

Annual
Report
of the **FEDERAL
TRADE
COMMISSION**

For the Fiscal Year Ended
June 30, 1961

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Federal Trade Commission

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EXECUTIVE OFFICES OF THE FEDERAL TRADE COMMISSION

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

Branch Offices

Room 3004, U. S. Courthouse, Foley
Square, New York 7, N. Y.

Room 413, Masonic Temple Building, New
Orleans 12, La.

Room 1310, 226 West Jackson
Boulevard, Chicago 6, Ill.

Room 811, U.S. Courthouse, Seattle 6, Wash.

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Francisco 3, Calif.

Room 1128, Standard Building, Cleveland 13,
Ohio.

Room 405, 215 West Seventh Street,
Los Angeles 14, Calif.

Room 2806, Federal Office Building, Kansas
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Room 1001, 131 State Street, Boston
9, Mass.

Room 915, Forsyth Building, Atlanta 3, Ga.

988 North Monroe Street, Arlington 1, Va.

Field Offices for Textiles and Furs in Addition to the above Branch Offices

Room 1003—c, U.S. Court and Custom
House, St. Louis 1, Mo.

Room 405, 215 W. Seventh St., Los
Angeles 14, Calif.

Room 1304, 1114 Commerce Street,
Dallas 2, Tex.

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

958 North Monroe Street Arlington 1, Va.

Letter of Transmittal

FEDERAL TRADE COMMISSION,
Washington, D.C.

To the Congress of the United States:

It is a pleasure to transmit herewith the Forty-seventh Annual Report of the Federal Trade Commission, covering its accomplishments during the fiscal year ended June 30, 1961.

By direction of the Commission.

PAUL RAND DIXON,
Chairman.

THE PRESIDENT OF THE SENATE.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

v.

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THE YEAR'S HIGHLIGHTS

From the standpoint of numbers of enforcement actions, the fiscal year 1961 was one of the best years in the Commission's 47-year history. It also produced important innovations in the employment of enforcement tools and in the use of voluntary procedures to gain compliance with the laws the Commission administers.

On the other hand, delay in the prosecution of cases continued to be so serious a problem that major changes in organization and procedures had to be devised and readied for introduction in fiscal 1962. While the additional appropriations received in fiscal 1961 had been put to good use it became all too apparent that the Commission's machinery needed to be redesigned to speed the prosecution of cases—to shorten the time between the initial investigation of a law violation and the issuance of an order stopping it. The changes required would have to be fundamental—not just a shoring up of weak spots—if the problem of delay were to be met head-on. Such changes were planned and made ready.

As a result, fiscal 1961 was a year of transition for the Commission. During the planning of the new approach to the casework delay problem, former procedures continued. The same was true of most staff operations. Enough cases—indeed, more than enough—were in the pipeline to keep the staff fully occupied while personnel changes and the new procedures were being worked out in essential detail. With scores of cases well along in their prosecution, commonsense dictated that so much time and money already had been invested in them that it would be poor economy not to continue their handling and trial as originally conceived. However, if the investigation of a case had not progressed too far and it appeared that more law enforcement could be achieved by broadening the illegal target—to bring a prevalent practice under fire instead of just an individual offender—then action was held up until it could be prosecuted faster under the new rules of practice to become effective in fiscal 1962.

Even with the inevitable slowdown that temporarily attends any major reorganization, the Commission's performance during fiscal 1961 compared favorably with previous years; indeed, except for fiscal 1960, the numbers of actions in all major categories exceeded those for any other year in the Commission's 47-year history. And, in the important category of cease-and-desist orders against monopo-

listic practices, an alltime record number of 103 was issued. While total complaints dropped from 502 to 410 as compared to the previous year, the total number of orders rose from 346 to 368. It must be emphasized, however, that mere numbers of actions are only one indication of Commission effectiveness and by no means the most significant criteria. Far more important than numbers is that illegal business practices be weeded out rather than merely trimmed back.

That the Commission was able to handle the volume of casework it did during the year is attributable in large part to a strengthening of the staff. This was made possible by an increase in appropriations from \$6,840,000 to \$8,009,500, which resulted in enlarging the staff from 782 to 855. While it is true that the hiring of new employees does not return an immediate, result in increased casework due to training requirements, the numerically strengthened staff put the Commission in a better position to carry out its responsibilities.

Even so, the backlog of pending cases continued to rise. In the antimonopoly field, the number increased from 931 to 1,484 during the fiscal year, and deceptive practice investigations pending continued to represent a 14-month backlog (1,030 cases), even though the Commission staff was able to complete 38 percent more such investigations than during the previous year.

Both from the standpoint of investigation and trial, corporate mergers that illegally restrain competition are the Commission's most difficult cases. During fiscal 1961, 53 full investigations were undertaken and 32 such cases were being tried. Five new complaints were issued and two cases were brought to conclusion with orders of divestiture. The Pillsbury Co., the Nation's second largest flourmilling concern, was ordered to sell two major competitors it had acquired, and Scott Paper Co., the Nation's leading seller of sanitary paper products, was ordered to sell three corporations it had acquired in violation of the Celler-Kefauver amendment to the Clayton Act.

The new complaints challenged acquisitions by the Hooker Chemical Corp., Ekco Products Co., Leslie Salt Co., American-Marietta Co., and Kaiser Industries Corp.

The greatest number of antitrust actions-100 complaints and 91 orders-involved alleged violations of the Robinson-Patman Act, prohibiting illegal discriminations in prices and services. Such cases accounted for five-sixths of all of the antimonopoly proceedings begun during the year. Of these, more than half were directed against the payment of unlawful brokerage to buyers for their own account. Here a concerted attack was made against the practice as it was found to exist in the citrus fruit industry, principally in the marketing of the Florida crop. For the first time the commission made wide-scale use of its powers under section 6 of the FTC Act. Heretofore but rarely invoked and then only on a limited basis, this

power to demand answers to mailed inquiries made possible the investigation of an industrywide evil in record time. Indeed, the efficacy of this section 6 power as demonstrated by the citrus fruit investigation led to its further broad-scale use in investigations of possible discriminatory advertising allowances in the department store and food industries.

In addition to these broad investigations, the Commission brought many other actions to halt preferential treatment of some customers to the detriment of others in the furnishing of allowances and service. For example, orders were issued against a group of manufacturers for giving preferential allowances to grocery chains in the sale of food and household products. Similar orders were entered against manufacturers of such diverse products as steel pipe and fittings, hosiery, printing supplies, and mattresses. At the same time, new complaints were issued challenging the granting of discriminatory allowances in the sale of toys, books and magazines, vacuum sweepers, Sunglasses, plumbing specialties, grocery products, and automobile replacement glass.

Also attacked were price discriminations in violation of section 2 (a) of the Robinson-Patman Act. Orders were issued against such major corporations as Pacific Gamble Robinson Co., Borg-Warner Corp., American Ball Bearing Corp., Perfect Equipment Corp., Gojer, Inc., Cutter Laboratories, Inc., Hat Corp. of America, and Byer-Rolnick Hat Corp.

The knowing inducement of price discriminations likewise resulted in the Commission taking action. The automotive parts field accounted for several proceedings, and orders were issued against more than 100 jobbers who had set up 3 buying companies as mere bookkeeping devices" to obtain unlawful lower prices in the form of volume discounts based on the aggregate purchases of all members. A similar complaint was issued against National Parts Warehouse and its 56 jobber members.

The illegal inducement of promotional allowances also was attacked, and a significant order prohibiting such was issued against Grand Union Co. of East Paterson, N.J., a 340-store supermarket chain.

Also attacked were exclusive dealing and restrictive agreements violative of section 3 of the Clayton Act. Mytinger Casselberry, Inc., Long Beach, Calif., the Nation's largest seller of vitamin and food supplements, was ordered to stop making or enforcing such agreements with distributors of its "Nutrilite Food Supplement." And the Timken Roller Bearing Co., Canton, Ohio, the country's biggest maker and seller of tapered roller bearings, was made to stop requiring its distributors and jobbers not to handle competitive products in the replacement market.

Deceptive practice cases in fiscal 1961 continued the pattern of previous years in providing the greatest number of Commission actions. Totals of 292 complaints and 272 orders were issued, with policing of the fur, wool, and textile fiber products industries accounting for 10 percent of the complaints and nearly 35 percent of the orders.

The Commission's performance came close to keeping pace with its mounting workload. A total of 90,1 deceptive practice investigations was completed, compared to 655 the previous year; however, at the end of fiscal 1961, the backlog of pending investigations remained virtually the same as it was the previous year-still 14 months behind-despite the increased speed made possible by a larger staff.

Although generally not so complex as antitrust cases, deceptive practice cases present the Commission with a responsibility whose importance should not be underestimated. Economic cheating, principally false advertising, is pernicious in that it penalizes reputable businessmen and tends to force them, in self-protection, to retaliate in kind. Thus, the ultimate victim, the public, finds itself the target of a grim competition. The result is a deterioration of public confidence in advertising, or, more broadly, a loss of faith in representations made for the merits of products and services. Such skepticism tends to spread, to engender distrust of the honest as well as the dishonest, to dilute the confidence which buyers must have in sellers. It is this confidence that lubricates our economic machinery. So, while some deceptive practice cases may not seem of any great importance, their insidious and cumulative effect is of vital concern to the Nation and hence to the Commission.

A principal area of corrective action involved misleading advertising of food, drugs, and therapeutic devices. For example, the Commission brought complaints against three concerns which manufacture or pack drugs they wholesale to retail druggists and other distributors. At issue was whether advertised claims of proper quality control were true. By the end of the fiscal year, one of the three had agreed to a consent order prohibiting false and misleading claims. The other cases were still pending. It seems likely that this hitherto unexplored area of "quality control" advertising will receive further investigation. Another group of claims challenged involved questionable advertising of vitamin pills as cures for tiredness. The complaints averred that in the vast majority of cases the cause of fatigue could not be helped by the vitamins or minerals contained in the pills. Still other complaints were issued against the makers of widely advertised analgesics for exaggerated claims on how much faster their pills could relieve pain than competing products, such as aspirin. The complaints contended there is no significant difference among them as to their pain-relieving speed.

Home and household products continued to tempt their advertisers to stretch the truth about performance, price, or comparative merit. Products involved were many and diverse, and included such goods as refrigerators, house paint, sewing machines, vacuum sweepers, lawnmowers, kitchen utensils, rubber gloves, furnace repairs, and carpets. Frequently, misrepresentation of the offering price as a "bargain" accompanied other questionable claims.

It was in this field that the Commission challenged misleading demonstrations on television. An order was issued against Aluminum Co. of America and Wear-Ever Aluminum, Inc., prohibiting them from using a misleading demonstration purporting to show that food wrapped in their brand of Aluminum foil was provided superior protection. Orders also were issued to stop deceptive television demonstrations used in advertising Colgate dental cream, Schick safety razors, and Mennen "Sof' Stroke" shaving cream.

Other challenged selling tricks involving home furnishings and improvements included the use of scare tactics in the sale of furnaces ("the old furnace is a fire hazard") and vacuum sweepers (to clean "germ-infested" rugs) ; the use of false "limited-time-only" claims for price reductions in the sale of encyclopedias; and misrepresentations of the foreign or domestic origin of cutlery, clocks, clothing, and other items whose value is affected by where they are made.

As the fiscal year neared its close, an industrywide investigation of the advertising of products offered for the relief of hemorrhoids was begun. Letters asking for substantiation of advertising claims were sent to 100 makers of these products.

One of the most important areas of the Commission's antideceptive practice work concerns the proper labeling of furs, woolens, and textile products. Indeed, the extent of this responsibility is such that plans were drawn during the fiscal year for the creation of a separate bureau to handle the policing of the three labeling acts covering these products.

Meanwhile, during the fiscal year, the Division of Textiles and Furs was doubled in size in order to increase its industry counseling and compliance inspection work. Special emphasis was given to inspections under the Fur Act in an effort to counter the widespread practice of passing off dyed and bleached furs as "natural." The result was that inspections more than doubled in number, and 92 complaints were recommended as contrasted to but 44 in fiscal 1960.

Another major activity of the Division was the commencement of active enforcement of the new Textile Fiber Products Identification Act of 1958. This followed a 16-month period of educating the textile industry to the act's requirements. This much time was deemed appropriate in the light of experience gained from early enforcement of the Wool and Fur Acts, and results appeared to justify the delay.

There has been far more compliance with the Textile Act than during the early periods under the Wool and Fur Acts, although in many areas more consumer education and industry counseling are needed. Nevertheless, enforcement work got underway with a sampling of over 30 million textile products to guard against labeling, invoicing, and advertising deficiencies.

Altogether, enforcement of the Wool, Fur, Textile, and Flammable Fabrics Acts resulted in 94 cease-and-desist orders, or more than a third of the Commission's deceptive practice orders for the fiscal year.

In defending those of its orders appealed by respondents to the Courts, the Commission achieved a high proportion of victories. The Supreme Court denied 10 petitions for certiorari to review courts of appeals decisions in favor of the Commission, denied a petition filed on the Commission's behalf to review an unfavorable decision, and granted 2 petitions, one of which was filed on behalf of the Commission. In courts of appeals, 9 of the 12 cases pending at the beginning of the year reached decision before its close, with the Commission orders being affirmed in 4 of the cases, modified in 2, and reversed in 2, while 1 case was dismissed for lack of prosecution by the petitioner. Of the five new cases that arose during the year and reached decision, the Commission's orders to cease and desist were affirmed in three, while two other petitions for review of Commission orders were dismissed pursuant to stipulations by the parties.

Law enforcement does not, of course, end with issuance of cease-and-desist orders, for there remains the responsibility to obtain and maintain compliance with them. This proved a strenuous task for the Commission's Division of Compliance during fiscal 1961. A total of 33 civil penalty suits was certified to the Attorney General during the year—an alltime record number. Judgments totaled \$38,000 for the four cases concluded. At the close of the year, 27 cases were still pending.

The Division also instituted 170 compliance investigations during the year, 40 of which were in connection with antimonopoly matters.

In addition to checking on compliance with current orders, two major investigations were being conducted to determine whether older orders were being obeyed. One was a survey to determine if 70 manufacturers of steel products were complying with a Commission order, issued in 1950, prohibiting them from making identical bids on steel products in connection with sealed bids from public agencies. The other investigation involved the Commission's order, issued in 1943, against an industrywide price-fixing conspiracy by cement manufacturers.

In the field of economics, the Commission continued work on its study of concentration and integration in the retailing of food. This,

of course, was in addition to studies and analyses of economic and statistical matters required for the prosecution of its casework.

