policy which follows with the exception of “Cooperation With Other Agencies” is published as amended and added to on August 19, 1947, and promulgated through the Federal Register for August 29, 1947.

For exception referred to see footnote on p.117.

in which the charges are adequately covered by such rules, and which are not excluded by the exceptions hereinafter stated, may be brought directly before the Commission on motion to suspend without prejudice to the Commission's right to resume the proceeding. In considering such motions the Commission will be guided by factors similar to those outlined above with respect to informal matters.

Whenever the Commission shall have reason to believe that any person has been or is using unfair methods of competition or unfair or deceptive acts or practices in commerce, and that the interest of the public will be served by so doing, it may, in instances which are not excluded by the exceptions hereinafter stated, withhold service of complaint and extend to the person opportunity to execute a stipulation satisfactory to the Commission, in which the person, after admitting the material facts, promises and agrees to cease and desist from and not to resume such unfair methods of competition or unfair or deceptive acts or practices. All such stipulations shall be matters of public record, and shall be admissible as evidence of prior use of the unfair methods of competition or unfair or deceptive acts or practices involved in any subsequent proceeding against such person before the Commission.

It is the policy of the Commission to utilize the trade practice conference and stipulation procedures to encourage widespread observance of the law by enlisting the cooperation of members of industries and informing them more fully of the requirements of the law, so that wherever consistently possible the Commission may avoid the need for adversary proceedings against persons who, through misunderstanding or carelessness, may violate the law unintentionally. But it is not the policy of the Commission to grant the privilege of settling cases through trade practice conference or stipulation agreements to persons who have violated the law where such violations involve intent to defraud or mislead; false advertisement of foods, drugs, devices or cosmetics which are inherently dangerous or where injury is probable; suppression or restraint of competition through conspiracy or monopolistic practices; or violations of the Clayton Act; nor will the privilege be granted where the Commission is of the opinion that such procedure will not be effective in preventing continued use of the unlawful methods, acts or practices. The Commission reserves the right in all cases to withhold the privilege of settlement by trade practice conference or stipulation agreements. When in connection with an industry-wide investigation informal matters of whatever nature are docketed against individual members of that industry, from which the promulgation of trade practice conference rules ensues covering the questioned practices, and which are subscribed to and accepted by the affected members of the industry, the Commission will give careful consideration to whether or not the public interest requires further investigation of such informal matters.

Explanatory statement.--The Commission has long had a public statement of policy governing the settlement of informal cases by stipulation agreements. There has been no comparable generally published statement of policy with respect to trade practice conference agreements. Under its present program, the Commission may institute trade practice conferences on its own initiative. When it appears

that questionable practices are so prevalent in an industry that they may be more effectively and expeditiously reached by trade practice conference than by individual proceedings, the Commission may utilize that procedure in dealing with the over-all problem. In those situations it is necessary, after the promulgation of trade practice conference rules, to determine what further action should be taken in pending informal cases relating to the same parties and practices, as well as to determine the extent to which pending formal matters may have been affected.

It is the desire of the Commission to inform the public on these matters, but to avoid commitments which may abrogate its statutory procedures or frustrate the effectiveness of its corrective processes. To this end the Commission has formulated a statement of policy concerning the scope and effect of its trade practice conference procedure insofar as it may affect the settlement of pending matters before it, and it has reappraised its policy with respect to the settlement of cases by stipulation agreements.

For many years the Commission has sought to encourage voluntary compliance with the laws which it administers. It has utilized individual stipulation agreements and conferences with whole industries and has otherwise cooperated with businessmen to inform and guide them with respect to the scope and meaning of the laws within its jurisdiction. A cooperative procedure similar to trade practice conferences was first used by the Commission in about 1919; the Trade Practice Conference Division was established in 1926; and the present active list of trade practice conference rules covers about 160 industries.

It has long been the Commission's practice in certain instances where proper circumstances are present to dispose of pending matters upon acceptance by the affected parties of trade practice rules for their industry covering the charges in such matters. This practice was specifically limited in 1936 when the Commission determined that whenever an application for trade practice conference is received from an industry, some or all of whose members are respondents in proceedings before the Commission involving alleged violations of the Clayton Act or combinations or conspiracies in restraint of trade in violation of the Federal Trade Commission Act, such proceedings will have to go forward without regard to the trade practice conference procedure.

The cooperative procedures, however, require a constant vigilance to avoid the dangers inherent in them. Their use should never be permitted as an easy escape for wilful violators of the laws administered by the Commission or as a means for avoiding or delaying the effectiveness of the Commission's corrective action. These considerations have governed the Commission's policy with respect to the settlement of pending matters by trade practice conference or stipulation agreements.

Trade practice conference rules have no force of law in themselves. Violations of those rules are not proceeded against directly. The Commission can proceed only on a charge of violation of the law upon which the rules are based. Their purpose is to express the requirements of the statutes and decisions in terms which may be understood by the members of particular industries and in lan-

guage addressed to their problems and practices. An agreement by a member of an industry to abide by the rules is an expression of intention to abide by the basic law.

It is manifestly difficult to draft a statement of policy on a broad basis which does not afford an evasive device to the wilful violator while seeking to avoid unduly harsh treatment of the unintentional or casual violator. Any statement of policy must, therefore, depend for its effectiveness upon the consistent and sound judgment of the Commission in applying it in individual instances. But no statement of policy should be so broad as to constitute an invitation to reluctant or recalcitrant respondents to avail themselves of informal settlements for the purpose of delaying or defeating effective action. It should invite only those who desire in good faith to correct unlawful practices on a cooperative and voluntary basis. The object of the Commission is to correct--not to punish. But there must be a reasonable assurance that any cooperative procedure will be effective and provide full freedom to institute such further proceedings as are or may become necessary in the public interest.

Conspiracies and monopolistic practices are, with few exceptions, deliberately engaged in for the purpose of restraining competition and ordinarily with knowledge of their illegality. Since good faith is ordinarily lacking in such violations, it cannot be expected to be present in agreements by the conspirators to discontinue and not resume the violations. Violations of this type are frequently also criminal violations of the Sherman Act, and the settlement of such violations by informal agreement may impair the rights of private litigants or compromise the enforcement of that act by the Department of Justice. When conspirators are discovered, or when they are on the verge of being discovered, they would doubtless be glad to make use of the Commission's trade practice conference or stipulation procedure as a protection against the more rigorous procedure provided by the antitrust laws.

Trade practice conference rules may include rules against restraints of trade and against violations of the Clayton Act. Insofar as such rules may be informative to and followed by members of the affected industries, they have a substantial value. They should not be accepted, however, as a basis for the settlement of cases in which the Commission has reason to believe that such violations have occurred.

COOPERATION WITH OTHER AGENCIES ¹

In the exercise of its jurisdiction with respect to practices and commodities concerning which other Federal agencies also have functions, it is the established policy of the Commission to cooperate with such agencies to avoid unnecessary overlapping or possible conflict of effort.

It is the policy of the Commission not to institute proceedings in matters such as the labeling or branding of commodities where

¹ The statement is published as amended by the Commission on March 2, 1948, and promulgated through the Federal Register for March 9, 1948.

the subject matter of the questioned portion of the labeling or branding used is, by specific legislation, made a direct responsibility of another Federal agency.

In proceedings involving false advertisements of food, drugs, cosmetics, and devices as defined in section 15 of the Federal Trade Commission Act, account is taken of the labeling requirements of the Food and Drug Administration in any corrective action applied to the advertising. In the case of advertisements of food, drugs, cosmetics, or devices which are false because of failure to reveal facts material with respect to the consequences which may result from the use of the commodity, it is the policy of the Commission to proceed only when the resulting dangers may be serious or the public health may be impaired, and in such cases to require that appropriate disclosure of the facts be made in the advertising.

INVESTIGATIONS BY THE COMMISSION, 1915-48

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 below.

Accounting Systems (F. T. C.)--Pointing the way to a general improvement in accounting practices, the Commission published *Fundamentals of a Cost System for Manufacturers* (H. Doc. 1356, 64th, 31 p., o. p., 7/1/16) and *A System of Accounts for Retail Merchants* (19 p., o. p., 7/15/16).

Accounting Systems.--See Distribution Cost Accounting.

Advertising as a Factor in Distribution.--See Distribution Methods and Costs.

Agricultural Implements.--See Farm Implements and Distribution Methods and Costs.

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

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 recommendation

1 The wartime cost-finding inquiries, 1917-1918 (p. 135), include approximately 370 separate investigations.

2 Documents out of print (designated "o. p.") are available in depository libraries.

3 Inquiries desired by either House of Congress are now undertaken by the Commission as a result of concurrent resolutions of both Houses. For further explanation, see footnote on p. 83.