In connection with the food study, questionnaires were mailed to companies canning and freezing fruit, juices, and vegetables. Information thus obtained prompted an interim staff report showing, among other things, that although the industry had a large number of small concerns, sales were highly concentrated among the large operators. About 80 percent of the freezers sold less than \$2.5 million annually, while the remaining 20 percent accounted for nearly 85 percent of total industry sales. The study also revealed that the largest retail food chains generally purchased directly from the large freezers and that nearly 60 percent of the merchandise so purchased was under the chain's own label, the remainder being packer branded.

A principal highlight of fiscal 1961 was the Commission's program to invite voluntary compliance with the trade practice laws through industry conferences and through the issuance of guides. In addition, the Commission approved 146 stipulation agreements whereby person gave written assurance, on the public record, that they would discontinue business practices the Commission considered unlawful.

New trade practice rules were promulgated for the fluorocarbons industry, and rules were updated for the hosiery industry and the poultry hatchling and breeding industry. At the same time, trade practice conferences looking to the issuance of rules were held for the following industries: residential aluminum siding, pleasure boat, Florida fresh citrus fruit, stationers, household furniture, and fresh fruit and vegetables.

Twelve new applications for trade practice proceedings were received, bringing to 30 the number of trade practice proceedings in various stages of processing.

In addition to promulgating new rules, and revising others, the Division of Trade Practice Conferences was active in administering the 162 sets of rules outstanding. During the year a close liaison was maintained with industry members and their trade associations for the purpose of interpreting the rules and effecting voluntary discontinuance of their violation. This resulted in satisfactory disposition of 513 rule compliance matters.

One of the most effective efforts to gain voluntary compliance with the statutes administered by the Commission was the Industry Guide Program. Here was a pinpointing of illegal practices, whether exclusive to a particular industry or common to many, if not all, industries. As the name implies, "Guides" delineate what the Commission believes to be illegal in a business practice for the guidance of those engaged in it as well as for the public which might be duped by it.

Since the Guides Program got underway in 1955, the Commission has issued Guides on (1) cigarette advertising, (2) tire advertising, (3) deceptive pricing, (4) bait advertising, (5) deceptive advertising

of guarantees, and 6) advertising allowances. Each spells out in layman's language the requirements of the law as applied to the particular practice.

In policing these Guides, attempts are made first to assure voluntary discontinuance of violations, and then, should voluntary compliance efforts fail or should stronger measures be deemed necessary, the violation is made the subject of formal action. Nevertheless, many violations were successfully handled without recourse to formal procedures, and during fiscal 1961, 845 individual cases were so handled. In addition, 335 individual interpretations of matters covered by the Guides were made in response to inquiries. Well over 100,000 copies of the Guides were distributed.

Augmenting the informational impact of the Guides themselves, citywide meetings to discuss their application, as well as other aspects of Commission law enforcement, were held in Cincinnati, Memphis, Hartford, Tampa, Boston, Mobile, Birmingham, Seattle, Portland, and Evansville, Ind.

These are the highlights of the Commission's work during fiscal 1961. Much was accomplished, but the Commission's processing of cases could not keep pace with realistic requirements. As the year ended, the Commission's machinery was being redesigned for faster and more efficient performance.

SCOPE OF AUTHORITY

Basic Functions of the FTC

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

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

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

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

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

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

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

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

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

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

³ Sec. 15, Federal Trade Commission Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

The Clayton Act ⁴

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

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

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

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

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

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

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

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

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

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

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

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

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

The Webb-Pomerene Export Trade Act of 1918⁷

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

⁶ 64 Stat. 1125.

⁷ 40 Stat. 516.

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

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

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

The Wool Products Labeling Act, the Fur Products Labeling Act, and the Textile Fiber Products Identification Act⁸

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

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

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

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

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

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

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

Flammable Fabrics Act, Approved June 30, 1953, effective July 1, 1954⁹

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

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

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

⁹ 67 Stat. 111.

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

Regulation of Insurance-Public Law 15, 79th Congress¹⁰

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

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

Lanham Trade Mark Act, approved July 5, 1946¹²

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

Defense Production Act of 1950¹³ and Small Business Act of 1953¹⁴

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

¹⁰ Approved March 9, 1945, 59 Stat. 33. Effective June 30, 1948, see amendment approved July 25, 1947, 61 Stat 448.

¹¹ United States v. Southeastern Underwriters Association, 332 U.S. 533, June 5, 1944.

¹² 60 Stat. 427.

¹³ 64 Stat. 798.

¹⁴ 67 Stat. 232.

ADMINISTRATION

The Executive Director, as the Commission's chief staff official, manages the Federal Trade Commission's activities to achieve effective and economical operation. He has responsibility for the administration of all the Commission's bureaus and field offices. The Office of the Executive Director also includes the Office, of Administration and the Division of Public Information.

OFFICE OF ADMINISTRATION

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

Division of Personnel

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

Division of Management and Organization

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

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

Division of Administrative Services

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

Publication Branch

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

The Stenographic and Composition Section edits, for format and typography, material to be printed at the Government Printing Office or printed or duplicated in the Federal Trade Commission Printing Plant, and provides stenographic services when bureau pools are overburdened.

The Photographic Section provides the Commission with photographic, Copy Flo, and Photostat services for use in connection with the Commission's legal proceedings and economic reports. Functions of the printing plant are the printing of the Commission's orders, press releases, legal and economic reports, speeches, trade practice rules, pamphlets, forms, letters, etc.

Library

The Library consists of specialized collection of more than 100,000 bound volumes and extensive vertical files containing approximately 40,00 legislative documents and statistical publications organized for easy accessibility. In addition, there are several thousand current issues of legal, economic, and technical periodicals which collect annually from the inflow of more than 200 titles on a daily, weekly, monthly, or other frequency basis. These, too, become volumes at the end of each year when single numbers of selected titles are collected and bound.

Procurement and Services Branch

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

OFFICE OF PUBLIC INFORMATION

This Division issued a total of 1,593 press releases during fiscal year 1961, compared with 1,265 in fiscal 1960. They covered news of Commission complaints, answers by respondents, initial decisions, orders, compliance actions, warnings to alert the public on how to identify illegal seeing schemes and business practices, and other newsworthy actions by the Commission. In addition, many oral and written inquiries from the press and public - were answered each day.

OFFICE OF THE COMPTROLLER

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

Division of Budget and Finance

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

Division of Financial Statistics

The Division of Financial Statistics has been responsible since 1917 for summarizing, for each calendar quarter, uniform, confidential financial statements collected from a probability sample of all enterprises classified as manufacturers, except newspapers, which are required to file U.S. Corporation Income Tax Form 1120. The quarterly summaries, entitled Quarterly Financial Report for Manufacturing Corporations, are published by the Government Printing Office and sold by the Superintendent of Documents.

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

In the published summaries, profits per dollar of sales and rates of profit on stockholders' equity are shown each quarter for each of 60 industry and size groups of manufacturing corporations. Also shown each quarter are 45 income statement and balance sheet items, and as many financial and operating ratios, for each of 45 industry and size groups of corporate manufacturers.

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

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

OFFICE OF THE SECRETARY

The Secretary has authority as delegated to close cases in informal matters -without referring them to the Commission. He gives final overall staff review, from the standpoint of law and policy, to letters prepared for the signature of the Chairman or the Secretary. He attends all executive sessions of the Commission and participates in the consideration by the Commission of recommendations of top officials in all phases of the agency's activities. The Secretary is the Congressional Liaison Officer and, in addition, coordinates and is responsible for overall liaison activities of the Commission with various other Government agencies. He signs official documents and letters reflecting Commission action, and serves as legal custodian of the seal and records of the Commission. Also, he supervises, through the Assistant Secretary for Minutes, the assignment of matters to the Commission, the taking of the minutes, the transmittal of Commission directions to the staff, the setting of oral arguments, the editing and publishing of Commission decisions and digests, and the preparation of material for publication in the Federal Register and Code of Federal Regulations; and serves as Deputy Employment Policy Officer of the Commission.

The Office of the Secretary includes the following offices:

Legal and Public Records

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

Legal Research and Reporting Section

This Section is responsible for the preparation and publication of the volumes of the Federal Trade Commission Decisions and its Statutes and Court Decisions, the latter including court decisions in Commission cases; for the codification and editorial preparation of various Commission material published in the Federal Register; and for the collection and dissemination of relevant court decisions.

Formal Docket Section

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

Public Reference Section

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

Distribution Section

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

FEDERAL TRADE COMMISSION

ORGANIZATIONAL CHART - SEE IMAGE

Prepared by Division of Management and Organization

ADMINISTRATION ONLY

INVESTIGATION

The Bureau of Investigation conducts and investigates possible violations of the statutes administered by the Commission. Most of these investigations are made by attorney examiners stationed in 10 field offices. They work under the general supervision of the Bureau Director, the Chief Project Attorney and his staff.

Investigations fall generally in several categories, i.e., restraints of trade and monopoly matters and unfair and deceptive acts and practices, all of which are considered unfair methods of competition. The restraints of trade involve such matters as price fixing, collusive bidding, resale price maintenance, selling below cost with the intent and probable effect of eliminating competition or destroying a competitor (see. 5 of the Federal Trade Commission Act), discriminatory pricing practices and the inducing thereof (see. 2 of the Robinson-Patman Act), exclusive dealing and tying arrangements which may result in lessening competition or a tendency to monopoly (sec. 3 of the Clayton Act), corporate mergers or acquisitions where the effect may be substantially to lessen competition in any line of commerce in any section of the country or to tend to create a monopoly (sec. 7 of the Clayton Act), and interlocking directorates (sec. 8 of the Clayton Act).

The unfair and deceptive acts and practices include such matters as false and misleading advertising of food, drugs, medical devices, and cosmetics (sec. 12 of the Federal Trade Commission Act); fictitious pricing of merchandise; misuse of the term "guarantee"; false and misleading representations and claims for other products (sec. 5 of the Federal Trade Commission Act); and the false labeling of furs, wearing apparel, and fabrics (Wool Products Labeling Act of 1939, the Fur Products Labeling Act of 1951, the Flammable Fabrics Act of 1953, and the Textile Fiber Products Identification Act of 1958).

Investigations are initiated by the Commission, principally in special industry situations or upon applications for complaints received from members of the consuming public, businessmen, or other parties who feel aggrieved by unfair methods of competition and unfair and deceptive acts and practices. Applications for complaint are received daily in the form of letters from parties setting forth the various unfair methods of competition which they feel jeopardize the

free competitive economic system. Altogether, the Bureau scheduled 2,024 matters for investigation during the fiscal year, of which 884 involved restraints of trade and 1,140 involved unfair and deceptive acts and practices. Applications for complaint received from the public totaled 4,886, of which 624 resulted in investigations being initiated. Not all applications for investigation result in investigations because of a lack of jurisdiction by the Commission over the matters presented or because the subject outlined failed to indicate a probable violation of the statutes.

The Bureau completed 1,414 investigations during the year, of which 331 were restraint of trade, and monopoly matters and 1,083 were deceptive practice matters, as compared with 1,190 completed investigations during fiscal 1960, of which 271 involved restraint of trade and monopoly matters and 819 deceptive practices. The Commission issued 410 complaints on the basis of the investigations in fiscal 1961, and stipulations to cease and desist were accepted in 146 additional matters. The Commission closed 892 investigations. Most of those were closed because the investigations disclosed no basis for corrective action. However, 216 were closed upon receipt of assurances of discontinuance of the questioned practices, and 67 were closed because the practice had been abandoned before the investigations got underway and it did not appear that the practice would be resumed.

The special report procedure under section 6 of the Federal Trade Commission Act was utilized by the Commission in connection with possible illegal discriminatory advertising allowances given to and received by department stores and resident buyers. Orders were issued to 216 department stores and 18 resident buyers requiring the submission under oath of special reports concerning advertising allowances received by them.

The Commission also continued to use the section 6 special report procedure in investigations of possible discriminatory promotional allowances in the food industry. Orders were issued to 111 food suppliers to submit under oath information with respect to promotional allowances given to favored and nonfavored grocery customers. Special reports received from suppliers in answer to orders issued in the previous fiscal year have been under extensive review and study for corrective action where indicated.

The Bureau of Investigation has received numerous complaints of gasoline price wars, and investigations were undertaken in appropriate cases. Unfair and discriminatory practices allegedly used by suppliers in connection with the sale and distribution of bread, dairy products, and auto parts were also the subject of investigations conducted by the Bureau in the fiscal year.

An investigation was completed during the fiscal year of the shoe industry to determine whether manufacturers and distributors were engaging in false advertising and misbranding in regard to the composition of their products. Involved were questions as to whether plastic or paper products were being used as substitutes for leather or rubber, and as to whether the products were being affirmatively misrepresented or were deceptive in appearance.

Investigations of false advertising and misbranding of watches during the fiscal year resulted in the issuance of a number of complaint against the manufacturers and distributors. Investigations of exaggerated gas mileage claims by domestic manufacturers of automobiles and some importers have brought about corrective action through stipulation or other administrative treatment. An industrywide investigation of the rebuilt TV picture tube has culminated in revisions of labels and advertisements of such tubes to disclose the presence of used parts.

During this fiscal year the Commission began investigating the advertising of manufacturers of drug products who are claiming to maintain "quality control," thus representing that they follow all methods, procedures, and operations necessary to insure the safety and efficacy of their products. Complaints were issued in instances where these claims were found to be unjustified. The Commission also issued complaints against advertising claiming safety for products whose labels bore warnings in the labeling.

Investigations in a series of cases involving the advertising of vitamin products resulted in the issuance of several complaints by the Commission looking to a requirement that such advertising, when referring to physiological conditions or symptoms, limit claims for benefit to those instances due to a deficiency of the vitamins supplied, and also to require the affirmative disclosure that in the great majority, of persons suffering from such conditions and symptoms, the cause is not an insufficiency of the vitamins.

MERGER INVESTIGATIONS

Section 7 of the Clayton Act, although originally enacted in 1914, took its present form by act of December 29, 1950. The statute, as it now stands, prohibits corporate mergers and acquisitions that may substantially lessen competition or tend to monopoly in any market. The authority of the Commission to enforce section 7 of the amended Clayton Act is derived from section 11 of the act.

The Bureau of Investigation is charged with the responsibility of examining all corporate mergers and acquisitions by corporations subject to the jurisdiction of the Commission and conducting investigations to determine their probable competitive effects.

Mergers and acquisitions are a principal means of corporate growth, and have attracted the close interest, in recent years, of not only the Government but also business. There is no requirement in the existing law that parties to a corporate merger or acquisition must notify the Commission either before or after consummation. With the exception of requests for premerger clearance or receipt of complaints, the Commission must rely on financial newspapers, trade journals, manuals of investments, and the like for information that a merger has occurred or is contemplated. Each merger or acquisition coming to the attention of the Commission is recorded on an information sheet containing such basic financial and operational information concerning the combining corporations as is readily available from recognized reference manuals. In fiscal 1961, 1,032 information sheets were prepared. Mergers and acquisitions so reported are referred to project attorneys. The project attorneys examine the preliminary information, consult with staff economists, secure data, analyze and evaluate the available information and data.