4 F. T. C. recommendations that section 7 of the Clayton Act be amended to declare unlawful the acquisition of corporate assets under the same conditions that acquisition of corporate stock has been unlawful since 1914, are discussed In *Chain Stores--Final Report on the Chain Store Investigation* (S. Doc. 4, 74th, 12/14/34), p. 96; *Summary Report on Conditions With Respect to the Sale and Distribution of Milk and Dairy Products-* (H. Doc. 94, 75th 1/4/ 37), p. 38; *Report of the F. T. C. on Agricultural Income Inquiry, Part I* (3/1/37), p. 26; *Agricultural Implement and Machinery Industry* (H. Doc. 702, 75th, 6/6/39), p.1038; *The Present Trend of Corporate Mergers* (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. 11; 1941, p.19; 1942, p.9; 1943, p.9; 1944, p. 7; 1945, p.8; 1948, p.12; 1947, p.11; and 1948, p.11.

tions 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 in come inquiry, Part I, Principal Farm Products*, 1,134 p., 3/2/37 (summary, conclusions, and recommendations, S. Doc. 54 75th 40 p.); *Part II, Fruits, Vegetables, and Grapes*, 906 p. 6/10/37; *Part III, Supplementary Report*, 154 p., 11/8/37; and interim reports of 12/26/35 (H. Doc. 380, 74th, 6 p.), and 2/1/37 (S. Doc. 17, 75th, 16 p.)].

Agricultural Prices.--See Price Deflation.

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.

Automobiles.--See Distribution Methods and Costs, and Motor Vehicles.

Bakeries and Bread.--See under Food.

Beet Sugar.--See under Food-Sugar.

Building Materials.--See Distribution Methods and Costs.

Calcium Arsenate (Senate).--High prices of calcium arsenate, a poison used to destroy the cotton boll weevil (S. Res. 417, 67th, 1/23/23), appeared to be due to sudden increased demand rather than trade restraints (*Calcium Arsenate Industry*, S. Doc. 345, 67th, 21 p., 3/3/23).

Capital Equipment (W. P. B.), Wartime, 1942-43.--For the War Production Board, a survey was made in connection with Priorities Regulation No. 12, as amended 10/3/42, of concerns named by it to determine whether orders had been improperly related to secure capital equipment or whether orders that had been related had been extended for the purpose of obtaining capital equipment in violation of priorities regulations.

Cartels.--See paragraphs headed Copper Industry, International Phosphate Cartels, Sulphur Industry, International Electrical Equipment Cartel, and International Steel 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 scaled bids; concerted activities of manufacturers and dealers strengthened the system's price effectiveness; and dealer associations' practices were designed to restrict sales to recognized "legitimate" dealers (*Cement Industry*, S. Doc. 71, 73d, 160

p., o. p., 6/9/33).

Chain Stores (Senate).--Practically every phase of chain-store operation was covered (S. Res. 224, 70th, 5/12/28), including cooperative chains, chain-store manufacturing and wholesale business, leaders and loss leaders, private brands, short weighing and overweighing and sales, costs, profits, wages, special discounts and allowances, and prices and margins of chain and independent grocery and drug distributors in selected cities. (For subtitles of 33 reports published under the general title, *Chain Stores*, 1931-33, see F. T. C. Annual Report, 1941, p.201.)

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

⁵ See footnote 4, p.118.

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

⁷ See footnote 4, p.118.

tions pointed the way to subsequent enactment of the Robinson-Patman Act (1936) prohibiting price and other discriminations, and the Wheeler-Lea Act (1938) which amended the Federal Trade Commission Act so as to broaden the prohibition of unfair methods of competition in section 5 to include unfair or deceptive acts or practices in interstate commerce.

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.

Cigarette Shortage (F. T. C. and Senate Interstate Commerce Committee Chairman), Wartime, 1944-45.--In response to complaints from the public and a request from the Chairman of the Senate Interstate Commerce Committee (letter dated 12/1/44), the Commission investigated the cigarette shortage and reported, among other things that the scarcity was directly traceable to the large volume of cigarettes moving to the armed forces and the Allies ; that it was not attributable to violations of laws administered by the Commission ; but that certain undesirable practices such as hoarding and tie-in sales had developed. (*Report of the F. T. C. on the Cigarette Shortage*, 33 pages, processed, 2/13/45.)

Coal (Congress and F. T. C.), Wartime, 1917-18, Etc.--From 1916 through the first World War period and afterward, the Commission at different times investigated anthracite and bituminous coal prices and the coal industry's financial condition. Resulting cost and price reports are believed to have substantially benefited the consumer. Among the published reports were : *Anthracite Coal Prices*, preliminary (S. Doc. 19, 65th, 4 p., o. p., 5/4/17); *Preliminary Report by the F. T. C. on the Production and Distribution of Bituminous Coal* (H. Doc. 152, 65th, 8 p., o. p., 5/19/17); *Anthracite and Bituminous Coal Situation*, summary (H. Doc. 193 65th, 29 p., o. p., 6/19/17); and *Anthracite and Bituminous Coal* (S. Doc. 50, 65th, 420 p., o. p., 6/19/17)--pursuant to S. Res. 217, 64th 6/22/16; H. Res. 352, 64th, 8/18/16, and S. Res. 51, 65th, 5/1/17 ; *Washington, D. C., Retail Coal Situation* (5 p., release, processed, o. p., 8/11/17)--pursuant to F. T. C. motion ; *Investment and Profit in Soft-Coal Mining* (two parts, 5/31/22 and 7/6/22, 218 p., o. p., S. Doc. 207, 65th)--pursuant to F. T. C. motion ; and *Report of the F. T. C. on Premium Prices of Anthracite* (97 p., o. p., 7/6/25)--pursuant to F.T.C. motion.

Coal, Cost of Production (F. T. C.), Wartime, 1917-18--President Wilson fixed coal prices by Executive order under the Lever Act (1917) on the basis of information furnished by the Commission. For use of the U. S. Fuel Administration in continuing price control, the Commission compiled monthly cost production reports, collecting cost records for 1917-18 for about 99 percent of the anthracite and 95 percent of the bituminous coal production (*Cost Reports of the F. T. C.--Coal*, 6/30/19, summarized for principal coal-producing States or regions : (1) Pennsylvania, bituminous, 103 p., o. p. ; (2) Pennsylvania, anthracite, 145 p., o. p. ; (3) Illinois, bituminous, 127 p. ; (4) Alabama, Tennessee, and Kentucky, bituminous, 210 p. ; (5) Ohio, Indiana, and Michigan, bituminous, 288 p., o. p. ; (6) Maryland, West Virginia, and Virginia, bituminous, 286 p., o. p. ; and (7) trans-Mississippi States, bituminous, 459 p., o. p.)

Coal, Current Monthly Reports (F. T. C.).--The Commission (December 1919)

initiated a system of current monthly returns from the soft coal industry similar to those compiled during the World War, 1917-18 (*Coal-Monthly Reports on Cost of Production*, 4/20/20 to 10/30/20, Nos. 1 to 6, and two quarterly reports with revised costs, 8/25/20 and 12/6/20, processed, o. p.). An injunction to prevent the calling for the monthly reports (denied about seven years later) led to their abandonment.

Combed Cotton Yarns.--See Textiles.

Commercial Bribery (F. T. C.).--Investigating the prevalence of bribery of customers' employees as a means of obtaining trade, the Commission published *A Special Report on Commercial Bribery* (H. Doc. 1107, 65th, 3 p., o. p., 5/15/18), recommending legislation striking at this practice ; *Commercial Bribery* (S. Doc. unnumbered, 65th, 36 p., o. p., 8/22/18); and *Commercial Bribery* (S. Doc. 258, 66th, 7 p., o. p., 3/18/20).

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

INVESTIGATIONS BY THE COMMISSION, 1915-48 121

cooking and plate warming equipment were complying with W. P. B. Limitation Orders L-182 and L-182 as amended 3/2/43 ; Conservation Orders M-126 and M-9-c, as amended ; and Priorities Regulation No.1.

Contractors, Prime, Forward Buying Practices of (W. P. B.), Wartime, 1942-43.--The matter of procurement, use, and inventory stocks of critical materials involved in the operation of major plants devoting their efforts to war production 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.

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 U.S.

Cooperative Marketing (Senate).--This inquiry (S. Res. 34, 69th, 3/17/25) covered the development of the cooperative movement in the U.S. and illegal interferences with the formation and operation of cooperatives ; and a 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 Base Alloy Ingot Makers (W. P. B.), Wartime, 1942-43.--This investigation was designed to ascertain the operations, shipments, and inventories of copper, copper alloys, copper scrap, and copper base alloy ingot makers and was conducted for the purpose of determining the extent to which they were complying with governing W. P. B. Preference and Conservation Orders M-9-a and b, and M-9-c.

Copper Industry (F. T. C.).--The Commission 's report on *The Copper Industry*, transmitted to Congress (3/11/47), was in two parts : *Part I-The Copper Industry of the United States and, International Copper Cartels, and Part II-Concentration and Control By the Three Dominant Companies*. The Commission reported that "The copper situation is particularly serious, not only because of the concentration of control of the are 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 like wise dominated by a few corporate groups which in the past have operated cooperatively in cartels to regulate production and prices.”

Copper, Primary Fabricators of (W. P. B.), Wartime, 1941-42.--A survey and of a specified list of companies which used a large percentage of all copper allocated, and at the same time represented a fair cross-section of the industry, were made to ascertain the degree of compliance accorded to preference, supplementary, and conservation orders and regulations of the Director of Priorities, Office of Production Management (later the War Production Board).

Corporation Reports.--See Industrial 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., 3/7/47), which showed, among other things, that during the period covered, more than 1,800 formerly independent competitive firms in manufacturing and mining industries alone had disappeared as a result of mergers or acquisitions, and that more than one third of the total number of acquisitions occurred in only three industries, food, nonelectrical machinery, and textiles and apparel--all predominantly “small business” fields. (See also *Mergers*.)

Cost Accounting.--See Accounting Systems.

Cost of Living (President), Wartime, 1917-18.--Delegates from the various States met in Washington, April 30 and May 1, 1917, at the request of the Federal Trade Commission, and considered the rapid rise of wartime prices and the plans then being made for the Commission’s general investigation of foodstuffs. [See *Foods (President)*, Wartime, 1917-18, herein.] Proceedings of the conference were published (*High Cost of Living*, 119 p., o. p.).

Cost of Living (President).--President Roosevelt, in a published letter (11/16/37), requested the Commission to investigate living costs. The Commission (11/20/37) adopted a resolution undertaking the inquiry and a few months thereafter submitted a confidential report to the President.

Costume Jewelry, Manufacturers of (W. P. B.), Wartime, 1943-44.--Because it appeared that vast quantities of critical metals were being diverted illegally from war use to the manufacture of costume jewelry and similar items, the War Production Board requested the Commission to investigate 45 manufacturers to ascertain the facts concerning their compliance with W. P. B. Orders M-9-*a*, M-9-*b*, M-9-*c*, M-9-*c-2* M-43, M-38, M-11, M-11-*b*, M-126, L--81, L-131, and L-131-*a*, all as amended.

Cotton Industry.--See Textiles.

Cottonseed Industry (House)--Investigating alleged price fixing (H. Res. 439, 69th, 3/2/27), the Commission reported evidence of cooperation among State associations but no indication that cottonseed crushers or refiners had fixed prices in violation of the antitrust laws (*Cottonseed, Industry*, H. Doc. 193, 70th, 37 p., 3/5/28).

Cottonseed Industry (Senate)--Two resolutions (S. Res. 136, 10/21/29, and S. Res. 147, 11/2/29--71st) directed the Commission to determine whether alleged unlawful combinations of cottonseed oil mill corporations sought to lower and fix prices of cottonseed and to sell cottonseed meal at a fixed price under boycott threat ; and whether such corporations acquired control of cotton gins to destroy competitive markets and depress or control prices paid to seed producers (*Investigation of the Cottonseed, Industry*, preliminary report, S. Doc. 91, 71st, 4 p., o. p., 2/28/30, and final report, 207 p., with 11 vols. testimony, S. Doc. 209, 71st, 5/19/33).

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

Distribution.--See Millinery Distribution.

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 sub-titles : *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 Implements* (3/2/44, 189 p., o. p.); *Part V, Advertising as a Factor in Distribution* (10/30/44, 50 p., o. p.); *Part VI, Milk Distribution, Prices, Spreads and Profits* (6/18/45, 58 p.); *Part VII, Cost of Production and Distribution of Fish in the Great Lakes Area* (6/30/45, 59 p.); *Part VIII, Cost of Production and Distribution of Fish in New England* (6/30/45, 118 p.); and *Part IX, Cost of Production and Distribution of Fish on the Pacific Coast* (7/25/46, 82 p.). The inquiries relating to fish were conducted in cooperation with the Coordinator of Fisheries, Interior Dept. 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.

Du Pont Investments (F. T. C.).--The *Report of the F. T. C. on Du Pont Investments* (F. T. C. motion 7/29/27; report, 46 p., processed, 2/1/29) discussed reported 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.

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.

Electrical Household Appliances.--See Distribution Methods and Costs.

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. A summary of the report appears at p.25.

Feeds, Commercial (Senate).--Seeking to determine whether purported combinations in restraint of trade existed (S. Res. 140, 66th, 7/31/19), the Commission found that although some association activities were in restraint of trade, there were no substantial antitrust violations (*Report of the F. T. C. on Commercial Feeds*, 206 p., o. p., 3/29/21).

Fertilizer (Senate).--Begun by the Commissioner of Corporations (S. Res. 487, 62d, 3/1/13), this inquiry disclosed extensive use of bogus independent fertilizer companies for competitive purposes (*Fertilizer Industry*, S. Doc. 551, 64th, 269 p., o. p., 8/19/16). Agreements for abolition of such unfair competition were reached.

Fertilizer (Senate).--A second fertilizer inquiry (S. Res. 307, 67th, 6/17/22) developed that active competition generally prevailed in that industry in the U. S., although in some foreign countries combinations controlled certain important raw materials. The Commission recommended improved agricultural credits and more extended cooperation by farmers in buying fertilizer (*Fertilizer Industry*, S. Doc. 347, 67th, 87 p., o. p., 3/3/23).

Fertilizer and Related Products (O. P. A.), Wartime, 1942-43.--At the request of O. P. A (June 1942), the Commission investigated costs, prices, and profits in the fertilizer and related products industries. The inquiry developed information with reference to the operations of 12 phosphate rock mines of 11 companies, and 40 plants of 24 companies producing sulphuric acid, superphosphate, and mixed fertilizer. One of the principal requirements of the inquiry was to obtain information concerning costs, prices, and profits for 103 separate formulas of popular-selling fertilizers during 1941 and 1942.

Fish.--See Distribution Methods and Costs.

Flags (Senate), Wartime, 1917-18.--Unprecedented increases in the prices of U.S. flags in 1917, due to wartime demand, were investigated (S. Res. 35, 65th, 4/16/17). The inquiry was reported in *Prices of American Flags* (S. Doc. 82, 65th, 6 p., o. p., 7/26/17).

Flour Milling.--See Food, below.

Food (President), Wartime, 1917-18.--President Wilson, as a wartime emergency measure (2/7/17), directed the Commission "to investigate and report the facts relating to the production, ownership, manufacture, storage, and distribution of foodstuffs" and "to ascertain the facts bearing on alleged violations of the antitrust acts." Two major series of reports related to meat packing and the grain trade with separate inquiries into flour milling, canned vegetables and fruits, canned salmon, and related matters, as listed below.

Food (President) Continued--Meat Packing.--*Food Investigation-Report of the F. T. C. on the Meat-Packing Industry* was published in six parts : I. *Extent and Growth of Power of the Five Packers in Meat and Other Industries* (6/24/19, 574 p., o. p.); II.

Evidence of Combination Among Packers (11/25/18 294 p., o. p.); *III. Methods of the Five Packers in Controlling the Meat-Packing Industry* (6/28/19, 325 p., o. p.); *IV. The Five Large 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

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.

substantially the effect of Federal legislation in restricting their future operations to certain lines of activity. As a further result of the investigation, Congress enacted the Packers and Stockyards Act (1921), adopting the Commission's recommendation that the packers be divorced from control of the stockyards. (The meat-packing industry is further referred to under Meat Packing Profit Limitation, p.126.)

Food (President) Continued-Grain Trade.--Covering the industry from country elevator to central market, the *Report of the F. T. C. on the Grain Trade* was published in seven parts : I. *Country Grain Marketing* (9/15/20, 350 p., o. p.); II. *Terminal Grain Markets and Exchanges* (9/15/20, 333 p., o. p.); III. *Terminal Grain Marketing* (12/21/21, 332 p., o. p.); IV. *Middlemen's Profits and Margins* (9/26/23, 215 p., o. p.); V. *Future Trading Operations in Grain* (9/15/20, 347 p., o. p.); VI. *Prices of Grain and Grain Futures* (9/10/24, 374 p., o. p.); and VII. *Effects of Future Trading* (6/25/26, 419 p., o. p.). The investigation as reported in Vol. V, and testimony by members of the Commission's Staff (*U.S. Congress House Committee on Agriculture, Future Trading*, hearings, 67th, April 25-May 2, 1921) was an important factor in enactment of the Grain Futures Act (1921). (Further reference to the grain trade is made under Grain Elevators, Grain Exporters, and Grain Wheat Prices, p.125.)

Food (President) Continued-Bakeries and Flour Milling.--One F. T. C. report was published by the Food Administration (*U.S. Food, Administration, Report of the F. T. C. on Bakery Business in U. S.*, pp. 5-13, o. p., 11/3/17). Other reports were : *Food Investigation, Report of the F. T. C. on Flour Milling and Jobbing* (4/4/18, 27 p., o. p.) and *Commercial Wheat Flour Milling* (9/15/20, 118 p., o. p.).

Food (President) Continued--Canned Foods, 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, 103 p., o. p.); *Report of the F. T. C. on Canned Foods--Canned Salmon* (12/27/18, 83 p., o. p.); *Report of the F. T. C. on Private Car Lines*, regarding transportation of meats, fruits, and vegetables (6/27/19, 271 p., o. p.); and *Report of the F. T. C. on Wholesale Marketing of Food* (6/30/19, 268 p., o. p.) , which recommended that a wholesale dealer in perishable food products should be required to procure a Federal license and that Federal inspection and standards should be provided. Provisions in accordance with these recommendations were incorporated in the Perishable Agricultural Commodities Act (1930).

Food-Biscuits and Crackers (O. P. A.), Wartime, 1942-43.--As requested by the Office. of Price Administration, the Commission investigated costs and profits in the biscuit and cracker manufacturing industry and submitted its report to that agency 3/25/43. The survey of 43 plants operated by 25 companies showed, among other things, that costs were lower and profits higher for the larger companies than for the smaller ones.