A comprehensive investigation is initiated where there is a probability of a substantial lessening of competition or a tendency to monopoly "in any line of commerce" (product market) "in any section of the country" (geographic market). Since the statute deals with the probable effects, and since there is no formula for the relevant information and data, no single fact is sufficiently controlling to answer Section 7 investigative questions. Economic data relating to the competitive characteristics of the companies, the industry and the markets involved, are required to determine the competitive impact of the acquisition or merger. Such facts, for example, as concentration increases, market dominance, market shares, integration trends, market entry, are necessary to the ultimate determination of future effect on competition. Such facts, and the guides of recent section 7 case law, attest to the economic character of the section 7 investigations.

In fiscal 1961, 53 new merger investigations were initiated. In addition, 100 acquisitions by corporations under investigation for earlier acquisitions were considered.

Investigations to determine the probable competitive effects of mergers and acquisitions are more time consuming, expensive, and complex than most other investigations conducted by the Commission. The investigations generally are undertaken immediately after the mergers and acquisitions are consummated and, if possible, before assets and operations of the combining corporations are so intermingled as to make an order of divestiture ineffective.

The Commission's rules provide for a premerger clearance procedure. Interested parties may request advice of the Commission concerning a proposed merger or acquisition. Facts relating to the proposed transaction may be submitted in writing or in writing or in conference.

On the basis of such facts, and other information available to the Commission, the parties are informed whether or not consummation of the merger would likely result in further action by the Commission. Numerous conferences between members of the Bureau's staff and parties contemplating a merger were held during the fiscal year.

DIVISION OF SCIENTIFIC OPINIONS

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

Fiscal year ended June 30, 1961

Number of written opinions rendered	385
Number of oral opinions rendered	418
Number of analyses and tests	9
Number of hearings attended	28
Number of stipulation conferences attended	4
Number of expert witnesses secured	17

The written opinions rendered involved the following:

Foods	40
Drugs	218
Cosmetics	35
Devices	21
Economic poisons	11
Miscellaneous	60

On July 1, 1960, there were 64 requests for scientific and medical opinions awaiting study and report in the Division, and on June 30, 1961, the number pending was 70. On June 30, 1961, there were outstanding 32 formal complaints involving matters in which the Division was expected to furnish advice to Commission attorneys and to obtain expert scientific and medical witnesses.

The opinions rendered dealt with foods and beverages, cold remedies, analgesics, skin preparations, hair and nail preparations, dentifrices, trusses, shoes and wearing apparel for which health claims were made, medical books advertised to the public, insecticides, disinfectants, bleaching and cleansing products, and many other preparations and devices. Continued attention was given to preparations

offered for the treatment of arthritis and rheumatism, to reducing devices, and the advertising used to promote the sale of contact lenses. Special attention was given to the advertising of antibiotics and other drugs used in treating dairy animals, which advertising should include a warning of how long the animal's milk must be withheld from human consumption after the drug is administered. Attention was also given to the claims of adequate quality control appearing in the advertising used by certain manufacturers of generic-named drugs.

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

DIVISION OF ACCOUNTING

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

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

It also compiles production and sales statistics, and analyzes financial data of companies involved in mergers under section 7 of the Clayton Act. It also compiles statistics concerning the financial position and operating results of companies under section 6 of the Federal Trade Commission Act.

During the year, accounting services were furnished in connection with 93 legal cases and investigations. These included 61 Robinson-Patman cases, 14 other Clayton Act cases, and 18 section 5 Federal Trade Commission Act cases.

During the year a study was made of the profitableness of identical companies in each of 24 selected manufacturing industries for the years 1940, 1947-59, and also for the 12 largest companies in each of 39 industries for the years 1958 and 1959. A report on this study was submitted to and approved by the Commission and ordered published.

RADIO AND TELEVISION ADVERTISING UNIT

The principal function of this Unit is to monitor radio and television commercials and various types of printed material. In reviewing radio and television scripts, all networks submit commercials disseminated during 1 week each month and each individual television station submits scripts covering a 24-hour period each 3 months. For individual radio stations a breakdown has been computed based on the amount of coverage. For stations with powerful transmissions or smaller stations in largely populated areas, continuities are requested for a 24-hour period each 3 months, or four times a year. Smaller stations or fairly large stations operating in sparsely populated areas are requested to submit scripts for a 24-hour period every 6 months. Small stations, usually individually owned and operated, are covered by submitting copy once a year.

Twenty-five newspapers, distributed geographically, representing metropolitan and rural areas, and 10 magazines are obtained each week. In addition to broadcasting networks, individual stations submitted continuities as follows:

Radio Stations:

Group I (4 times yearly)	463
Group II (2 times yearly)	783
Group III (1 time yearly)	2,372

Total stations	3,618
Television stations	580

There were reviewed in radio and television advertising the following number of advertisements, and in the case of newspapers and magazines the number of pages:

Radio-television, 465,324; magazine-newspaper, 169,294.

The Unit operates as a service organization within the Commission on behalf of various bureaus and divisions. On request, some 46,000 individual ads have been furnished.

The Radio and Television Advertising Unit conducts spot-check monitoring of commercials disseminated in the Washington and Baltimore areas over both radio and television. This includes visual

monitoring of television commercials. Upon request the Unit has made sound kinescope recordings of various television ads which have been of substantial assistance to several bureaus within the Commission.

DIVISION OF TEXTILES AND FURS

This Division enforces four separate pieces of consumer legislation-the Wool Products Labeling Act of 1939, the Fur Products Labeling Act of 1951, the Flammable Fabrics Act of 1953, and the Textile Fiber Products Identification Act of 1958.

The Wool, Textile, and Fur Acts require content disclosure on labels, as well as other important factual information. In addition, the Fur Act requires truthful invoicing, and it and the Textile Act require important and truthful disclosure in advertising products subject to their terms. The Flammable Fabrics Act protects consumers by prohibiting the marketing of dangerously flammable wearing apparel and fabrics.

To assist consumers and businessmen, the rules and regulations under the Fur Act contain a Fur Products Name Guide, which sets out the true English name of the animal producing the fur. In addition, the regulations under the Textile Act contain a list of 16 generic names for manmade fibers, which serve as common denominators for the hundreds of synthetic fibers now being sold. The Division also maintains a public register of continuing guarantees filed with the Commission under the four acts. These guarantees protect intermediate sellers of wool, fur, and textile products when relied upon in good faith. The Division also issues registered identification numbers to companies whose customers do not wish to reveal their sources of supply to competitors.

In administering these laws, the Division plans and supervises nationwide industry counseling and compliance inspection programs. Through industry counseling, the Division seeks to obtain voluntary compliance with the law. Full-time textile and fur investigators conducting compliance inspections point out violations to responsible parties, and, where possible, effect on-the-spot corrections of minor deficiencies. When voluntary compliance cannot be obtained, the Division initiates formal corrective action against responsible parties. Willful violators are subject to criminal prosecution.

During fiscal 1961, the Division's investigative staff was doubled to increase its industry counseling and compliance inspection work.

Special emphasis was given to inspections under the Fur Act because of the increased number of violations due to the passing off of dyed and bleached furs as "natural." The number of fur inspections more than doubled those of the previous year. Recom-

mendations for complaint-charging violations with the Fur Act and Regulations rose from 44 in fiscal 1960 to 92 in fiscal 1961.

The Division during the year began active enforcement of the new Textile Act, with a sampling of over 30 million textile products for labeling, invoicing, and advertising deficiencies.

The act has now been in effect for 16 months, and, generally speaking, public acceptance and industry compliance has been good. Using the other consumer acts as criteria, there has been far more compliance with the Textile Act than during early periods under the Wool and Fur Acts. There remain, however, many areas where consumer education and industry counseling are needed.

In fiscal 1961, a general revision of the regulations under the Fur Act was made. The revised rules encompassed needed clarifications and covered areas necessary for the proper enforcement of the statute.

Division of Textiles and Furs workload statistics, Fiscal 1961

	Wool	Fur	Flammable fabrics	Textile	Sec. 5 FTC
Commercial establishments covered by industry compliance investigations	975	934	1,883	1,242	.....
Products examined (sampling method in all cases except fur)	2,410,285	106,468	31,116,149	30,909,148	.....
Advertisements examined	3,557	25,647	.....	71,679	.....
Formal complaints recommended	21	92	14	13	8
Stipulations recommended				1	.....
Compliance investigations of concerns under cease and desist order or stipulation	4	10	.....		
Matters disposed of by acceptance of assurance of discontinuance	24	65	.....	.....	.....
Interpretations and opinions rendered	556		.....	.....	.....
Registered numbers assigned	8,074	3,060	1,798	21,370	.....
Continuing guarantees accepted and filed	295	167	.....	1,822	.....
Laboratory tests performed					
Correspondence (incoming)	803	500	2,211	868	.....
Correspondence (outgoing)	277	516	177	106	5
.....		12,198		.....	.....
.....		18,381		.....	.....

LITIGATION

The preparation and trial of cases before the Commission, from the drafting of complaints to the briefing and argument of completed cases before the Commission, are the responsibilities of the Bureau of Litigation with its staff of approximately 65 trial attorneys. There have long been more cases to try than could be expeditiously handled by the number of trial attorneys in the Bureau. The volume and effectiveness of the work of the Bureau is, accordingly, determined primarily by the size and competency of its professional staff.

The trial attorneys study the information and recommendations in individual cases submitted by the Bureau of Investigation, research the applicable law, and, where warranted, present to the Commission drafts of complaints with recommendation for their issuance. When the Commission adopts and issues a complaint, in the form submitted or in modified form, a formal proceeding is initiated which must be carried through all stages of trial to its final presentation on the merits to the Commission, ordinarily by the attorney or attorneys who drafted the complaint.

The cases litigated by this Bureau deal with the great variety of unfair and anticompetitive practices falling within the broad spectrum of the Commission's jurisdiction, and are designed to correct such practices and to protect freedom of competitive opportunity in the affected industries. The practices covered include false advertising and misbranding of all sorts of products, and such monopolistic and anticompetitive practices as price-fixing conspiracies, boycotts, exclusive dealing and other restrictive arrangements, price and other discriminations, and corporate mergers.

The trial of a complaint issued by the Commission is handled by Bureau attorneys before a hearing examiner, under rules of evidence which closely parallel the rules prevailing in Federal district courts. When it is received in this Bureau, the information which provides the basis for the allegations of the complaint is essentially raw material. It is the job of the trial attorney to convert the relevant and reliable parts of this raw material into evidence, and to build before the hearing examiner the factual and legal record on which the case will ultimately stand or fall. After an initial decision is made by the hearing examiner, it is also the job of the trial attorney to appeal to the Commission

relief required by the public interest, and to defend before the Commission those parts of the decision which may be appealed by the respondent. In such appeals it is the record which the trial attorney has presented to the hearing examiner on which the Commission must base its findings of fact, conclusions of law, and appropriate order.

The number of trial attorneys employed by the Bureau has been maintained at the maximum levels permitted by budgetary considerations. In maintaining these levels there has been considerable success in efforts to obtain the best qualified attorneys available, particularly young men with outstanding academic records. The heavy caseload of the Bureau has made it necessary, and the qualifications of the men who have been added to the staff in recent years have made it possible, quickly to develop competent trial lawyers able to cope effectively with the work of the Bureau. Their very competence, however, has resulted in the diversion of many of the attorneys, as they developed experience, to more lucrative fields outside of Government or in their transfer to positions of greater responsibility in the Commission or elsewhere in Government service. The development and maintenance of a staff of experienced and qualified trial attorneys is, therefore, a continuing challenge of major consequence to the Bureau.

CASEWORK IN FISCAL 1961

The orders to cease and desist issued in fiscal 1961 exceeded the number issued in 1960, but there was some decline in the number of complaints issued in 1961 compared to the record number issued in 1960. The fluctuations shown in these 2 years reflect variations in the comparative complexity of the cases instituted and tried, and variations which normally occur from year to year in the number of experienced trial attorneys available to handle them. The following table, which compares fiscal 1961 with the three prior fiscal years, discloses that the number of complaints and orders issued against illegal business practices continued at a high level during 1961 and considerably exceeded the levels attained in the fiscal years 1958 and 1959:

Statistical summary and comparison fiscal years 1958-61

	Antimonopoly cases				Deceptive practice cases				Total			
	1958	1959	1960	1961	1958	1959	1960	1961	1958	1959	1960	1961
Complaints issued	86	79	157	120	268	271	346	290	354	350	503	410
Orders to cease and desist	45	64	57	103	228	267	289	265	273	331	346	368

NOTE.—The figures showing the division of the workload between antimonopoly and deceptive Practices Involve a limited number of allocations which could have been made either way. For example, deceptive practice charges were included in a few complaints and orders which were classified as antimonopoly, and vice versa. It also be noted that orders partially disposing of cases are not Included in these figures.

ANTIMONOPOLY CASES

As shown above, 120 complaints and 103 orders to cease and desist were issued against monopolistic practices. The following references indicate their scope and variety.

Merger Cases

Cases under section 7 of the Clayton Act involve corporate mergers and acquisitions which may substantially lessen competition or tend toward monopoly. On June 30, 1961, 30 merger cases were pending in various stages of trial and these cases represented a substantial part of the caseload of the Bureau during fiscal 1961. Five new complaints were issued during the year, one complaint was dismissed without prejudice, and two cases were brought to a conclusion with orders of divestiture.

The two orders issued during the year were in cases which were vigorously contested throughout, both before the hearing examiners and by appeals to the Commission. In one of the cases the Commission modified the examiner's order to make it more effective, and in the other case the Commission's order represented a reversal of the hearing examiner's dismissal of the charges.

The Pillsbury Co., the Nation's second largest flour-milling company, was ordered by the Commission to sell two major competitors it acquired-Ballard & Ballard Co., Louisville, Ky., and Duff's Baking Mix Division of American Home Foods, Inc., located at Hamilton, Ohio. The Commission adopted the initial decision of the hearing examiner after making changes in the scope and form of the order.

Scott Paper Co., the Nation's leading seller of sanitary paper products, was ordered to sell three paper industry concerns it had acquired in violation of section 7 of the Clayton Act: Soundview Pulp Co., Everett, Wash.; Detroit Sulphite Pulp & Paper Co., Detroit, Mich.; and Hollingsworth & Whitney Co., Boston, Mass. The three companies had been acquired for stock valued in the aggregate at more than \$100 million. The Commission's decision vacated and set aside the hearing examiner's initial decision dismissing the charges.

The following is a brief summary of the cases in which merger complaints were issued during the year:

Hooker Chemical Corp., Niagara Falls, N.Y., for acquiring Durez Plastics & Chemicals, Inc., North Tonawanda, N.Y., and certain assets of Monsanto Chemical Co., St. Louis, Mo.