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--Bread and Flour (Senate)--Reports on this inquiry (S. Res. 163, 68th, 2/26/24) were : *Competitive Conditions in Flour Milling* (S. Doc. 97, 70th, 140 p., o. p., 5/3/26); *Bakery Combines and Profits* (S. Doc. 212, 69th, 95 p., 2/11/27); *Competition and Profits in Bread and Flour* (S. Doc. 98, 70th, 509 p., o. p.,

10 In connection with its wartime cost finding inquiries, 1917-18, p.135 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).

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

Food-Wholesale Baking Industry (F. T. C.).--This inquiry (F. T. C. Res., 8/31/45) resulted in two reports to Congress : *Wholesale Baking Industry, Part I--Waste in the Distribution of Bread* (4/22/46, processed, 29 p.) and *Wholesale Baking Industry, Part II--Costs, Prices and Profits* (8/7/46, 137 p.). *Part I* developed facts concerning wasteful and uneconomic practices in the distribution of bread, including consignment selling which involves the taking back of unsold bread ; furnishing, by gift or loan, bread racks, stands, fixtures, etc., to induce distributors to handle a given company's products. It was found that, although War Food Order No. 1 which prohibited these practices was only partially observed, in 1945 as compared with 1942, the quantity of bread saved was sufficient to supply the population of England, Scotland, and Wales with a daily ration of one-third of a loaf for 30 days, the population of France for 36 days, or the population of Finland for nearly 1 year. The Commission suggested that "a careful examination of present laws be made by the legislative and executive branches of the Government to determine what legislation, if any, is needed to permanently eliminate wasteful trade practices and predatory competition which threaten the existence of many small bakers, foredoom new ventures to failure and promote regional monopolistic control of the wholesale bread- baking Industry."

Part II presents information concerning prices and pricing practices in the industry, profits earned, and unit costs of production and distribution. It compares the details of production and distribution costs for bread and rolls, other bakery products, and for all bakery products for two operating periods in 1945, March and September. Comparisons of costs are also made for these two periods for plants arranged by geographical areas. Comparisons of the costs of production and distribution are made by size groups of wholesale bakeries.

Food--Fish.--See Distribution Methods and Costs.

Food-Flour Milling (Senate).--This study of costs, profits, and other factors (S. Res. 212, 67th, 1/18/22) was reported in *Wheat Flour Milling Industry* (S. Doc. 130, 68th, 130 p., o. p., 5/16/24).

Food--Flour Milling (O. E. S.), Wartime, 1942-43.--Requested by the Director of the Office of Economic Stabilization, this inquiry covered practices, costs, prices and profits in the wheat flour-milling industry, its purpose being to provide the Director with facts to determine what economies could be effected in the industry so as to eliminate the need for a wheat subsidy, without reducing farmers' returns, or to reduce bread prices. The report was made to O. E. S. and a more detailed report was prepared for O. P. A.

Food--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.

126 ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION, 1948

Food-Meat Packing Profit Limitations (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. Dec. 110, 66th, 179 p., o. p., 9/25/19).

Food--Milk.--See Distribution Methods and Costs.

Food--Milk and Milk Products (Senate), Wartime, 1917-18.--Covering an inquiry (S. Res. 431, 65th, 3/3/19) into fairness of milk prices to producers and of canned milk prices to consumers, the *Report of the F. T. C. on Milk and Milk Products 1914-18* (6/6/21, 234 p., o. p.) showed a marked concentration of control and questionable practices many of which later were recognized by the industry as being unfair.

Food--Milk and Dairy Products (House).--Competitive conditions in different milk-producing areas were investigated (H. Con. Res. 32, 73d, 6/15/34). Results of the inquiry were published in seven volumes: *Report of the F. T. C. on the Sale and Distribution of Milk Products, Connecticut and Philadelphia Milksheds* (H. Doc. 152, 74th, 901 p., o. p., 4/5/35); *Report of the F. T. C. on the Sale and Distribution of Milk and Milk Products* (Connecticut and Philadelphia milksheds, interim report, H. Doc. 387, 74th, 125 p., o. p., 12/31/35); *Chicago Sales Area* (H. Doc. 451, 74th, 103 p., o. p., 4/15/36); *Boston, Baltimore, Cincinnati, St. Louis* (H. Doc. 501, 74th, 243 p., o. p., 6/4/36); *Twin City Sales Area* (H. Doc. 506, 74th, 71 p., o. p., 6/13/36); and *New York Milk Sales Area* (H. Doc. 95, 75th, 138 p., o. p., 9/30/36). The Commission reported that many of the industry's problems could be dealt with only by the States and recommended certain legislation and procedure, both State and Federal (*Summary Report on Conditions with Respect to the Sale and Distribution of Milk and Dairy Products*, H. Doc. 94, 75th, 39 p., o. p., 1/4/37). Legislation has been enacted in a number of States carrying into effect all or a portion of the Commission's recommendations.

Food--Peanut Prices (Senate).--An alleged price-fixing combination of peanut crushers and mills was investigated (S. Res. 139, 71st, 10/22/29). The Commission found that an industry-wide decline in prices of farmers' stock peanuts during the business depression was not due to such a combination, although pricing practices of

certain mills tended to impede advancing and to accelerate declining prices (*Prices and Competition Among Peanut Mills*, S. Doc. 132, 72d, 78 p., o. p., 0/30/32).

Food--Raisin Combination (Attorney General).--Investigating allegations of a combination among California raisin growers (referred to F. T. C. 9/30/19), the Commission found the enterprise not only organized in restraint of trade but conducted in a manner threatening financial disaster to the growers. The Commission recommended changes which the growers adopted (*California Associated Raisin Co.*, 26 p., processed, o. p., 6/8/20).

Food--Southern Livestock Prices (Senate).--Although the low prices of southern livestock in 1919 gave rise to a belief that discrimination was being practiced, a Commission investigation (S. Res. 133, 66th, 7/25/19) revealed the alleged discrimination did not appear to exist (*Southern Livestock Prices*, S. Doc. 209, 66th, 11 p., o. p., 2/2/20).

Food--Sugar (House).--An extraordinary advance in the price of sugar in 1919 (H. Res. 150, 66th, 10/1/19) was found to be due chiefly to speculation and hoarding. The Commission made recommendations for correcting these abuses (*Report of the F. T. C. on Sugar Supply and Prices*, 205 p., 11/15/20).

Food--Sugar, Beet (F. T. C.).--Initiated by the Commissioner of Corporations,¹¹ but completed by the F. T. C., this inquiry dealt with the cost of growing beets and the cost of beet-sugar manufacture (*Report on the Beet Sugar Industry in the U.S.*, H. Doc. 158, 65th, 164 p., o. p., 5/24/17).

Foreign Trade--Antidumping Legislation (F. T. C.).--To develop information for use of Congress in its consideration of amendments to the antidumping laws, the Commission studied recognized types of dumping and provisions for preventing the dumping of goods from foreign countries (*Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries*, S. Doc. 112, 73d, 100 p., o. p., 1/11/34; supplemental report, 111 p., o. p., processed., 6/27/38).

¹¹ See footnote 8, p.123.

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.

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, 1942-44.--The Commission made a Nation-wide survey for the War Production Board of the operations of one of the largest manufacturers in the United States of household hot air furnaces, to determine whether its practices in selling and servicing domestic heating plants were in violation of Orders L--79 and P--84 and other applicable regulations and orders of W. P. B.

Fuse Manufacturers (W. P. B.), Wartime, 1942-43.--For the War Production Board the Commission investigated and reported on the activities of representative fuse manufacturers whose operations were subject to W. P. B. Limitation Orders L-158 and L-161, as amended.

Gasoline.--See Petroleum.

Glycerin, Users of (W. P. B.), Wartime, 1942-43.--At the request of the War Production Board, paint and resin manufacturers, tobacco companies, and other large users of glycerin were investigated to determine whether they had improperly extended preference ratings to obtain formaldehyde, paraformaldehyde, or hexamethylenetetramine, to which they were not otherwise entitled.

Grain.--See Food.

Grain Exchange Actions (F. T. C. and Chairman of Senate Committee on Agriculture and Forestry).--The Commission's report on *Economic Effects of Grain Exchange Actions Affecting Futures Trading During the First Six Months of 1946* (85 p., 2/4/47) presents results of a special study made at the request of the then Chairman of the Senate Committee on Agriculture and Forestry. The report reviews the factors which made it impossible, during the first half of 1946, for futures trading to be conducted in the usual manner on the Chicago, Kansas City and Minneapolis grain exchanges under existing conditions of Government price control and severe restrictions on the movement of short supplies of free grain in the cash market. The report also discusses the economic effects of emergency actions taken by the exchanges on the interests trading in futures, and suggests, among other things, that both the Commodity Exchange Act and the U.S. Warehouse Act "should be so amplified and coordinated, or even combined, as to make effective the type and scope of regulation over futures trading contemplated by the Congress in enacting the

Commodity Exchange Act.”

Guarantee Against Price Decline (F. T. C.).--Answers to a circular letter (12/26/19) calling for information and opinions on this subject were published in *Digest of Replies in Response to an Inquiry of the F. T. C. Relative to the Practice of Giving Guarantee Against Price Decline* (68 p., o. p., 5/27/20).