Ekco Products Co., Chicago, Ill., for acquiring McClintock Manufacturing Co. and certain assets of Blackman Stamping & Manufacturing Co., both of Los Angeles, Calif.

Leslie Salt Co., San Francisco, Calif., for acquiring The Deseret Salt Co., Salt Lake City, Utah, and California Salt Co., Los Angeles, Calif.

American-Marietta Co., Chicago, Ill., for almost 50 acquisitions from coast to coast. (Concrete pipe, cement, construction aggregates, lime.)

Kaiser Industries Corp. and three of its subsidiaries and affiliates, Oakland, Calif., for acquiring 45 percent of the voting stock of Allison Steel Manufacturing Co., Phoenix, Ariz. The Commission determined that the public interest would be better served by this new complaint and, accordingly, dismissed without prejudice, in earlier complaint against Kaiser Steel Corp.

Robinson-Patman Antidiscrimination Act Cases

Violations of this act lead the numerical list of antimonopoly proceedings. Complaints issued during fiscal 1961 under this law represented approximately five-sixths of all of the antimonopoly proceedings instituted during the year; and the orders to cease and desist from Robinson-Patman violations represented an even larger proportion of all of the antimonopoly orders issued during the year. The great majority of all proceedings involving the Robinson-Patman Act were disposed of by consent orders.

The largest group of Robinson-Patman Act proceedings involved brokerage cases charging violations of section 2(c), and represented well over half of all Robinson-Patman proceedings. Only three of the brokerage cases were contested, the others being disposed of by consent orders. In the three contested cases: Venus Foods, Los Angeles, Calif., was ordered to stop making illegal payments to purchasers of its bakery products; Thomasville Chair Co., Thomasville, N.C., was ordered to stop passing on illegal brokerage to favored retail customers; and Haines City Citrus Growers Association, Haines City, Fla., a cooperative of approximately 140 citrus grove owners, was ordered to stop paying unlawful brokerage to buyers for their own account.

A substantial number of Robinson-Patman Act proceedings involved prohibitions against discrimination in the granting of advertising and promotional allowances or services which violated sections 2(d) and 2(e). These subsections require that sellers paying customers for services and facilities, or furnishing services and facilities, must make them available to all competing customers on proportionally equal terms.

Preferential treatment of grocery chains was the subject of several 2(d) proceedings during fiscal 1961. In addition to a variety of food products, commodities involved included household paper products, waxes and polishes, and glass containers and closures.

Among the companies cited in 2 (d) orders were Penick & Ford, Ltd., The Chun King Corp., Marcal Paper Mills, Inc., S. C. Johnson

& Son Inc., Kerr Glass Manufacturing Corp., and Ball Bros. Co., Inc.

Other 2(d) orders were entered against manufacturers of such diverse products as pipe and fittings, hosiery, printing and photoengraving supplies, mattresses, and brassieres.

New proceedings instituted under section 2(d) centered on toy manufacturers who allegedly gave discriminatory promotional allowances to some wholesalers. Companion cases also were brought charging the favored wholesalers with violating section 5 of the Federal Trade Commission Act in knowingly inducing the discriminations.

Additional 2 (d) complaints charged the granting of discriminatory allowances in the sale of books and magazines, floor polishers, vacuum cleaners, sunglasses, grocery products, candy, plumbing specialties, and automobile replacement glass.

Companies cited in such complaints included Golden Press, Inc.; Grosset & Dunlap, Inc.; Holt, Rinehart & Winston, Inc.; The Regina Corp.; D. L. Clark Co.; Pittsburgh Plate Glass Co.; and Quaker Oats Co.

The remainder of the Robinson-Patman Act proceedings were under sections 2(a) and 2(f) of the act. Under section 2(a) it is unlawful to discriminate in prices between customers under certain circumstances where the effect may be substantially to lessen competition or tend to create a monopoly; and under section 2(f) it is unlawful knowingly to induce and receive such a discrimination. The standards of proof required under these subsections are somewhat more stringent than under the other subsections of the act because of the conditions and provisos of section 2(a) and the defenses provided by section 2 (b).

Orders prohibiting price discrimination were entered against manufacturers and other sellers of food and grocery products, sporting goods, automotive parts and supplies, dairy products, soap, pharmaceuticals and hats.

Companies cited in 2(a) orders included Pacific Gamble Robinson Co., Borg-Warner Corp., American Ball Bearing Corp., Perfect Equipment Corp., Gojer, Inc., Cutter Laboratories, Inc., Hat Corp. of America, and Byer-Rolnick Hat Corp.

New proceedings instituted under section 2 (a) likewise covered a variety of commodity fields, including automobile tires and tubes, food and dairy products, gasoline, automotive lamps, and drapery hardware.

The following were among the companies cited for 2 (a) violations: Inland Rubber Corp., Westinghouse Electric Corp., Quaker Oats Co., American Bakeries Co., American Oil Co., and Graber Manufacturing Co., Inc.

The automotive parts field accounted for several proceedings involving knowing inducement of price discriminations violative of section 2 (f) of the Clayton Act. Orders were issued against Southern California, Jobbers, Inc., Southwestern Warehouse Distributors, Inc., and Automotive Southwest, Inc., together with more than 100 jobber members of these buying groups. The complaints in these cases alleged that the jobbers had set up buying companies as "mere bookkeeping devices" to obtain unlawful lower prices in the form of volume discounts based on the aggregate purchases of all members.

A similar complaint was entered against National Parts Warehouse and its 56 jobber members.

Sears, Roebuck & Co. was charged with violating section 2(f) in purchasing plumbing and bathroom fixtures from Universal-Rundle Corp. The latter corporation was charged with violating section 2(a) in granting discriminatory prices to Sears, which owns 63 percent of Universal-Rundle's capital stock.

Another 2(f) proceeding involved March of Toys, Inc., and its wholesaler members. They were ordered to stop knowingly inducing or accepting unlawful price discriminations from suppliers.

Other Restraint of Trade Cases

In addition to the merger and discrimination cases, the antimonopoly -work of this Bureau included important proceedings against unfair practices in restraint of trade under section 5 of the Federal Trade Commission Act, and exclusive dealing arrangements under section 3 of the Clayton Act. One complaint was also issued against an interlocking directorate under section 8 of the Clayton Act, but was dismissed without prejudice when the interlocking directorship was discontinued. In a few instances the same proceedings included charges under both section 5 and section 3, and in a few cases a section 5 charge was included in Robinson-Patman complaints.

Significant restraint of trade cases under section 5 in fiscal 1961 included: the Commission's order requiring the Grand Union Co., East Paterson, N.J., a 340-store supermarket chain, to stop knowingly inducing disproportional advertising allowances from its suppliers, in which case section 5 was used to supplement the intent of the Robinson-Patman Act to halt discrimination; and the Commission's orders requiring The Goodyear Tire & Rubber Co. and The Firestone Tire & Rubber Co. to discontinue unlawful arrangements under which commissions were paid for promoting certain manufacturers' automotive tires, batteries, and accessories.

In a proceeding under sections 5 and 3, Mytinger & Casselberry, Inc., Long Beach, Calif., the Nation's largest direct seller of vitamin and mineral food supplements, was ordered to discontinue making,

enforcing, and threatening to enforce exclusive dealing and other restrictive agreements with distributors of its "Nutralite Food Supplement." In a proceeding under section 3 against The Timken Roller Bearing Co., Canton, Ohio, the Nation's largest manufacturer and seller of tapered roller bearings was ordered to stop unlawfully requiring its distributors and jobbers not to handle competitive products in the replacement market.

DECEPTIVE PRACTICE CASES

Deceptive practice cases in fiscal 1961 constituted, as they have consistently over the years, the greater number of matters litigated by the Commission. During the year, 292 complaints -were issued and 272 orders to cease and desist were entered.

Details of the actions in some of the more significant cases follow.

Food, Drugs, and Therapeutic Devices

Vigorous action was taken under the provisions of section 12 of the Federal Trade Commission Act forbidding the false or misleading advertising of foods, drugs, and therapeutic devices. Among the respondents named in complaints issued during the year were a wholesale distributor of a large line of food supplements and drugs who claimed to exercise quality control in his production methods, and vendors of vitamins and drug products who claimed to grow hair and cure alcoholism and the common cold. Two sellers of sedatives were charged in separate complaints with law violation in representing as safe drugs which, the Commission alleged, were dangerous when taken by some individuals. Two truss manufacturers were cited for claiming that their devices would cure hernias, and the seller of an electric vibrator for claiming that his device would effectively treat diseases or abnormalities of the bones, joints, or respiratory or digestive systems of the body.

Of more than ordinary interest to the public were the complaints issued against Lanolin Plus, Inc., Approved Formulas, Inc., Phoenix Pharmaceutical Co. et al., and Vitalife Vitamins et al. Included in each of the complaints was the charge that, in offering their vitamin pills for tiredness, the respondents had misled consumers by failing to reveal the material fact that, in the great majority of cases of persons suffering tiredness, the condition was not caused by a deficiency of the vitamins or minerals provided and that in such cases the preparations would be of no benefit.

In four cases involving analgesics, the Commission issued simultaneous complaints against American Home Products Corp., Bristol Myers Co., Plough, Inc., and Sterling Drug, Inc., alleging misrepre-

sentation in making claims for speed of relief by Anacin, Bufferin, St. Joseph Aspirin, and Bayer Aspirin. The manufacturers of three of the preparations (Anacin, St. Joseph Aspirin, and Bayer Aspirin) each claimed, according to the complaints, that their product would relieve pain faster than any other analgesic available and offered for sale to consumers. Bufferin, the complaint against Bristol-Myers Co. alleged, has been advertised as relieving pain twice as fast as aspirin.

The truth is, the complaints alleged, there is no significant difference, in the rate of speed with which these analgesics relieve pain.

Wearing Apparel and Textiles

Over 150 complaints and orders were recorded in cases involving the invoicing, labeling, and advertising of wearing apparel and its components. Furs continued to lead the parade of those commodities whose vendors preticket with fictitiously high prices.

Three respondents were in trouble because they were apparently unable to distinguish between Indian Madras and domestic cotton fabrics although, according to complaints issued against them, they affirmatively implied in advertising that they did know the difference and that the domestic cloth was Madras (Sun Fast Textiles, Inc., Ship'n Shore, Inc., and Churchill Sportswear (Co.). Agreements containing consent orders to cease and desist were accepted from the first two named.

Two complaints were issued against sellers of fabrics alleged not to meet the minimum burning time standards prescribed by the Flammable Fabrics Act (Ware Knitters, Inc., et al., and California Floral Manufacturing Co.). In an agreement containing a consent order to cease and desist, the last-named respondent agreed to stop selling, or introducing in commerce, flammable fabrics used in making leis.

Automobiles and Automotive Supplies

The Commission's activities during the year in this area ranged from proceedings involving the advertising of whole automobiles to that of accessories and replacement parts.

Rootes Motors, Inc., importer of the English-made Hillman, Singer, Sunbeam, and Humber automobiles, agreed to the entry of an order forbidding further representations in advertising that parts and services for these automobiles are immediately available in any area of the United States when they are not so available.

Montgomery Ward & Co., Inc., was charged with making fictitious pricing and savings claims for its automobile tires. The complaint alleged that "list prices" shown in newspaper advertisements were not the company's customary retail prices but were substantially higher. A consent order approved by the Commission prohibits the company from continuing the representations.

Home and Household Products

Proceedings in this category were concerned with the advertising or labeling of a wide variety of goods, including house paint, sewing machines, vacuum cleaners, lawnmowers, kitchen utensils, rubber gloves, furnace repairs, food wrapping, and carpets.

In a proceeding against Aluminum Co. of America, Inc., and a wholly owned subsidiary, Wear-Ever Aluminum, Inc, the respondents were alleged to have used false and misleading television commercials in demonstrating "New Super-Strength Alcoa Wrap."

Two hams were depicted, one in a wrinkled and torn wrapper and the other in a neat-appearing wrapper identified as "Alcoa Wrap." It was announced that the two hams had been wrapped and unwrapped the same number of times and that the ham in the ordinary wrapper would be dry and tasteless, while the "Alcoa" wrapped ham would be juicy and tasty.

The complaint alleged that the two hams had not been wrapped and unwrapped the same number of times, that the hams had been specially selected, the poorest looking for use in depicting the "ordinary" wrapper and the best looking to depict "Alcoa Wrap," and also that the "ordinary" wrapper had been deliberately torn and wrinkled, while the "Alcoa Wrap" had not been abused.

The companies and their advertising agents were ordered to cease, using demonstrations which purport to prove Alcoa Wrap's properties in preserving the quality or appearance of food, or its strength, durability, or any other characteristic, when such proof is not actually given.

Orders were issued to stop other allegedly deceptive television demonstrations used in advertising "Colgate Dental Cream with Gardol" by Colgate-Palmolive Co., "Schick Safety Razors" by Eversharp, Inc., and "Mennen Sof' Stroke Shaving Cream" by the Mennen Co.

The use of "scare" tactics and other selling methods alleged to be deceptive was involved in complaints which issued against two sellers of furnaces, Missouri-Kansas Furnace Co. and Davis Furnace Co.

In pending proceedings against The Quaker Oats Co., the respondent had been charged with misrepresenting that the briquets it manufactures from corncobs are "charcoal.")

The Commission alleges that the company has falsely described its briquets as "Chuck Wagon Charcoal Wheels," "Chuck Wagon Charcoal Briquets," and "Chuck Wagon Charcoal Briquets—real Hickory Flavor!"

The complaint contends that the public generally understands and believes that a product described as "charcoal" is made from wood and that use of the designation to describe briquets produced pri-

marily from corncobs is deceptive. Furthermore, it says, the company's use of the term "real Hickory Flavor" enhances this deception.

In another pending case, The Scott & Fetzer Co., one of the largest manufacturers of vacuum cleaners in the industry, faces charges that it had used fictitious pricing, "scare" tactics, and numerous other unfair practices to promote the sale of its "Kirby" vacuum cleaners.

One of the allegations is that Scott & Fetzer attempted to "scare" prospects by emphasizing that the germ-infested condition of their rugs and mattresses renders them highly dangerous to the prospect's family and that the "Kirby" will correct this condition. The Company also is charged with misrepresenting in "help wanted" advertisements that salaried jobs with guaranteed minimum earnings are available for qualified persons with its distributors and subdistributors.

Books

Printed and oral representations regarding books offered for sale to the public engaged the attention of the Commission during the year. Holt, Rinehart & Winston, Inc., formerly Henry Holt & Co., Inc., was alleged in a Commission complaint to have made false, misleading, and deceptive claims in newspaper advertisements and other printed material for its book titled "Folk Medicine."