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

Household Furniture (O. P. A.), Wartime, 1941-42.--Costs, prices, and profits of 67 representative furniture companies were studied to determine whether, and to what extent, price increases were justified. A study was also made to determine whether price-fixing agreements existed and whether wholesale price increases resulted from understandings in restraint of trade. Confidential reports were transmitted to O. P. A. in Sept. 1941.

813610--49----10

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 Financial Reports (F. T. C. and S. E. C.).--This (1947 and 1948) 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 non-registered corporations; The sample has been designed so that the two sets of data can be combined to provide estimates for 21 major industry groups as well as the aggregate for all manufacturing corporations. The *Industrial Financial Reports* formerly were known as *Industrial Corporation Reports*. A summary of the report appears at p.27.

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.

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. A summary of the report appears at p.23.

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. A summary of the report appears at p.22. (*International Steel Cartels* (1948), 115 p., also 12 p. processed summary.)

Jewel Bearings, Consumers of (W. P. B.), Wartime, 1942-43.--For the War Production Board, users of jewel bearings were investigated to determine the extent to which they were complying with W. P. B. Conservation Order m-50, which had been issued to conserve the supply and direct the distribution of jewel bearings and jewel-bearing material.

Leather and Shoes (F. T. C. and House), Wartime, 1917-18.--General complaint regarding high prices of shoes led to this inquiry, which is reported in *Hide and Leather Situation*, preliminary report (H. Doc. 857, 65th, 5 p., o. p., 1/23/18), and *Report on Leather and Shoe Industries* (180 p., o. p., 8/21/19). A further study (H. Res. 217, 66th, 8/19/19) resulted in the *Report of the F. T. C. on Shoe and Leather Costs and Prices* (212 p., o. p., 6/10/21).

Lumber-Costs.--See wartime Cost Finding, 1917-18.

Lumber Trade Associations (Attorney General).--The Commission's extensive survey of lumber manufacturers' associations (referred to F. T. C., 9/4/19) resulted in Department of Justice proceedings against certain associations for alleged antitrust law violations. Documents published were : *Report of the F. T. C. on Lumber Manufacturers' Trade Associations*, incorporating regional reports of 1/10/21, 2/18/21, 6/9/21, and 2/15/22 (150 p., o. p.); *Report of the F. T. C. on Western Red Cedar Association, Lifetime Post Association, and Western Red Cedarmen's Information Bureau* (22 p.; o. p., 1/24/23), also known as *Activities of Trade Associations and Manufacturers of Posts and Poles in the Rocky Mountain and, Mississippi Valley Territory* (S. Doc. 293, 67th, o. p.); and *Report of the F. T. C. on Northern Hemlock and Hardwood Manufacturers Association* (52 p., o. p., 5/7/23).

Lumber Trade Associations (F. T. C.).--Activities of five large associations were investigated in connection with the Open-Price Associations inquiry to bring down to date the 1919 lumber association inquiry (Chap. VIII of *Open Price Trade associations*, S Doc. 226, 70th, 516 p., 243/29).

Meat-Packing Profit Limitations.--See Food.

Mergers (F. T. C.).--In its 1948 report entitled *The Merger Movement: A Summary Report*, (134 p., also 7 p. processed summary) the legal history of the anti-merger provisions of the Clayton Act is reviewed. The report calls attention to the loophole in the Clayton Act which permits corporations to purchase the assets rather than (or in addition to) the stock of competing firms, thereby evading the original intent of Congress "to arrest the creation of . . . monopolies in their incipiency." A summary of the report appears at p.16. (See also Corporate Mergers.)

Metal-Working Machines, Invoicing and Distribution of (W. P. B.), Wartime, 1942-43.--For the War Production Board an inquiry was made to obtain complete data from the builders of metal-working machines (including those manufactured by their subcontractors) such as all nonportable power-driven machines that shape metal by progressively removing chips or by grinding, boning, or lopping ; all nonportable power-driven shears, presses, hammers, bending machines, and other machines for cutting, trimming, bending, forging, pressing, and forming metal ; and all power-driven measuring and testing machines. Each type and kind of machine was reported on separately.

Milk.--See Food.

Millinery Distribution (President).--This inquiry, requested by President Roosevelt, embraced growth and development of syndicates operating units for retail millinery distribution, the units consisting of 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).

Motor Vehicles (Congress).--Investigating (Public Res. 87, 75th, 4/13/38) distribution and retail sales policies of motor vehicle manufacturers and dealers, the Commission found, among other things, a high degree of concentration and strong competition ; that many local dealers' associations fixed prices and operated used-car valuation or appraisal bureaus essentially as combinations to restrict competition ; that inequities existed in dealer agreements and in certain manufacturers' treatment of some dealers ; and that some companies' car finance plans developed serious abuses (*Motor Vehicle Industry*, H. Doc. 468, 76th, 1077 p., 6/5/39). The leading companies voluntarily adopted a number of the Com-mission's recommendations as company

policies.

National Wealth and Income (Senate).--In 1922 the national wealth was estimated (inquiry pursuant to S. Res. 451, 67th, 2/28/23) at \$353,000,000,000 and the national income in 1923 at \$70,000,000,000 [*National Wealth and Income* (S. Doc. 126, 69th, 381 p., o. p., 5/25/26) and *Taxation and, Tax-Exempt Income* (S. Doc. 148, 68th, 144 p., o. p., 6/6/24).]

Nickel Processors (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.

Open-Price Associations (Senate).--An investigation (S. Res. 28, 69th, 3/17/25) to ascertain the number and names of so-called open-price association, their im-

portance in industry and the extent to which members maintained uniform prices, was reported in *Open-Price Trade Associations* (S. Doc. 226, 70th, 516 p., 2/13/29).

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

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-Book (Senate), Wartime, 1917-18.--This inquiry (S. Res. 269, 64th, 9/7/16) resulted in proceedings by the Commission against certain manufacturers to prevent price enhancement and the Commission recommended legislation to repress trade restraints [*Book Paper Industry-A Preliminary Report* (S. Doc. 45, 65th, 11 p., o. p., 6/43/17), and *Book Paper Industry--Final Report* (S. Doc. 79, 65th, 125 p., o. p., 8/21/17)].

Paper--Newsprint (Senate), Wartime, 1917-18.--High prices of newsprint (S. Res. 177, 64th, 4/24/16) were shown to have been partly a result of certain newsprint association activities in restraint of trade. Department of Justice proceedings resulted in abolishment of the association and indictment of certain manufacturers. The Commission for several years conducted monthly reporting of production and sales statistics, and helped provide some substantial relief for smaller publishers in various parts of the country. [*Newsprint Paper Industry*, preliminary (S. Doc. 3, 65th, 12 p., o. p., 3/3/17); *Report of the F. T. C. on the Newsprint Paper Industry* (S. Doc. 49, 65th) 162 p., o. p., 6/13/17); and *Newsprint Paper Investigation* (in response to S. Res. 95, 65th, 6/27/17 ; S. Doc. 61, 65th, 8 p., o. p., 7/10/17)].

Paper-Newsprint (Senate).--The question investigated (S. Res. 337, 70th, 2/27/29) was whether a monopoly existed among newsprint manufacturers and distributors in supplying paper to publishers of small dailies and weeklies (*Newsprint Paper Industry*, S. Doc. 214, 71st 116 p., 6/30/30).

Paper-Newsprint (Attorney General).--The Commission investigated (inquiry referred to F. T. C. 1/24/38) the manner in which certain newsprint manufacturers complied with a consent decree entered against them (11/26/17) by the U.S. District Court, Southern District of New York.

Peanut Prices.-- See Food.

Petroleum 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 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. Record, 2/28/25, p. 5158)--pursuant to request of President Coolidge, 2/7/24 *Petroleum Industry--Prices, Profits and Competitions* (S. Doc. 61, 70th, 360 p., o. p., 12/12/27)--pursuant to S. Res. 31, 69th, 6/3/36 ; *Importation of Foreign Gasoline at Detroit, Mich.* (S. Doc. 206, 72d, 3 p., o. p., 2/27/33)--pursuant to S. Res. 274, 72d, 7/16/32; and *Gasoline Prices* (S. Doc. 178, 73d, 22 p., o. p., 5/10/34) --pursuant to S. Res. 166, 73d, 2/2/34.

Petroleum Decree (Attorney General).--The Commission investigated (inquiry referred to F. T. C. 4/16/36) the manner in which a consent decree entered

¹² See footnote 8, p.123.

(9/15/30) against Standard Oil Co. of California, Inc., and others, restraining them from monopolistic practices, was being observed, and reported (4/2/37) to the Attorney General.

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

Petroleum Pipe Lines (Senate).--Begun by the Bureau of Corporations, ¹³ this inquiry (S. Res. 109, 63d, 6/18/13) showed the dominating importance of the pipe lines of the great midcontinent oil fields and reported practices of the pipe-line companies which were unfair to small producers (*Report on Pipe-Line Transportation of Petroleum*, 467 p., o. p., 2/28/16), some of which practices were later remedied by the Interstate Commerce Commission.