The publisher consented to order forbidding it to misrepresent that the regimen in the book cures numerous "nagging" ills and chronic ailments or diseases which defy conventional medical diagnosis and treatment.

Encyclopaedia Britannica, Inc., was ordered, after lengthy litigation, to stop selling its encyclopedia or other books, services, or merchandise through deceptive pricing, savings, and limited-time-only claims. The Commission found that, except in one type of cover, the set of books had sold for the same prices since 1949.

Foreign Origin

Some vendors want their customers to think that domestic products offered for sale are imported. Other vendors want to conceal the fact that their products were foreign made. It all depends on the nature of the goods and the place where they did or did not come from.

In English Sportswear, Inc., the Commission has charged the company and two of its officers with misrepresenting that men's sport coats it manufactures in this country are made in and imported from England. This false impression, the complaint alleged, was created by the labeling and advertising description "English Sports Coat" for the garments, which were not even English styled.

Other cases concerned the alleged deceptive offering of Dutch-made ski suits as Swiss, hats made in Japan in Philippine hemp as "Genuine Milan," and an American-made automotive oil additive developed by

U.S. companies as made in Germany using a formula developed by a German scientist, Hong Kong-made watchbands as American, and Japanese sunglasses as American.

Advertising of Hemorrhoid Remedies

An industrywide investigation, which will continue into fiscal 1962, of the advertising of products offered for the relief or treatment of hemorrhoids was initiated toward the end of the year.

Letters were sent to more than 100 makers of hemorrhoid products to determine whether their advertising may be exaggerating the efficacy of the products. Where the claims appear to overstate the merits of the product, the makers will be required, under special orders authorized by section 6 of the Federal Trade Commission Act, to give the Commission staff more detailed information on the evidence on which the claims are based.

HEARING EXAMINERS

When a formal complaint is issued by the Commission, it is assigned to a hearing examiner who has the responsibility of taking testimony in support of and in opposition to the allegations of the complaint. During the year, a staff of 16 examiners served the Commission.

The Administrative Procedure Act outlines the powers and duties of all hearing examiners in the Federal service, including the Federal Trade Commission. Their appointment and tenure are under the sole authority of the Civil Service Commission.

Hearing examiners have complete charge of cases from the time the Commission issues its complaint until the initial decision is rendered. They hold pretrial conferences; conduct hearings; rule upon offers of proof, admissibility of evidence, and all procedural and other interlocutory motions; and make and file an initial decision in each proceeding. In the performance of their duties as adjudication officers, hearing examiners are exempt from all direction, supervision, or control except for administrative purposes.

When a hearing examiner has completed the taking of testimony in any case, he allows the attorneys for both parties to file proposed findings of fact and draft of order. Thereafter he prepares and files an initial decision which, under the Administrative Procedure Act, becomes the decision of the Commission if no appeal is made from it by either of the parties, or if the Commission itself does not enter a stay order or put the case on its own docket for review. In any event, the decision of the hearing examiner becomes a part of the formal record and is taken into consideration by the Federal courts in any review of the case. His decision is given great weight because he is the man who, under the law, has the duty of listening to the witnesses and passing upon their credibility. The Commission may adopt, in whole or in part, the decision of the hearing examiner or may set it aside completely, in which case the Commission either rewrites the decision or remands it to the hearing examiner for the taking of further testimony.

Performance during fiscal 1961 shows that the Commission's hearing examiners handled a record number of cases; nevertheless at the

year's end the number to be disposed of had increased over the previous year, as shown by the following table:

Fiscal year	On hand	Received	Total handled	Disposed of	On hand	Hearing days
1955	126	165	291	124	167	611
1956	167	201	368	187	181	670
1957	181	250	431	232	199	733
1958	199	377	576	328	248	783
1959	248	376	624	392	232	779
1960	232	545	777	404	373	858
1961	373	444	817	436	381	928 1/2

OFFICE OF THE GENERAL COUNSEL

The General Counsel and the attorneys of his staff represent the Commission- as its counsel in all cases advancing beyond the agency, or otherwise arising in the courts. When Commission cases reach the Supreme Court, the legal services devolving upon the Commission are performed by this Office in collaboration with the Solicitor General of the United States.

The General Counsel functions as the Commission's law officer and principal legal adviser. In addition to the courtwork, his Office administers the Webb-Pomerene Export Trade Act; passes upon all trade practice rules and "Guides" before their issuance by the Commission; gives informal advice to businessmen on trade regulation matters involving laws administered by the Commission; reviews, analyzes, and prepares reports of the Commission on new legislation; polices Commission cease-and-desist orders for compliance purposes; initiates penalty suits by the Attorney General for enforcement of such orders; institutes court action for enforcement of subpoenas and for enforcement by actions in contempt of court for disobedience to decrees affirming Commission orders; integrates mandatory order compliance with work programs for securing voluntary adherence to stipulations, trade practice rules, and guides.

The General Counsel represents the Commission in hearings before congressional committees. The special legal assistants to the Commission are supervised by him. Legal studies and manuals for guidance of the Commission's professional staff are prepared under the supervision of the General Counsel.

Duties Conferred in Acts Administered by Other Agencies

The Office of the General Counsel also processes and reports upon industry voluntary agreements and programs utilized under the Defense Production Act, also upon small business production pools, research and development programs, and related agreements under the Small Business Act. These are made subject to consultation with the Chairman of the Commission prior to their being put into effect. The review by the General Counsel's Office of these industry agreements, programs, and pools is directed to such purposes as aiding small business, eliminating or minimizing anticompetitive effects that may run counter to the basic policies of the Federal Trade Com-

mission Act and the antitrust laws, and preventing undue concentration of economic power.

DIVISION OF SPECIAL LEGAL ASSISTANTS

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

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

During fiscal 1961 the Division prepared drafts of 368 case dispositions, of which 96 were final decisions and 272 were interlocutory. Division attorneys also prepared 1,77 miscellaneous reports and recommendations. This total of 545 documents represents an increase of 63 over the number prepared in the preceding year.

APPELLATE DIVISION

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

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

In addition to its courtwork, the Division prepares opinions and makes recommendations on questions of substantive and administrative law and procedure arising in the work of the Commission and in court proceedings.

During fiscal 1961 the Division handled 82 cases. It completed litigation in 35 cases, 4 of which were antimonopoly proceedings, 16 involved deceptive practices, 11 concerned the Commission's subpoena powers 1 involved a trademark cancellation proceeding, 1 was an order enforcement proceeding, concerned the applicability of Public

Law 86-107 to Clayton Act orders including those previously outstanding, and 2 were suits for injunction to restrain the Commission's actions.

The Supreme Court denied 10 petitions for certiorari to review courts of appeals decisions in favor of the Commission. It also denied a petition filed on the Commission's behalf to review an unfavorable decision. The Court granted 2 petitions, one filed on behalf of the Commission.

Cases open for further action at the close of the fiscal year comprised 4 in the Supreme Court, 39 in courts of appeals, and 4 in district courts. These included 23 antimonopoly, 15 deceptive-practice, 5 subpoena, and 4 miscellaneous matters.

The Division filed 41 briefs and memoranda upon the merits, and assisted in the preparation of 19 other briefs filed on the Commission's behalf by the Department of Justice. Twenty-eight arguments were made by the Division staff, and three others by the Department of Justice. Proceedings to obtain court orders enforcing subpoenas were initiated in 13 cases. In addition, approximately 175 other papers were filed in cases in Federal litigation. The Division made numerous other court appearances and participated in several conferences in chambers. It represented the Commission in 10 of the 11 U.S. courts of appeals, in the U.S. Court of Customs and Patent Appeals, and in 8 U.S. district courts.

Antimonopoly Cases in Federal Courts

In the Supreme Court

Decisions

There were no antimonopoly decisions in Commission cases by the Supreme Court this fiscal year. However, the Court denied a petition for rehearing filed by Henry Broch, & Co., Chicago, Ill.

Petition for certiorari granted

Henry Broch & Co., seller's broker's unlawful sharing of brokerage with customer in violation of section 2 (e) of the Clayton Act. Certiorari granted to review the Seventh Circuit's modification of the Commission's order.

Petition for certiorari denied

American Motor Specialties Co., New York, N.Y., price discrimination in the purchase of automotive products. Review of court of appeals decision (Second Circuit) affirming the Commission's order was denied

Pending case

Mid-South Distributors, Inc., Memphis, Tenn., price discrimination in the purchase of automotive products. Petition for certiorari filed from Fifth Circuit decision affirming order of the Commission.

In Courts of Appeals

Decisions and other dispositions

Eight of the ten antimonopoly cases pending at the beginning of the year reached decision before its close.

Crown Zellerbach Corp., San Francisco, Calif. (Ninth Circuit), unlawful acquisition of competitor paper company. The Commission's order was affirmed.

Eric Sand & Gravel, Erie, Pa. (Third Circuit), unlawful acquisition of competitor. The court vacated the Commission's order of divestiture and remanded the case to the Commission for further consideration.

Swannee Paper Corp., Ramson, Pa. (Second Circuit), discriminatory payments for the benefit of a food chain in connection with the advertising and resale of petitioner's paper products. The Commission's order was modified and enforced.

Schick, Inc., Lancaster, Pa., and Sperry Road Corp., New York, N.Y. (D.C. Circuit). The court held that Public Law 86-107 did not apply to cease-and-desist orders issued prior to enactment of that statute.

Mid-South Distributors, Inc., Memphis, Tenn. (Fifth Circuit), price discrimination in the purchase of automotive products. The Commission's order was affirmed.

Thompson Ramo Wooldridge, Inc. (formerly known as Thompson Products, Inc.), Euclid, Ohio (sixth Circuit), price discriminations in the sale of automotive products. The petition to review the Commission's order was dismissed pursuant to stipulation.

Anheuser-Busch, St. Louis, Mo (Seventh Circuit), price discrimination between customers in different areas in sale of beer. On remand from the Supreme Court, the Court set aside the Commission's order and denied the Commission's motion for remand.

Venus Foods, Los Angeles, Calif. (Ninth Circuit), violation of 2(c) of the Clayton Act. The petition to review the Commission's order was dismissed pursuant to stipulation.

Henry Broch & Co., Chicago, Ill. (Seventh Circuit), seller's broker's unlawful sharing of brokerage with customer. The court modified the Commission's order, limiting the prescription to transactions between the particular seller and buyer involved in the proved violation.

Reynolds Metals Co., Richmond, Va. (D.C. Circuit), A. G. Spalding & Bros., Inc., Chicopee, Mass. (Third Circuit), both involving unlawful acquisitions of competing firms, and Sun Oil Co., Philadelphia, Pa. (Fifth Circuit), involving price discrimination in gasoline sales, remained pending at the close of the year.

Pending cases which arose during the year include: Mytinger and Casselberry, Inc., Long Beach, Calif. (D.C. Circuit); Timken Roller Bearing Co., Canton, Ohio (Sixth Circuit), exclusive dealing agreements in violation of section 3 of the Clayton Act in the distribution of vitamin supplements and tapered roller bearings, respectively; Atlantic Refining Co., Philadelphia, Pa. (Seventh Circuit), Firestone, Tire & Rubber Co., Akron, Ohio (Fifth Circuit), Goodyear Tire & Rubber Co., Akron, Ohio (Seventh Circuit), and Shell Oil Co., New York, N.Y. (Fifth Circuit), all of which involve marketing arrangements for promoting sales of tires, batteries, and accessories in restraint of trade; Alhambra Motor Parts Co., Inc., Alhambra, Calif. (Ninth Circuit), price discrimination in the purchase of automotive products; Asheville Tobacco Board of Trade, Asheville, N.C. (Fourth Circuit), conspiracy, in restraint of trade involving the allocation of selling time to warehousemen on the Asheville tobacco market; Exquisite Form Brassiere, Inc., New York, N.Y. (D.C. Circuit), price discrimination in the sale of brassieres and the applicability of the "meeting competition" defense to the furnishing of promotional allowances; Pillsbury Co., Minneapolis, Minn. (Fifth Circuit), and Scott Paper Co., Chester, Pa. (Third Circuit), unlawful acquisitions of other corporations; Thomasville Chair Co., Thomasville, N.C. (Fifth Circuit), the, procurement of discriminatory advertising and promotional payments; American News Co., New York N.Y. (Second Circuit), inducing and receiving from publishers discriminatory promotional allowances; The Grand Union Co., New York, N.Y. (Second Circuit), receiving discriminatory advertising and promotional allowances from suppliers.

Antideceptive Practice Cases in Federal Courts

In the Supreme Court

Petitions for certiorari denied

Review of courts of appeals decisions affirming and enforcing Commission orders was denied in the following cases:

Bantam Books, Inc., New York, N.Y. (Second Circuit), failure to disclose abridgment of books or substitution of title.

Allen V. Tornek, New York, N.Y. (D.C. Circuit), false and misleading advertising of watches.

Niresk Industries, Inc., Chicago, Ill. (Seventh Circuit), false advertising of electric cooker-fryers.

Hunter Mills Corp., New York, N.Y. (Second Circuit), misbranding of wool products and the furnishing of false guarantees with respect thereto.

Theodore Kagen Corp., New York, N.Y. (D.C. Circuit), false and misleading advertising of watches.

Peerless Products, Inc., Chicago, Ill. (Seventh Circuit), sale of punchboards for use of others in selling merchandise by lottery.

Ward Laboratories, Inc., New York, N.Y. (Second Circuit), misrepresentation in connection with the sale of preparations for the treatment of hair and scalp.

Pending case

Evis Manufacturing Co., San Francisco, Calif., false advertising of a water-conditioning device. Petition for certiorari filed on behalf of the Commission from Ninth Circuit decision setting aside the Commission's order.

In Courts of Appeals

Decisions and other dispositions

Nine of the twelve cases pending at the beginning of the year reached decision before its close. In four of these the Commission's orders to cease and desist were affirmed and enforced:

Max H. Goldberg, t/a Novel Co., Chicago, Ill. (Seventh Circuit), sale and distribution of merchandise by lottery.

Theodore Kagen Corp., New York, N.Y. (D.C. Circuit), failure to disclose true composition of metal in simulated gold watch cases.

Peerless Products, Inc., Chicago, Ill. (Seventh Circuit), sale of punchboards for use of others in selling merchandise by lottery. Petition for rehearing denied.

Hunter Mills Corp., New York, N.Y. (Second Circuit), misbranding of 'wool products and the furnishing of false guarantees with respect thereto.

In two cases the Commission's orders to cease and desist were modified:

Maurice J. Feil and Leo A. Loeb, t/a The Enurtone Co., Los Angeles, Calif. (Ninth Circuit), misrepresentation of a device designed to cure bed wetting.

Morton's, Inc., Boston, Mass. (First Circuit), misbranding, and fictitious price advertising of fur products in violation of the Fur Products Labeling Act.

One case, Michael Silver (Kulin Waste, Co.), Worcester, Mass. (First Circuit), misbranding of wool products, was dismissed for lack of prosecution by petitioner. The courts twice reversed the Commission's decisions and set aside its orders: Globe Readers Service, Inc., Michi-

gan City, Ind. (Seventh Circuit), deceptive practices in the solicitation and sale of magazine subscriptions, and Evis Manufacturing Co., San Francisco, Calif. (Ninth Circuit), false advertising of a water conditioning device.

Five cases arose and reached decision during the year. In three of these, the Commission's orders to cease and desist were affirmed and enforced: Nate Gellman, Minneapolis, Minn. (Eighth Circuit), distribution of punchboards designed for use in sale of merchandise; Clinton Watch Co., Chicago, Ill. (Seventh Circuit), fictitious pricing of watches and misrepresentation of guarantees thereon; Hoving Corp., New York, N.Y. (Second Circuit), misbranding and false and deceptive invoicing and advertising of fur products in violation of the Fur Products Labeling Act.

Two other petitioners for review of Commission orders were dismissed pursuant to stipulations of the parties: Arnold Constable Corp., New York, N.Y. (Second Circuit), fictitious price advertising of luggage and cashmere coats, and Witkower Press, Inc., Hartford, Conn. (D.C. Circuit), false advertising of book entitled "Arthritis and Common Sense."

Pending cases

Travelers Health Association, Omaha, Nebr. (Eighth Circuit), misrepresentation of insurance policies. Pending throughout the year on remand from the Supreme Court.

Bankers Securities Corp., Philadelphia, Pa. (Third Circuit), fictitious price advertising of rugs.

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

Samuel A. Mannis, Hollywood, Calif. (Ninth Circuit), false and deceptive invoicing and advertising of fur products in violation of the Fur Products Labeling Act.

Baltimore, Luggage Co., Baltimore, Md. (Fourth Circuit), fictitious pricing of luggage.

Samuel A. Cannon, Newark, N.J. (D.C. Circuit), misrepresentation of correspondence courses purporting to secure government employment for subscribers.

Harry Carr, Boston, Mass. (First Circuit), misbranding of wool products in violation of the Wool Products Labeling Act.

Exposition Press, Inc., New York, N.Y. (Second Circuit), misrepresentation of royalties in connection with book publishing.

United States Retail Credit Association, Inc., Mentor, Ohio (Fourth Circuit), use of deceptive trade name and other misrepresentations in the collection of delinquent accounts.

Wren Sales Co., Inc., Chicago, Ill. (Seventh Circuit), sales plans involving operation of games of chance, gift enterprises and lottery schemes.

Proceedings in Federal Courts for Enforcement of Orders

In the Supreme Court

Petition for certiorari granted

St. Regis Paper Co., New York, N.Y. Petition granted to review two questions decided favorably to the Commission by the Second Circuit: (1) that in an investigation of possible violation of section 7 of the Clayton Act, the Commission is entitled to obtain, under an order requiring special reports, retained copies of U.S. census reports; and (2) that the \$100-per-day penalty provided by section 10 of the Federal Trade Commission Act applies to St. Regis' default in filing the report.

In Courts of Appeals

Decisions

Washington Fish & Oyster Co., Seattle, Wash. (Ninth Circuit). The Commission's application for enforcement of its order was granted

St. Regis Paper Co., New York, N.Y. (Second Circuit). The court reversed the decision of the district court (Southern District of New York) on the Commission's appeal and affirmed that decision on the defendant's cross-appeal. St. Regis' petition for certiorari has been granted as to two of the issues (see statement, *supra*).

Subpena Enforcement Cases in Federal Courts

In the Supreme Court

Petition for certiorari was denied in three cases:

Flotill Products, Inc., Stockton, Calif., and Hunt Foods & Industries, Inc., Fullerton, Calif., filed petitions for certiorari to review two Ninth Circuit decisions affirming district court orders enforcing Commission subpoenas.

Walter L. Dilger (Beatrice Foods Co.), Chicago, Ill., petition for certiorari filed on behalf of the Commission to review the Seventh Circuit's decision reversing a district decision enforcing a Commission subpoena.

In Courts of Appeals

Decisions

Hunt Foods & Industries, Inc., Fullerton, Calif. (Ninth Circuit), the court affirmed the district court's enforcement of the Commission's subpoena. The Ninth Circuit also denied a petition for rehearing by Flotill Products, Inc., Stockton, Calif.

Pending case

Elmer C. Adams, Sr. & Elmer C. Adams, Jr., St. Louis, Mo. (Eighth Circuit), on cross-appeals from decisions of district court, *infra*.

In District Courts

Decisions and other dispositions

The district courts enforced the Commission's subpoenas in Norwood's, Inc., Northampton, Mass. (District of Massachusetts); Cumberland Farm Dairy, Inc., Woonsocket, R.I. (District of Rhode Island); Television Service Association of Delaware Valley, Philadelphia, Pa. (Eastern District of Pennsylvania); and Plantation Pipe Line Co., Atlanta, Ga. (District of Columbia). The courts denied enforcement in Walter Dilger, secretary of Beatrice Foods Co., Chicago Ill. (Northern District of Illinois), and ordered enforcement as to certain specifications and denied enforcement as to others in Elmer C. Adams Sr. & Elmer C. Adams, Jr., St. Louis, Mo. (Western District of Missouri).

Commission applications for enforcement of subpoenas were withdrawn in Fishell and Fishell & Associates et al., Los Angeles, Calif. (Southern District of California), and Kayser-Roth, Corp., New York, N.Y. (Southern District of New York).

Pending cases

Three subpoena enforcement cases were pending at the close of the year:

Horace G. Barden, Chicago, Ill. (Northern District of Illinois) Moore Business Forms, Niagara Falls, N.Y. (District of Columbia); and Standard American, Inc., Philadelphia, Pa. (Eastern District of Pennsylvania).

Trademark Cancellation Proceeding in Federal Court

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

Suits Against the Commission in Federal Courts

In Courts of Appeals

Decisions

Bigelow-Sanford Carpet Co., New York, N.Y., and Courtaulds (Alabama), Inc., Le Moyne, Ala. The District of Columbia Circuit affirmed the district court's decisions in favor of the Commission in suits for declaratory judgment and injunctive relief as to the Commission's promulgation of certain rules and regulations under the Textile Fiber Products Identification Act.

In Nash-Finch, Co., Minneapolis, Minn. (D.C. Circuit), the court affirmed the district court's holding that Public Law 86-107, amending the Clayton Act, does not apply to orders issued prior to its enactment.

In District Courts

The District Court for the District of Columbia granted the Commission's motion to dismiss a complaint for injunction filed by S. Klein Department Stores, Inc., New York, N.Y. The court also granted the Commission's motion for summary judgment in Courtaulds (Alabama), Inc., Le Moyne, Ala. Similar injunctive relief was likewise denied to Carl Brandenfels, St. Helens, Oreg., who sought to enjoin the Commission from investigating ,t hair and scalp treatment business.

DIVISION OF COMPLIANCE

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

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

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

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

- Works out acceptable voluntary compliance program.

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

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

Penalty proceedings during fiscal 1961

Pending July 1, 1960	11
Filed during year	21
Total for disposition	32
Disposed of during year	5
Pending June 30, 1961	27
Certified, not yet filed	8

Summary of civil suits since 1947¹

Fiscal year	Total Judgments	Suits certified to the Attorney General	Fiscal Year	Total Judgments	Suits certified to the Attorney General
1947	\$38,000.00	1	1956	\$19,342.70	9
1948 .....	.....	0	1957	24,704.60	12
1949	16,900.00	0	1958	21,557.38	11
1950	7,000.00	9	1959	55,650.00	10
1951	80,000.00	1	1960	39,300.00	25
1952	11,600.00	5	1961	38,000.00	33
1953	59,538.20	3			
1954	8,950.00	2	Total	460,675.57	
1955	40,132.69	11			

¹ This Division was established In May 1947.

Civil Penalty Cases Concluded

Americana Corp. (Md.). Misrepresentations made in connection with the sale of encyclopedias and other books. Judgment for \$16000.

Crown Manufacturing Co., Inc. (E.D. Pa.). Misbranding and false invoicing of woolen interlinings. Judgment for \$5,000.

William C. Moore. & Co. (W.D. Wash.). Misrepresentation of nursery stock, fertilizer, and planting materials. Judgment for \$10,000.

Shay Auerbach (E.D.N.Y.). False invoicing of wool products. Judgment for \$7,000.

Civil Penalty Cases Pending

Vulcanized Rubber & Plastics Co. (Supreme Court). Misrepresentations as to the rubber content of combs designed for use on human hair. Judgment of \$6,000 entered in the Eastern District of Pennsylvania and affirmed by the Third Circuit. Pending upon petition for certiorari.

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

Maurice J. Lennett (Mass.). Failure to disclose prior use of automobile springs.

Fong Poy (N.D. Calif.). Misrepresentation of herbs and drugs sold for use in the treatment of various diseases.

Superior Wool Batting Corp. (E.D.N.Y.). Misbranding of wool batting.

National Training Service, Inc., et al. (Conn.). Misrepresentation of courses of study designed to prepare purchasers thereof for examination for civil service positions.

United States Printing & Novelty Company (S.D.N.Y.). Sale of lottery devices.

Kenneth R. Ogle (S.D. Ohio). Misrepresentations of photographic albums and certificates for photographs.

Sears, Roebuck & Co. (D.C.). Misrepresentations of savings afforded purchasers of automobile tires.

Sterling Materials Co., Inc. (E.D.N.Y.). Misrepresentation of roofing and foundation paints.

Ohmlac Paint & Refining Co. (E.D.N.Y.). Misrepresentation of roofing and foundation paints.

Carbozite Protective Coatings, Inc. (E.D.N.Y.). Misrepresentation of roofing and foundation paints.

National Toilet Co. (Tenn.). Misrepresentation of a cosmetic preparation.

Harold Schiff et al. (Md.). Bait and switch advertising of vacuum cleaners.

Empire Press, Inc. (N.D. Ill.). Sale of lottery devices.

Magic Weave, Inc. (Mass.). Misrepresentations of a reweaving kit and course of instruction.

George's Radio & Television Co., Inc. (D.C.). Misrepresentation of regular price of television sets.

Doris Savitch (E.D.N.Y.). Misrepresentation of a drug preparation.

Permanent Stainless Steel, Inc. (S.D. Tex.). Misrepresentation of stainless-steel cooking utensils.

L. M. Clothing Co., Inc., et al. (S.D.N.Y.). Misbranding of wool products.

Matthew B. Huttner et al. (S.D.N.Y.). Failure to reveal that books had previously been published under different titles.

Leonard Melley (D.C.). Misrepresentation of encyclopedias.

Gerald .C. Burd (N.D. Calif.). Misrepresentation of cooking equipment and supplies therefor.

Lewis I. Heater et al. (N.D. Calif.). Misrepresentation of a correspondence course designed to train purchasers in the field of motel management.

Gene J. Davidson (E.D. Pa.). Misrepresentation of vending machines.

Woody Fashions, Inc., et al. (S.D.N.Y.). Misbranding of wool products.

Columbia Alkali Corp. et al. (N.D. Ohio, E.D.). Penalties for violations of order prohibiting concerted price-fixing and related activities.

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

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

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

Most orders involving restraints of trade are issued under , the Clayton Act, and until July 23, 1959, when the President signed Public Law 86-107 amending section 11 of that act, had no finality unless enforced by decree by the U.S. court of appeals after proof of violation, and proof of a further violation was necessary for a fine in contempt. As amended, the same finality and penalties for violations apply to Clayton Act orders as apply to Federal Trade Commission Act orders, specifically exempting only court proceedings initiated under section 11 prior to the date of the enactment of the amendment. However, the U.S. Court of Appeals for the D.C. Circuit has held that Public Law 86-107 does not apply to orders which were outstanding at the time of its enactment. *Sperry Band Corp. v. F.T.C.*, 288 F. 2d 403 (decided February 19, 1961) ; *Schick, Inc. v. F.T.C.*, 288 F. 2d 407 (decided February 9, 1961) ; *Nash Finch Co. v. F.T.C.*, 288 F. 2d 407 (decided February 15, 1961).

During fiscal 1961 this Division conducted a survey of identical bidding by manufacturers of steel products in connection with proposals for sealed bids from public agencies, and considerable documentary evidence relating to the question of compliance by the more than 70 steel manufacturers subject to the Commission's cease-and-desist order against the steel industry (American Iron & Steel Institute et al., docket 5508) is currently under study.

Also, in connection with the Commission's order in Cement Institute et al., docket 3167, an industrywide price-fixing conspiracy matter, detailed information and data have been secured relating to identical delivered prices, uniform terms of sale, trucking policies, and other trade practices of the respondent cement producers in certain areas, which are being analyzed to determine whether, and to what extent, the cease-and-desist order may have been violated. Work on these cases is in progress and has not reached the stage of release for the public record.

The Division instituted, during fiscal 1961, 26 investigations of compliance with Clayton Act orders, 14 of which are still outstanding. A total of 1,70 compliance investigations was instituted and supervised by the Division, 40 of which were in connection with antimonopoly matters. The Division received from the Commission for attention to compliance 103 antimonopoly orders and 302 antideceptive orders issued during the year.

Current Order Compliance

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

Statistics on Matters and Cases Handled in Fiscal 1961

"Matters" consist of (a) reports of compliance for processing; (b) complaints of alleged violation of orders; (c) conferences and opinions regarding compliance; and (d) initiating and processing preliminary inquiries into compliance. Each category of these "matters" is a distinct operation requiring substantial man-hours. In other words, the same case often requires handling several times, as is apparent from the following table showing the number of "matters" and the number of "cases" handled, and disclosing that 1,315 "matters" handled involved but 448 cases.

Matters

	Fiscal 1961
Total pending July 1, 1960	1,880
Received during year	<u>472</u>
Total for disposition during year	3,352
Disposed of during year	<u>1,315</u>
Total pending June 30, 1961	2,037

Cases

Cases pending July 1, 1960	619
Received during year	<u>74</u>
Total for disposition during year	1,193
Disposed of during year	<u>448</u>
Cases pending June 30, 1961	745

OFFICE OF EXPORT TRADE

By the Webb-Pomerene (Export Trade) Act of 1918, the Congress of the United States authorized cooperative activity among American exporters, within certain circumscribed bounds, for the purpose of promoting the foreign trade of the United States. This legislation was predicated upon the assumption that if Americans are to enter the markets of the world on more nearly equal terms with their organized competitors and their organized customers, and if small American producers and manufacturers are to engage in export trade on profitable terms, they must be free to unite their efforts and encouraged, through certain dispensations from the restrictions of the, Sherman Antitrust Act.