Petroleum--Regional Studies (Senate and F. T. C.).--Reports published were : Pacific Coast Petroleum *Industry* (two parts 4/7/21 and 11/28/21, 538 p.) pursuant to S. Res. 138, 66th, 7/31/19; *Reports of the F. T. C. on the Petroleum Industry of Wyoming* p., o. p., 1/3/21)--pursuant to F. T. C. motion ; *Petroleum Trade in Wyoming and Montana* (S. Doc. 233, 67th, 4 p., o. p., 7/13/22--pursuant to F. T. C. motion, in which report legislation to remedy existing conditions was recommended ; and *Report of the F. T. C. on Panhandle Crude Petroleum (Texas)* (19 p., o. p., 2/3/28)-pursuant to F. T. C. motion, 10/6/26 (in response to requests of producers of crude petroleum)

Potomac Electric Power Co. (Procurement Director, United States Treasury).--A study (2/29/44) of the financial history and operations of this corporation for the years 1896-1943 was made at the request of the Director of Procurement, United States Treasury, and the report thereon was introduced into the record in the corporation's electric rate case before the District of Columbia Public Utilities Commission.

Power-Electric (Senate).--This inquiry (S. Res. 329, 68th, 2/9/25) resulted in two reports, the first of which, *Electric Power Industry--Control of Power Companies* (S. Doc. 213, 69th, 272 p., o. p., 2/21/27) dealt with the organization, control, and ownership of commercial electric-power companies. It called attention to the dangerous degree to which pyramiding had been practiced in super-posing a series of holding companies over the underlying operating companies, and was influential in bringing about the more comprehensive inquiry described under Power-Utility Corps., below. *Supply of Electrical Equipment and Competitive Conditions* (S. doc. 46, 70th, 282 p., o. p., 1/12/28) showed, among other things, the dominating position of General Electric Co. in the equipment field.

Power--Interstate Transmission (Senate).--Investigation (S. Res. 151, 71st, 11/8/29) was made of the quantity of electric energy transmitted across State lines and used for development of power or light, or both (*Interstate Movement of Electric Energy*, S. Doc. 238, 71st, 134 p., o. p., 12/20/30).

Power--Utility Corporations (Electric and Gas Utilities) (Senate).--This extensive inquiry (S. Res. 83, 70th, 2/15/28 ; Public Res. 46, 73d, 6/1/34 ; and F. T. C. Act, Sec. 6) embraced the financial set-up of electric and gas utility companies operating in interstate commerce and of their holding companies and other companies controlled by the holding companies. The inquiry also dealt with the utilities' efforts to influence public opinion with respect to municipal ownership of electric utilities.

The Commission's reports and recommendations, focusing Congressional attention upon certain unfair financial practices in connection with the organization of holding companies and the sale of securities, were among the influences which brought about enactment of such remedial legislation as the Securities Act (1933), the Public Utility Holding Company Act (1935), the Federal Power Act (1935), and the Natural Gas Act (1938).

Public hearings were held on all phases of the inquiry and monthly interim reports presented hundreds of detailed studies by the Commission's economists, attorneys, accountants and other experts, based on examination of 29 holding companies having \$6,108,128,713 total assets ; 70 subholding companies with \$5,685,463,201 total assets ; and 278 operating companies with \$7,245,106,464

¹³ See footnote 8, p.123. Conditions in one of the mid-continent fields were discussed by the Bureau of Corporations in *Conditions in the Healdton Oil Field* (Oklahoma) (116 p. 3/15/15).

total assets. The testimony, exhibits and final reports (*Utility Corporations*, S. Doc. 92, 70th) comprised 95 volumes. ¹⁴

Price Bases (F. T. C.).--More than 3,500 manufacturers representing practically every industrial segment furnished data for this study (F. T. C. motion, 7/27/27) of methods used for computing delivered prices on industrial products and of the actual and potential influence of such methods on competitive markets and price levels. In the cement industry the basing-point method ¹⁵ was found to have a tendency to establish unhealthy uniformity of delivered prices and cross-haul or cross-freighting to be an economic evil (*Report of the F. T. C. on Price Bases Inquiry, Basing-Point Formula and Cement Prices*, 218 p., o. p., 3/26/32). Illustrating the use in a heavy commodity industry of both a modified zone-price system and a uniform delivered-price system, the Commission examined price schedules of the more important manufacturers of range boilers, 1932-36, disclosing that the industry operated under a zone-price formula, both before and after adoption of its N. R. A. code (*Study of Zone-Price Formula in Range Boiler Industry*, 5 p., processed, 3/30/36, a summary based on the complete report which was submitted to Congress but not printed).

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

Priorities (W. P. B.), Wartime, 1941-45.--Pursuant to Executive orders (January 1942), W. P. B. designated the Federal Trade Commission as an agency to conduct investigations of basic industries to determine the extent and degree to which they were complying with W. P. B. orders relative to the allocation of supply and priority of delivery of war materials. F. T. C. priorities investigations are listed herein under the headings : Aluminum, Foundries Using ; Antifreeze Solutions, Manufacturers of ; Capital Equipment; Chromium, Processors of ; Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of ; Contractors, Prime, Forward Buying Practices of ; Copper Base Alloy Ingot Makers; Copper, Primary Fabricators of ; Costume Jewelry, Manufacturers of ; Electric Lamps, Manufacturers; 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.

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).

Quinine, Manufacturers and Wholesalers of (W. P. B.), Wartime, 1942-43.--At the instance of the War Production Board, investigation was made to determine whether requirements of its Conservation Order No. m-131-a, relating to quinine and other drugs extracted from cinchona bark, were being complied with.

Radio (House).--A comprehensive investigation of the radio industry (H. Res. 548, 67th, 3/4/23 ; *Report of the F. T. C. on the Radio Industry*, 347 p., o. p., 12/1/23) contributed materially to enactment of the Radio Act of 1927 and the succeeding Federal Communications Act of 1934. The investigation was followed by Commission

and Department of Justice proceedings on monopoly charges which culminated in a consent decree (11/2/32; amended 11/2/35).

Rags, Woolen.--See Textile.

Raisin Combination.--See Food.

Range Boilers.--See Price Bases.

Rates of Return in Selected Industries (F. T. C.).--A comparison of the prewar (World War II) and postwar rates of return on stockholders' investments after taxes for more than 500 identical manufacturing corporations. The study, covering the years 1940 and 1947, includes 25 selected manufacturing industries. (7 p., processed.)

14 Final reports were published in 1935 ; a general index In 1987. Some of the volumes are out o f print. For report titles, see F. T. C. Annual Report, 1941, p.221 ; and for lists of companies investigated, see F. T. C. Annual Reports, 1935, p.21, and 1936, p.36.

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

Resale Price Maintenance (F. T. C.).--The question whether a manufacturer of standard articles, identified by trade-mark or trade practice, should be permitted to fix by contract the price at which purchasers should resell them, led to the first inquiry, resulting in a report, *Resale Price Maintenance* (H. Doc. 1480, 65th, 3 p., o. p., 12/2/18). Other reports were : *A report on Resale Price Maintenance* (H. Doc. 145, 66th 3 p., 6/30/19) and *Resale Price Maintenance* (F.T.C. motion, 7/25/27 ; reports, Part I, H. Doc. 546, 70th, 141 p., o. p., 1/30/29, and Part II, 215 p., 6/22/31). The *Report of the F. T. C. on Resale Price Maintenance* (F. T. C. Res. 4/25/39) was submitted to Congress 12/13/45. The inquiry developed facts concerning the programs of trade organizations interested in the extension and enforcement of minimum resale price maintenance contracts, and the effects of the operation of such contracts upon consumer prices and upon sales volumes of commodities in both the price-maintained and non-price-maintained categories.

Rubber Tires and Tubes.--See Distribution Methods and Costs.

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

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, all as amended.

Silverware Manufacturers and Silver Suppliers (W. P. B.), Wartime, 1942-43.--The activities of silverware manufacturers and silver suppliers under W. P. B. Conservation and Limitation Orders m-9-a, b, and c, m-100 and L--140 were investigated and reported on at the request of the War Production Board.

Sisal Hemp (Senate).--The Commission assisted the Senate Committee on Agriculture and Forestry in an inquiry (S. Res. 170, 64th, 4/17/16) and advised how certain quantities of hemp promised by the Mexican sisal trust, might be fairly distributed among American distributors of binder twine (*Mexican Sisal Hemp*, S. Doc. 440, 64th, 8 p., o. p., 5/9/16). The Commission's distribution plan was adopted.

Southern Livestock Prices.--See Food.

Steel Code and Steel Code as Amended (Senate and President).--The Commission investigated (S. Res. 166 73d, 2/2/34) price fixing, price increases, and other matters (*Practices of the Steel Industry Under the Code*, S. Doc. 159, 73d, 79 p., o. p., 3/19/34) and the Commission and N. R. A. studied the effect of the multiple basing-point system under the amended code (*Report of the F. T. C. to the President in Response to Executive Order of May 30, 1934, With Respect to the Basing-point System in the Steel Industry*, 125 p., o. p., 11/30/34)¹⁷ The Commission recommended important code revisions.

Steel Companies, Proposed Merger (Senate).--An inquiry (S. Res. 286, 67th

5/12/22) into a proposed merger of Bethlehem Steel Corp. and Lackawanna Steel Co., and of Midvale Steel & Ordnance Co., Republic Iron & Steel Co., and Inland Steel Co., resulted in a two-volume report, *Merger of Steel and Iron Companies* (S. Doc. 208, 67th, 11p., o. p., 6/5/22 and 9/7/22).

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

Steel Costs and Profits (O. P. A.), Wartime, 1942-43--A report on the Commission's survey of costs, prices and profits in the steel industry, begun in April 1942 at the request of O. P. A., was made to that agency. The inquiry covered 29 important steel-producing companies.

Steel Industry (O. P. M.), Wartime, 1941-42.--This investigation covered practically every steel mill in the country and was conducted for the purpose of

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

17 As of the same date in 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.

determining the manner in which the priorities and orders promulgated by the Office of Production Management were being observed, I. e., the technique used in the steel industry in meeting the requirements of O. P. M (later the War Production Board) orders and forms controlling the distribution of pig iron, iron and steel, iron and steel alloys, and iron and steel scrap.

Steel Sheet Piling--Collusive Bidding (President).--Steel sheet piling prices on certain Government contracts in New York, North Carolina, and Florida were investigated (inquiry referred to F. T. C. 11/20/35). The *F. T. C. Report to the President on Steel Sheet Piling* (42 p., processed, 6/10/36) demonstrated the existence of collusive bidding because of a continued adherence to the basing-point system 18 and provisions of the steel industry's code.

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

Sugar.--See Food.

Sulphur Industry (F. T. C.).--In its report to Congress on *The Sulphur Industry and International Cartels* (6/16/47), the Commission stated that the operations of all four producers constituting the American sulphur industry generally have been highly profitable, and that the indications are that foreign cartel agreements entered into by Sulphur Export Corp., an export association organized under the Webb-Pomerene Law, have added to the profitability of the U.S. industry. On 2/7/47, after hearings, the Commission recommended that Sulphur Export Corp. readjust its business to conform to law.

Taxation and Tax-Exempt Income.--See National Wealth and Income.

Temporary National Economic Committee, Studies of the F. T. C.--See F.T.C. Annual Report, 1941, p.218, for titles.

Textile Mills, Cotton (W. P. B.), Wartime, 1942-44.--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.

Textile (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.

Textile--Combed Cotton Yarns.--High prices of combed cotton yarns led to this inquiry (H. Res. 451, 66th, 4/5/20) which disclosed that while for several years profits and prices had advanced, they declined sharply late in 1920 (*Report of the F. T. C. on Combed Cotton Yarns*, 94 p., o. p., 4/14/21).

Textile--Cotton Growing Corporation.--See Foreign Trade.

Textile--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).

18 See footnote 15, p.132.

Textiles--Cotton Trade (Senate) --Investigation (S. Res. 262, 67th, 3/29/22) involved a decline in cotton prices, 1920-22, as reported in *Preliminary Report of the F. T. C. on the Cotton Trade* (S. Doc. 311, 67th, 28 p., o. p., 2/26/23). After a second inquiry (S. Res. 429, 67th, 1/31/23), the Commission recommended certain reforms in trading practices and particularly in permitting Southern delivery of cotton on New York futures contracts (*The Cotton Trade*, incl. testimony, S. Doc. 100, 68th, 2 vols., 510 p., o. p., 4/28/24). A subsequent Senate bill (S. 4411, 70th, 5/18/28) provided for Southern warehouse delivery, but, before any law was enacted, the New York Cotton Exchange adopted Southern delivery on New York futures contracts (11/16/28 and 2/26/30) in accordance with the recommendations

Textiles--Woolen Rag Trade (F. T. C.), Wartime, 1917-18.--The *Report on the Woolen Rag Trade* (90 p., o. p., 6/30/19) contains information gathered during the World War, 1917-18, at the request of the War Industries Board, for its use in regulating the prices of woolen rags employed in the manufacture of clothing.

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.

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., 12/23/25).

Tobacco Marketing-Leaf (F. T. C.).--Although representative tobacco farmers in 1929 alleged existence of territorial and price agreements among larger manufacturers to control cured leaf tobacco prices, the Commission found no evidence of price agreements and recommended production curtailment and improvement of marketing processes and cooperative relations (*Report on Marketing of Leaf Tobacco in the Flue-Cured Districts of the States of North Carolina and Georgia*, 54 p., processed, 5/23/31).

Tobacco Prices (Congress).--Inquiries with respect to a decline of loose-leaf tobacco prices following the 1919 harvest (H. Res. 533, 66th, 6/3/20) and low tobacco prices as compared with high prices of manufactured tobacco products (S. Res. 129, 67th, 8/9/21) resulted in the Commission recommending modification of the 1911 decree (dissolving the old tobacco trust) to prohibit permanently the use of common purchasing agencies by certain companies and to bar their purchasing tobacco under any but their own names (*Report of the F. T. C. on the Tobacco Industry*, 162 p., o. p., 12/11/20, and *Prices of Tobacco Products*, S. Doc., 121, 67th, 109 p., o. p., 1/17/22).

Trade and Tariffs in South America (President).--Growing out of the First Pan-American Financial Conference held in Washington, May 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, Chile, Bolivia, and Peru* (246 p., o. p., 6/30/16).

Twine.--See Sisal Hemp and Textiles.

Utilities.--See Power.

War Material Contracts (House), Wartime, 1941-42.--At the request of the House

Committee on Naval Affairs, the Commission assigned economic and legal examiners to assist in the Committee's inquiry into progress of the national defense program (H. Res. 162, 77th, 4/2/41). The Commission's examiners were active in field investigations covering aircraft manufacturers' cost records and operation, naval air station construction, materials purchased for use on Government contracts, and industry expansion financing programs.

Wartime Cost Finding (President), 1917-18.--President Wilson directed the Commission (7/25/17) to find the costs of production of numerous raw materials and manufactured products. The inquiry resulted in approximately 370 wartime cost Investigations. At later dates reports on a few of them were ^{published} including: *Cost Reports of the F. T. C.--Copper* (26 p., o. p., 6/30/19); *Report of the F. T. C. on Wartime Costs and Profits of Southern Pine Lumber Companies*

¹⁹ See footnote 10, p.124.

(94 p., o. p., 5/1/22); and *Report of the F. T. O. on Wartime Profits and Costs of the Steel Industry* (138 p., 2/18/25). The unpublished reports²⁰ cover a wide variety of subjects. On the basis of the costs as found, prices were fixed, or controlled in various degrees, by Government agencies such as the War and Navy Departments, War Industries Board, Price Fixing Committee, Fuel 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 (1948) on *Wartime Costs and Profits for Manufacturing Corporations, 1941 to 1945* (30 p., processed, with 106 p. appendix), Compilation of the information contained in the report was begun by the Office of Price Administration prior to the transfer of the financial reporting function of that agency to the Federal Trade Commission in December 1946.

Wartime Inquiries, 1917-18, Continued.--Further wartime inquiries of this period are described herein under the headings: Coal, Coal Reports--Cost of Production, Cost of Living, Flax, Food, Farm Implements, Independent Harvester Co., Leather and Shoes, Paper-Book, Paper-Newsprint, Profiteering, and Textiles--Woolen Rag Trade.

Wartime Inquiries, 1941-45.--To aid in the 1941-45 war program, F. T. C. was called upon by other Government departments, particularly the war agencies, to use its investigative, legal, accounting, statistical and other services in conducting investigations. It made cost, price, and profit studies; compiled industrial corporation financial data; investigated compliance by basic industries with W. P. B. priority orders; and studied methods and costs of distributing important commodities. The 1941-45 wartime investigations are herein listed under the headings: Advertising as a Factor in Distribution; Cigarette Shortage; Distribution Methods and Costs; Fertilizer and Related Products; Food-Biscuits and Crackers; Food--Bread Baking; Food--Fish; Food-Flour Milling; Household Furniture; Industrial Financial Reports; Metal-Working Machines; Paperboard; Priorities; Steel Costs and Profits; and War Material Contracts.

²⁰ Approximately 280 of the wartime cost inquiries are listed in the F. T. C. Annual Reports, 1918, pp. 29-30, and 1919, pp. 38-42 and in *World War Activities of the F. T. C., 1917-18* (69 p., processed, 7/15/40).

INDEX

[Index does not include names or items in alphabetical lists, tables, or appendixes. For names of export trade associations, see p.67 ; for appropriation items, see p.75 ; and for titles and summaries of investigations, 1915-48, see p.118.]