At the time of their formation, export trade associations are required to file with the Commission various documents descriptive of their organizational structure and manner of operation.

The Office of Export Trade performs staff functions related to the Commission's administration of the Webb-Pomerene Act. Such responsibilities embrace supervisory authority over export associations and the corollary duty of inquiring into, and recommending reform of, activities outside the act's permissive area.

During 1960, 38 export associations were registered with the Commission. Their total exports, in terms of dollar values, by classes of products, were as follows:

Class of exports	Value
Metal and metal products	\$15,806,858
Products of mines and wells	81,249,322
Lumber and wood products	2,041,816
Foodstuffs	217,605,978
Miscellaneous, including motion pictures, textiles, rubber products, etc	<u>611,381,159</u>
Total	928,085,133

LEGISLATION

The General Counsel, as principal legal adviser to the Commission, with the primary assistance of an Assistant General Counsel who specializes in this field, advises and assists the Commission upon legislative matters.

No legislation directly relating to the Commission was enacted by the Congress during the fiscal year. of importance to the Commission, however, and possibly affecting the administration of its laws, is Public Law 86-752, the Communications Act Amendments, 1960, approved September 13, 1960. Sections 8 and 9 of that act deal with and proscribe the practices of "payola," "plugola," and the broadcasting or telecasting of rigged quiz shows.

Immediately following congressional hearings, which brought such practices to light, the Commission assumed jurisdiction in the "payola" field and over 100 consent cease-and-desist orders were issued. After enactment of the above statute, however, the Commission withdrew from this area since it was deemed that Congress had chosen the Federal Communications Commission as the agency to formulate and prosecute governmental policy in these fields. The disposition of the outstanding Commission orders awaits the promulgation by the Federal Communications Commission of new rules implementing its responsibilities under the statute.

There are several legislative proposals pending in Congress on which the Commission continues to urge favorable action. Of particular interest are bills to require that notification of proposed matters be made to the Commission by corporations of significant size engaged in interstate commerce. As an important corollary provision, the Commission seeks to have legislation enacted which would enable it after proper hearings and with adequate provisions for court review, to issue preliminary injunctions or restraining orders against proposed mergers pending determination as to violation of section 7 of the Clayton Act.

Another series of bills pending in Congress propose amendments to the Federal Trade Commission Act to empower the Commission to issue temporary cease-and-desist orders to restrain certain acts and practices violative of statutes over which the Commission has jurisdiction pending completion of the adjudicative proceedings before the Commission.

The Federal Trade Commission has also indicated to Congress that it favors enactment of a bill which would amend the Federal Trade Commission Act so as to provide for certain disclosures in advertisements of prescription drugs. The proposal would require that such advertisements would be deemed to be misleading in a material respect unless containing conspicuous and truthful disclosure

of the quantitative formula of the drug, its side effects, contraindications and its efficacy. The Commission has stressed that with the recent advances in the drug industry, resulting in many new miracle drugs, advertisements thereof addressed to the medical profession should reveal full information as to the possible effects of such drugs on the human body and health.

In the course of legislative work during the fiscal year 1960-61, the Commission reported on 28 bills and legislative proposals. In addition, oral presentation and participation were made with regard to 13 bills or items of congressional committee consideration.

CONSULTATION

Securing voluntary compliance with Commission laws on an industrywide basis is the primary mission of this Bureau.

The principal tools used in accomplishing this objective are Guides and Trade Practice Rules. Other means involve the negotiation of stipulation agreements and individual advice to small businessmen.

These voluntary procedures are extremely effective in supporting any genuine desire of businessmen to compete fairly. In securing the maximum amount of industrywide voluntary law observance, two desirable results are achieved: (1) competitive inequities are minimized, and (2) consumers are benefited by the elimination of unfair practices, principally false advertising.

Further explanation of the functions and accomplishments of this Bureau follow.

DIVISION OF TRADE PRACTICE CONFERENCES

This Division is responsible for administering the Commission's trade practice conference program. Its primary objective is to obtain expeditious industrywide voluntary compliance with laws administered by the Commission. The results of this work considerably reduce the need for mandatory processes, and the expense and competitive inequities incident thereto.

The Division's endeavors fall in three categories: (1) the establishment and revision of trade practice rules, (2) obtaining compliance Lit with rules, and (3) interpretive and educational work under the rules.

Rulemaking

Proceedings to establish trade practice rules usually commence with an application received from a particular industry. This proposal is considered from the standpoint of effecting and maintaining substantial improvement in law observance by members of the industry. The Commission normally authorizes proceedings in those instances where it appears that the interests of the industry will be constructively advanced on sound competitive principles and better law observance achieved. Trade practice rule proceedings also may be initiated by the Commission.

Upon authorization, the first step in the proceeding is an industry conference where all industry members are afforded opportunity to propose and discuss appropriate trade practice rules for their industry. After considering this information and other relevant facts, a draft of proposed rules is submitted to the Commission for release for a public hearing. After the public hearing a study is made of the entire record and final rules are submitted to the Commission with the recommendation that they be approved and issued.

Accomplishments During Fiscal 1961

New rules were promulgated for the Fluorocarbons Industry, and revised rules were promulgated for the Hosiery Industry and the Poultry Hatching and Breeding Industry.

Trade practice conferences were held for the Residential Aluminum Siding Industry, Pleasure Boat Industry, Florida, Fresh Citrus Fruit Industry, Stationers' Industry, Household Furniture Industry, and Fresh Fruit and Vegetable Industry.

Public hearing was held in the rule revision proceedings for the Luggage and Related Products Industry. Twelve new applications for trade practice proceedings were received, and at the end of the fiscal year proceedings for the establishment of rules for 30 industries were pending in various stages of processing.

Among other applications for trade practice conferences received and given attention during the year was that of the Rebuilt Automotive Parts Industry. Here involved is failure to reveal that industry products have been rebuilt, reconditioned, etc., as the case may be.

Other pending proceedings advanced during the year include those for the Metallic Watch Band Industry, Mirror Manufacturing Industry, Wholesale Optical Industry, Wire Rope Manufacturing Industry, and Metal Clad Door Industry.

Rule Administration

Trade practice rules are presently in effect for 162 industries. The Division's administration work is directed toward obtaining and maintaining industrywide voluntary compliance -with these rules. This entails a close working liaison with industry members and their trade associations, furnishing rule interpretations and advice to industry members, issuing warnings on courses of business conduct that would contravene rule provisions, conducting discussions on subjects covered by rules, and effecting voluntary discontinuance of practices found to violate rule requirements. During the year satisfactory disposition was effected in 513 rule compliance matters.

Educational work designed to effect voluntary compliance included the holding of conferences with department stores and chain drug and variety stores in Chicago, Phoenix, Los Angeles, and San Francisco. Staff members discussed the advertising and sale of jewelry articles and watches as well as the Commission's Guides on pricing, guarantees, bait advertising, and advertising allowances. The conferences were arranged in cooperation with various trade associations, including the National Retail Merchants Association and the Better Business Bureaus.

Statistics relating to rule compliance activities during fiscal 1961 are as follows:

Compliance matters pending July 1, 1960	361
New compliance matters initiated during the year	570
Total for disposition	931
Disposed of during year	513
Pending June 30, 1961	418

Statistics relating to rule interpretation work during fiscal 1961 are as follows:

Rule interpretation matters pending July 1, 1960	40
Rule Interpretations received during fiscal 1961	263
Total for disposition	303
Rule Interpretations effected during fiscal 1961	286
Rule Interpretation matters on hand June 30, 1961	17

DIVISION OF STIPULATIONS

This Division administers the program for obtaining voluntary law observance through the negotiation of stipulations to cease and desist. The stipulation procedure is designed to afford an informal means whereby a person charged with law violation could present his side of the matter and enter into an agreement or stipulation to discontinue those practices the Commission believes to be unlawful. A stipulation becomes effective when approved by the Commission and is a matter of public record.

The Division also has the responsibility of obtaining compliance with approved stipulations.

In fiscal 1961 the Commission approved 146 stipulations and 13 were pending with the Commission at the close of the year. A summary of stipulation negotiations for the fiscal year follows:

Cases pending in the Division July 1, 1960	37
Cases received by the Division during fiscal 1961	156
Total	193

Reported to the Commission for action on executed stipulations	147
Reported to the Commission for instructions	1
Reported to the Commission with recommendation that complaint issue	1
Reported to the Executive Director or Secretary with closing recommendation	2
Referred to the Bureau of Investigation for further attention	30
Total	181
Cases pending in the Division June 30, 1961	12

DIVISION OF SMALL BUSINESS

This Division informally advises small businessmen concerning trade regulations administered by the Commission.

Two objectives are sought: (1) to give informal advice and opinions to small businessmen, thereby aiding them to voluntarily conduct their business practices legally and (2) to advise small businessmen on how to prepare applications for complaint against illegal acts and practices of their competitors or suppliers.

Problems confronting small businessmen involve a wide variety of possible situations calling for the interpretation of the statutes administered by the Commission. Each request is given the research, consultation, or liaison work required. Whenever appropriate, the advice and opinions furnished are supported by citations and relevant documents.

Statistical Summary	
Matters in process July 1, 1960	54
Matters received during fiscal year 1961	583
Matters completed during fiscal year 1961	540
Matters pending June 30, 1961	97

GUIDE PROGRAM

Through this program the, Commission seeks to accomplish two principal objectives: (1) to spell out in layman's language the requirements of the law applicable to different types of advertising practices under the, Federal Trade Commission Act and discriminatory practices under the Robinson-Patman Act; and (2) by diligent administration of the Guides to see that a maximum degree of voluntary compliance with the law is obtained. The Guides serve the additional purpose of spotlighting persistent violations which warrant the application of formal corrective procedures.

Beginning in 1955 the Commission issued the following Guides:

Cigarette Advertising Guides	1955
Tire Advertising Guides	1958
Guides Against Deceptive Pricing	1958
Guides Against Bait Advertising	1959
Guides Against Deceptive Advertising of Guarantees	1960
Guides for Advertising Allowances	1960

The Division's work on all of the above Guides during the fiscal year resulted in the disposition of 845 individual cases, the furnishing of 335 individual interpretations, and the distribution of 116,126 copies of all the Guides.

During the year, Bureau officials conducted citywide meetings with businessmen in various cities throughout the country to discuss in detail the requirements of the Guides in particular and Commission law in general. These meetings consisted of formal presentations by Commission personnel of the problems frequently encountered under the Guides, followed by extensive question-and-answer periods during which businessmen were afforded an opportunity to raise questions of particular concern to them. Meetings were held in Cincinnati, Memphis, Hartford, Tampa, Boston, Mobile, Birmingham, Seattle, Portland, and Evansville, Ind.

A special project not specifically covered by the Guides was also undertaken following receipt of complaints alleging that refrigerator manufacturers and sellers had been misrepresenting actual storage capacity by advertising the gross capacity, which included the space occupied by the condenser, coils, baffles, insulated partitions and ducts. Traditionally, capacity had been expressed in terms of net volume and referred only to actual storage area. A letter was sent to all members of the industry warning that the practice appeared to be deceptive. These communications were successful in obtaining prompt and virtually complete elimination of the deception.

Deceptive Pricing

For the second successive year, compliance work under the Deceptive Pricing Guides doubled the volume of the preceding year. A total of 481 individual cases was disposed of, 238 of which were closed upon receipt of an adequate assurance of discontinuance accompanied by revised advertising. Evidence of the continuing interest of businessmen in these particular Guides was demonstrated by the fact that during the year 20,000 copies were distributed, in addition to the estimated one-half million copies distributed when the Guides were first promulgated.

Tire Guides

Administration of the Tire Advertising Guides continued with the handling of 148 cases, 56 of which were closed following receipt of adequate assurances of discontinuance supported by samples of revised advertising. The Bureau undertook industrywide programs to warn industry members against certain practices which were becoming more prevalent. These included the advertising of half-price

sales where only the second tire was offered at half-price; savings mathematically misrepresented by means of trick computations; guarantee advertising where many advertisers were failing to disclose that their guarantees were prorated and where it appeared that the proration was based on a fictitious list price. Warnings also were issued against the growing problem of advertised selling prices in comparison with higher "no trade-in prices" in situations where few, if any, sales were made without "trade-ins."

Guarantees

During this first full year of administration of the Guides Against Deceptive Advertising of Guarantees, the Division was able to dispose of 176 complaints alleging violations, 55 of which were closed following receipt of adequate assurances of compliance accompanied by revised advertising showing that the new ads contained disclosures required by the Guides. More than 20,000 copies of these Guides were mailed in response to 680 requests. Moreover, industry members and others continued to reprint and distribute copies at their own expense.

Negotiations on an industrywide basis were continued in industries where previously there had been widespread failure to observe the principles set forth in the Guarantee Guides. Noticeable improvement in advertising was achieved through such efforts with the manufacturers of automobiles, electrical appliances, and water heaters.

Advertising Allowances

Interpretive work under the Guides for Advertising Allowances was continued during the year which saw the staff of this Bureau supply interpretations regarding the manner in which the Guides could be expected to apply to a number of complex situations which were troubling various businessmen. The response to these Guides for Advertising Allowances continued, with over 59,000 copies being distributed in response to over 1,000 requests.

ECONOMICS

The functions of this Bureau are to give economic and statistical assistance to the Commission in its investigative and trial work and to make economic studies for publication in response to requests by the President, by Congress, or by the Commission. As of June 30, 1961, all economic and statistical assistance and research work was conducted through the Division of Economic Evidence and Reports.

DIVISION OF ECONOMIC EVIDENCE AND REPORTS

This Division at the request of other bureaus of the Commission, prepares economic exhibits, analyzes economic evidence, compiles statistical materials, and assists in the formulation of requests for economic data. For example, economic and clerical assistance was given in the investigations and trial of merger cases, and statistical advice was given concerning the investigation of television and radio rating organizations.

Work on "Part II-Concentration and Integration in Retailing" was begun with the mailing of questionnaires to the companies canning and freezing fruit, juices, and vegetables. On February 1, 1961, an interim staff report was released on the preliminary analysis of the data submitted on frozen fruit, juices, and vegetables. One of the findings disclosed at that time was that, although the industry had a large number of small concerns, sales were highly concentrated among the large operators. About 80 percent of the freezers sold less than \$2.5 million annually, the remaining 20 percent accounted for nearly 85 percent of total industry sales.

The 10 large chains showed a marked tendency to purchase directly from the large freezers. The 10 largest freezers supplied 54 percent of the direct frozen food purchases of the 10 largest chains, and 80 percent of the direct purchases of the big chains were from the 28 freezers with annual sales volume exceeding \$5 million.