	Page
Administrative Procedure Act	5, 13
Advertising, false and misleading:	
Complaints alleging	41
Criminal penalties	32
Food, drugs, devices, cosmetics	2, 6, 32, 36, 66
Injunctive proceedings involving	32
Mail-order	38
Newspaper and periodical	38
Orders directed against	44
Procedure in cases involving	40
Radio commercial	39
Stipulations relating to	38
Survey of	37
Television	39
Alberty Food Products	49
Allied Paper Mills	48
Amasia Importing Corp	48
American Association of Law Book Publishers	48
American Diet aids Co., Inc	44
American Iron and Steel Institute	41
American Refractories Institute	43
A P. W. Paper Co., Inc	48
Artificial limb industry, trade practice rules for	59
Attorney General of the United States	7, 12, 50
Automobile dealers, New York City and District of Columbia, investigation of	3, 37
Ayres, William A., Commissioner	9
Baby chick industry, trade practice conference proceedings for	58
Bank, Harry & Son	45
Blackstone College of Law, Inc	44
Brooks Clothes	45
California Rice Exporters	69
Canute Co	49
Carbon Black Export, Inc	69
Cartels, international	22
Cast iron soil pipe industry, investigation of	3, 37
Cement Institute, The	17, 49
Cheese industry, investigation of	3, 37
Clayton Act :	
Amendments proposed	11, 15, 16
Application to insurance business	7
Complaints issued under	42
Contempt proceedings under	31
Orders issued under	45
Procedure under	30
Section 2 (see also Robinson-Patman Act)	2, 8, 34, 42, 45, 49,

50

Section 3

Section 7

Section 8

2, 35, 43, 47

2, 11, 15, 16, 35

2

137

	Page
Clemens, M A	44
Columbia River Packers Association, Inc	46
Commissioner of Patents	7
Committee on the Judiciary, House of Representatives	12, 17
Committee on the Judiciary, Senate	16, 17
Complaints, formal	6, 30, 41
Confectionery wholesalers (<i>see under</i> Wholesale confectionery industry) .	
Congress of the United States	1, 2, 3, 8, 9, 11,13, 16, 17
Consumers Home Equipment Co	49
Court cases :	
Civil penalty suits	6, 31, 48
Decided	6, 47
Pending	6, 49
Petitions to review	48
Curtiss Candy Co., The	46, 47
Davis, Ewin L. Commissioner	9
Decker Products Co	49
Electrical Apparatus Export Association	69, 70
Electrical Manufacturers Export Association	69
Elgin Razor Corp	49
Export Trade Act :	
Export associations operating under	67
Export associations organized during year	69
Inquiries and recommendations under	69
Provisions of	3, 67
Fabrics and apparel, water resistant (<i>see under</i> Water resistant) .	
Federal Power Commission Act of 1934	8
Federal Reports Act of 1942	28
Federal Trade Commission :	
Accounting, Division of	6
Acts administered by	1, 2
Administration, Bureau of	6
Antimonopoly Trials; Division of	4
Appellate Proceedings, Division of	4
Appropriations, expenditures, and fiscal affairs	75
Cases in Federal courts	48
Chairman	9
Commissioners	9
Compliance, Division of	4
Deceptive Practice Trials, Division of	4
Duties of	1, 2
Economics, Division of	5
Executive Office	6
Export Trade, Division of	4
Field Investigation, Division of	4
Foreign trade work	67
General Counsel, Office of	4
Industrial Economics, Bureau of	5
Investigations, general	1, 3, 5, 8, 15
Investigations, industry-wide	3, 4
Legal activities	1, 6, 29
Legal Investigation, Bureau of	4, 29, 32
Litigation, Bureau of	4
Medical Opinions, Bureau of	6, 66
Organized	1
Personnel	9
Policy, Statement of	113
Procedure upon application for complaint	29
Procedure upon formal complaints	30
Publications	9

Radio and Periodical Advertising, Division of	4, 29, 30, 37
Recommendations to Congress	11
Reorganization plan	3
Rule Administration, Division of	5

Federal Trade Commission--Continued	Page
Rule Making, Division or	5
Rules of practice	95
Secretary	6
Staff organization	4
Statistics and Financial Reports, Division of	6
Stipulations, Bureau of	4, 53
Trade-Marks, Division of	4, 7
Trade Practice Conferences and Wool Act Administration, Bureau of	5, 55
Trial Examiners, Bureau of	5
Wool Act Administration and Inspection, Division of	5, 63
Federal Trade Commission Act:	
Amended	2
Applicable to insurance business	7
Approved	1
Civil penalties under	6, 31, 48
Complaints issued under	41
Orders to cease and desist issued under	43
Procedure under	30
Section 5	2, 41
Section 6	3, 7, 9, 28, 50
Sections 12-15, inclusive	2, 32
Text of	79
Types of unfair practices in violation of	87
Wheeler-Lea amendment to	2, 32, 36
Ferguson, Garland S., Commissioner	9
Fine and wrapping paper distributing industry, trade practice conference for	58
Floor wax products industry, investigation of	3, 40
Food and Drug Administration	66
Fountain pen and mechanical pencil industry, trade practice conference proceedings for	58
Freer, Robert E., Commissioner	9
General Foods Corp	50
General Milk Co., Inc	69, 70
General Milk Sales, Inc	69, 70
Gevertz Buying Corp	46
Hand knitting yarn industry, trade practice rules for	4, 7, 10, 57
Handkerchief industry, trade practice conference for	58
Hillman Periodicals, Inc	49
Hosiery industry, trade practice conference proceeding for	58
Industrial Financial Reports	8, 11, 15, 27
Insurance	7
International Salt Co	50
Investigations, general :	
International Electrical Equipment Cartel	8, 11, 23
International Steel Cartels	8, 11, 22
Manufacture and Distribution of Farm Implements	8, 11, 25
Merger Movement, The: A Summary Report	8, 10, 16
Investigations, industry-wide :	
Automobile dealers, New York City and District of Columbia	3, 37
Cast-iron soil pipe	3, 37
Cheese	3, 37
Floor wax products	3, 40
Mattresses , crib or carriage	3, 40
Pearls, simulated and cultured	3, 40
Shampoo and scalp preparations	3, 40
Shoes, orthopedic or "health"	3, 40
Wall paper cleaning preparations	3, 40
Johnson, Walter H., Candy Co	46
Justice, Department of	10, 35
Ketchikan Packing Co	46
Labeling, informative	62, 63

	Page
Lanham Act (see under Trade-Mark Act).	
Luggage and related products industry, trade practice rules for	58
Mason, Lowell B., Commissioner	9, 12
Masonry waterproofing products industry, trade practice rules for	59
Master Engravers Guild, Inc	44
Mattresses, crib and carriage, industry-wide investigation of	3, 40
Merger movement	8, 10, 11, 15, 16
Minneapolis-Honeywell Regulator Co	43, 45, 47
Morton Salt Co	49, 50
Natural Gas Act of 1938	8
New England Fish Co	46
Office machine marketing industry, trade practice rules for	4, 7, 10, 57
Orders to cease and desist	6, 10, 31, 43
Ox'O-Gas Co	9
Pacific Forest Industries	69
Packers and Stockyards Act	8
Paper (see under Fine and wrapping paper) .	
Patent Office	7
Paul Edward P. & Co	49
Pearls cultured and simulated, industry-wide investigation of	3, 40
Pipe Fittings & Valve Export Association	69
President of the United States	1, 13, 8, 28
Price-fixing	2, 33, 41, 43
Public Utilities Holding Company Act of 1935	8
Pure Carbonic, Inc	44
Radio receiving set manufacturing industry, trade practice rules for	59
Rayon, nylon, and silk converting industry, trade practice conference for	58
Rendering industry, trade practice conference proceeding for	58
Restraint of trade	2, 33, 41, 43
Rigid Steel Conduit Association	49
Robinson-Patman Act (see also Clayton Act, sec. 2)	2, 8, 34, 42, 45, 49, 50
Rubber Manufacturers Association, Inc., The	43
Scotch Woolen Mills	49
Securities Act of 1933	8
Securities and Exchange Commission	15, 27, 28
Senate, United States	1, 12, 17
Shampoo and scalp preparations, investigation of	3, 40
Sheffield Farms Co., Inc	43
Sherman Act	1, 8
Shoes, orthopedic or "health," industry-wide investigation of	3, 40
Small Business Committee, House of Representatives	28
Sorbtex Foundation Inc	44
Staffin Johns Co., The	44
Standard Oil Co. (Ind.)	50
Stewart, Jesse C. Co	46
Stipulations to cease and desist	3, 4, 6, 10, 53
Stock Exchange Act of 1934	8
Structural Clay Products, Inc	43, 44
Supreme Court of the United States,	6, 10, 15, 17, 18
Tag Manufacturers Institute	50
Trade-Mark Act of 1946	3, 4, 7
Trade pamphlet binding industry, trade practice conference for	58
Trade practice rules :	
Administration of	58
Conferences for establishment of	55, 56
Group I and group II rules explained	56
Informative labeling provisions of	62
Procedure for establishing	55
Promulgated during year	4, 7, 56
Purposes of	3, 55
Types of practices covered by	59

Triangle Conduit & Cable Co	49
United Diathermy, Inc	44
United States Steel Corp	50

INDEX

141

	Page
Unity Stamp Co., Inc	46
Wallpaper cleaning preparations industry, investigation of	3, 40
Watch case industry, trade practice rules for	4, 7, 10, 56
Watches, trade practice rules concerning	59
Water-resistant fabrics and apparel, trade practice conference for	58
Webb-Pomerene Law. (See Export Trade Act.)	
Wheeler-Lea amendment (see also Federal Trade Commission Act)	2, 32, 36
Wholesale confectionery industry, trade practice rules for	4, 7, 10, 57
Wood Naval Stores Export Association	69
Wool Products Labeling Act:	
Administration of	7, 63
Approved	63
Civil penalties under	31
Complaints issued under	42
Effective date of	63
Enforcement of	64
Investigations under	36
Orders issued under	45
Procedure under	30
Provisions of	2, 63
Rules and regulations under	63
Section 2	63
Section 9	64
Section 14	63
Yarn (see under Hand knitting yarn industry).	