Packer brands bulk largest in terms of total industry sales. In 1959 about 58 percent of total sales were packer brands, 26 percent were customer branded, and 6 percent were sold, largely for reprocessing, without brands. The ratios applying to chainstore purchases were markedly different. Nearly 60 percent of the merchandise purchased directly by the chainstores was under the chain's own label; about 40 percent was packer branded.

The individual independent grower under contract is the principal source of fruits and vegetables for the freezer. In 1959 more than 75 percent of the green peas, spinach, strawberries, and potatoes were so obtained. Other sources included facilities operated by the freezers themselves and marketing cooperatives.

The freezers made more acquisitions in 1959 than in any of the previous years. In contrast with 64 acquisitions by 33 companies between 1950 and 1959, in the latter year alone 12 companies acquired 10 processing facilities, 2 distributing and warehousing facilities, and 4 farms. The acquiring freezers ranged in size from medium to large.

The foregoing represent only preliminary findings. When the analysis of all forms has been completed, a more comprehensive picture will have been developed of the market structure of the frozen fruit and vegetable industry and the marketing patterns between freezers and large chains, other food retailers, and other outlets. The data also will cover promotional payments, contract terms, production, inventory information, and financial data. The final report will analyze various interrelationships among freezers and between freezers and retailers.

APPROPRIATIONS AND FINANCIAL OBLIGATIONS

FUNDS AVAILABLE FOR THE FISCAL YEAR 1961

Funds available to the Commission for the fiscal year 1961 amounted to \$8,009,500. Public Law 86-626, 86th Congress, approved July 12, 1960, provided \$7,507,500; and the Third Supplemental Appropriation Act, 1961, Public Law 87-14, 87th. Congress, approved March 31, 1961, provided \$502,000.

Obligations by activities, fiscal year 1961

1. Antimonopoly:	
Investigation and litigation	\$3,446,735
Economic and financial reports	616,604
Trade practice conferences, industry guides, and small business	133,700
2. Deceptive practices:	
Investigation and litigation	2,003,900
Trade practice conferences, industry guides, and small business	266,600
Textile and fur enforcement	607,500
Lanham Act and insurance	4,900
3. Executive direction and management	468,585
4. Administration	454,600
Total	8,003, 124

Settlement Made Under Federal Tort Claims Act

During the fiscal year 1961 the Commission paid no claims nor were any claims pending.

Comparative Appropriations

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

Year	Number of employees	Nature of appropriation	Appropriations	Obligations	Balance
1959	732	Lump sum	\$6,488,000	\$6,476,661	\$11,399
1960	782	... do	6,840,000	6,839,059	941
1961	855	... do	8,009,500	8,003,124	6,376

APPENDIXES

Federal Trade Commission- 1915-61

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. 1, 1927-Jan. 23, 1933.
Garland S. Ferguson	North Carolina	Nov. 14, 1927-Nov. 15, 1949.
Charles H. March	Minnesota	Feb. 1, 1929-Aug. 28, 1945.
Ewin L. Davis	Tennessee	May 26, 1933-Oct. 23, 1949.
Raymond B. Stevens	New Hampshire	June 26, 1933-Sept 25, 1933.
James M. Landis	Massachusetts	Oct.10, 1933-June 30, 1934.
George C. Mathews	Wisconsin	Oct.27, 1933-June 30, 1934.
William A. Ayres	Kansas	Aug.23, 1934-Feb. 17, 1952.
Robert E. Freer	Ohio	Aug.27, 1935-Dec. 31, 1948.
Lowell B. Mason	Illinois	Oct.15, 1945-Oct. 31, 1956.
John Carson	Michigan	Sept.28,1949-March 31, 1953
James M. Mead	New York	Nov. 16, 1949-Sept. 25, 1955.
Stephen J. Spingarn	New York	Oct. 25, 1950-Sept. 25, 1953.
Albert A. Carretta	Virginia	June 18, 1952-Sept. 25,1954.
Edward F. Howrey	Virginia	April 1, 1953-Sept. 12, 1955.
John W. Gwynne	Iowa	Sept. 26, 1953-May 31,1959.
Robert T. Secrest	Ohio	Sept. 26, 1954-.
Sigurd Anderson	South Dakota	Sept. 12, 1955-.
William C. Kern	Indiana	Sept. 26, 1955-.
Edward T. Tait	Pennsylvania	Nov. 2, 1956-Oct. 31, 1960.
Earl W. Kintner	Indiana	June 9, 1959-Mar. 20, 1961.
Paul Rand Dixon	Tennessee	Mar. 21, 1961-.
Philip Elman	Maryland	April 21, 1961-.

Statutes Pertaining to the Federal Trade Commission

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

1. Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717), and subsequently amended as indicated below.
2. Clayton Act, sections 2, 3, 7, 8 and 11, approved October 15, 1914 (38 Stat. 730, 731, 732), amended as Indicated below.
3. Webb-Pomerene Export Trade Act, approved April 10, 1918 (40 Stat. 516).
4. Wheeler-Lea Act, approved March 21, 1938 (52 Stat. 111), amending the Federal Trade Commission Act.
5. Robinson-Patman Act, approved June 19, 1936, and amendment thereto approved May 26, 1938 (49 Stat. 1526; 52 Stat. 446), revising and extending section 2 of the Clayton Act.
6. Wool Products Labeling Act of 1939, approved October 14, 1940 (54 Stat. 1128).
7. Public Law 15, 79th Congress, approved March 9, 1945, "An Act to express the Intent of the Congress with reference to the regulation of the business of Insurance" (59 Stat. 33).
8. Lanham Trade Mark Act, approved July 5, 1946 (60 Stat. 427).
9. Oleomargarine Act, approved March 16, 1950, amending Section 5 of the Federal Trade Commission Act respecting civil penalties, and section 15 respecting misleading advertisement of oleomargarine or margarine (64 Stat. 20).
10. Public Law 899, 81st Congress, approved December 29, 1950, the so-called antimerger legislation, amending and extending section 7 of the Clayton Act. (64 Stat. 1125).
11. Fur Products Labeling Act, approved August 8, 1951 (65 Stat. 175).
12. Flammable Fabrics Act, approved June 30, 1953, and amendment thereto approved August 23, 1954 (67 Stat. 111; 68 Stat. 770).
13. Public Law 85-909, 85th Congress, approved September 2, 1958 (72 Stat. 1749).
14. Textile Fiber Products Identification Act, approved September 2, 1958 (72 Stat. 1717).

Federal Trade Commission Act

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

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

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

SECTION 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby

¹ The act is published as also amended by Public No. 706, 75th Cong. (see footnote 7). and as further amended, as above noted, by Public No. 459, 81st Cong., ch. 6:1, 2d session, H.R. 2023 (An Act to regulate oleomargarine, etc.), approved Mar. 16, 1950, and effective July 1, 1950 (see footnotes 9, 12, and 13).

created and established, to be known as the Federal Trade Commission (hereinafter referred to as the commission), which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from the date of the taking effect of this Act, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed: Provided, however, That upon the expiration of his term of office a Commissioner shall continue to serve until his successor shall have been appointed and shall have qualified. The commission shall choose a chairman from its own membership.² No commissioner shall engage in any other business, vocation, or employment. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the commission shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

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

SEC. 2. That each commissioner shall receive a salary of \$10,000 a year, payable in the same manner as the salaries of the judges of the courts of the United States.³ The commission shall appoint a secretary, who shall receive a salary of \$5,000 a year,⁴ payable in like manner, and it shall have authority to employ and fix the compensation of such attorneys, special experts, examiners, clerks and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.⁵

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

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

² Under the provisions of section 3 of Reorganization Plan No. 8 of 1950, effective May 24, 1950 (as published in the Federal Register for May 25, 1950, at p. 8175), the functions of the Commission with respect to choosing a chairman from among the membership of the Commission were transferred to the President. Under said plan, prepared by the President and transmitted to the Senate and House on Mar. 18, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, there were also transferred to the Chairman of the Commission, subject to certain limitations, "the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds."

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

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

⁵ See preceding footnote.

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

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the commission.⁶

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

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

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

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

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

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

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

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

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

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

for the Government, and for other purposes," approved February 12, 1913; and also the Act entitled "An Act 6 supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914.

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

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

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

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

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

(6) The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers subject to the Acts to regulate commerce, air carriers, and foreign air carriers subject to the Civil Aeronautics Act of 1938, and persons, partnerships, or corporations insofar as they are subject to the Packers and Stockyards Act, 1921, as amended, except as provided In section 406 (b) of said Act, from using unfair methods of competition In commerce and unfair or deceptive acts or practices in commerce.⁷

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

Theretofore, by subsection (f) of sec. 1107 of the "Civil Aeronautics Act of 1938," approved June 23, 1938, Public No. 706, 75th Cong., ch. 60.1, 3d sess., S. 3845, 52 Stat. 1028, the language of former sec. 5(a) was amended by Inserting Immediately following the words "to regulate commerce," the words "air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938," as above set out In sec. 5 (a) (6).

Public No. 85-909, 85th Cong., H.R. 9020, approved Sept. 2, 1958, amended the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 296, 227, and 72 Stat. 1749, 1750) by striking out subsec. (b) of sec. 406 and Inserting In lieu thereof the following:

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

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

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

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

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

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

* * * * *

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

section.⁸ After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, the Commission may at any time after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by it under this section, whenever in the opinion of the Commission conditions of fact or of law have so changed as to require such action or if the public interest shall so require: Provided, however, That the said person, partnership, or corporation may, within sixty days after service upon him or it of said report or order entered after such a reopening, obtain a review thereof In the appropriate circuit court of appeals of the United States, In the manner provided in subsection (c) of this section.

(c) Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or act or practice may obtain a review of such order in the circuit court of appeals of the United States, within any circuit where the method of competition or the act or practice in question was used or where such person, partnership, or corporation resides or carries on business, by filing In the court, within sixty days⁹ from the date of the service of such order, a written petition praying that the order of the Commission be set aside. A Copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission, and thereupon the Commission shall file In the court the record in the proceeding, as provided In section 2112 of title 28, United States Code. Upon such filing of the petition the court shall have jurisdiction of the proceeding and of the question determined therein concurrently with the Commission until the filing of the record and shall have power to make and enter a decree, affirming, modifying, or setting aside the order of the Commission, and enforcing the same to the extent that such order is affirmed and to issue such writs as are ancillary to its Jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite.¹⁰ The findings of the Commission, as to the facts, if supported by evidence, shah 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 shah be subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code.

(d) Upon the filing of the record with it the jurisdiction of the court of appeals of the United States to affirm, enforce, modify, or set aside orders of the Commission shall be exclusive.¹¹

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

⁹ Section 5 (a) of the amending Act of 1938 provides:

"SEC. 5 (a) In case of an order by the Federal Trade Commission to cease and desist, served on or before the date of the enactment of this Act, as amended by this Act, shall begin on the date of the enactment of this Act."

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

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

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

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

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

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

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

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

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

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

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

(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 had been rendered.

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

(1) Any person, partnership, or corporation who violates an order of the Commission to cease and desist after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than \$5,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission each day of continuance of such failure or neglect shall be deemed a separate offense.¹²

SEC. 6. That the commission shall also have power—¹³

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

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

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

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

(e) Upon the application of the Attorney General to investigate and make recommendations for the readjustment of the business of any corporation alleged

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

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

to be violating the antitrust Acts in order that the corporation may thereafter maintain its organization, management, and conduct of business in accordance with law.

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

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

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

SEC. 7. That in any suit in equity brought by or under the direction of the Attorney General as provided in the antitrust Acts, the court may, upon the conclusion of the testimony therein, if it shall be then of opinion that the complainant is entitled to relief, refer said suit to the commission, as a master in chancery, to ascertain and report an appropriate form of decree therein. The commission shall proceed upon such notice to the parties and under such rules of procedure as the court may prescribe, and upon the coming in of such report such exceptions may be filed and such proceedings had in relation thereto as upon the report of a master in other equity causes, but the court may adopt or reject such report, in whole or in part, and enter such decree as the nature of the case may in its judgment require.

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

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

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

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

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have

Jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the commission made in pursuance thereof.

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

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

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

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

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

If any corporation required by this Act to file any annual or special report shall fail so to do within the time fixed by the commission for filing the same and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of \$100 for each

and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

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

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

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

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

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

(b) The dissemination or the causing to be disseminated of any false advertisement within the provisions of subsection (a) of this section shall be an unfair or deceptive act or practice in commerce within the meaning of section 15.

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

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

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

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

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

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

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

SEC. 14.¹⁴ (a) Any person, partnership, or corporation who violates any provision of section 12(a) shall, if the use of the commodity advertised may be injurious to health because of results from such use under the conditions prescribed in the advertisement thereof, or under such conditions as are customary or usual, or if such violation is with intent to defraud or mislead, be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than six months, or by both such fine or imprisonment; except that if the conviction is for a violation committed after a first conviction of such person, partnership, or corporation, for any violation of such section, punishment shall be by a fine of not more than \$10,000 or by imprisonment for not more than one year, or by both such fine and imprisonment: Provided, That for the purposes of this section meats and meat food products duly inspected, marked, and labeled in accordance with rules and regulations issued under the Meat Inspection Act approved March 4, 1907, as amended, shall be conclusively presumed not injurious to health at the time the same leave official "establishments."

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

SEC. 15. For the purposes of sections 12, 13, and 14(a) (1) The term "false advertisement" means an advertisement, other than labeling, which is misleading in a material respect; and in determining whether any advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the advertisement falls to reveal facts material in the light of such representation or material with respect to consequences which may result from the use of the commodity to which the advertisement relates under the conditions prescribed in said advertisement, or under such conditions as are customary or usual. No advertisement of a drug shall be deemed to be false if it is disseminated only to members of the medical profession, contains no false representation of material fact, and includes, or is accompanied in each instance by truthful disclosure of, the formula showing quantitatively each ingredient of such drug.

¹⁴ 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"

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

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

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

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

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

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

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

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

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

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

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

Original approved September 26, 1914.

Amended and approved March 21, 1938.¹⁷

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

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

¹⁷ See footnote. 1.

Packers and Stockyards Act

[Public Law 85-909, 85th Congress, H.R. 9020, September 2, 1958]

AN ACT To amend the Packers and Stockyards Act, 1921, as amended, and for other purposes

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

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

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

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

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

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

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

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

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

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

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

SEC. 2. Said Act is further amended-

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

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

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

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

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

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

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

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

Approved September 2, 1958.

Clayton Act

[Public-No. 212-63d Congress, As Amended by Public-No. 692-74th Congress¹ and Public-No. 899-81st Congress and Public Law 86—107, 86th Congress]

[H.R. 15657]

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

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

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

¹ The Robinson-Patman Act (see footnote 2). See also footnotes 5 and 1 3 with respect to the repeal of Section 9, Section 17 in part, Section 18 and 19, and Sections 21-25, inclusive, by two acts of June 25, 1948, namely, C. 645 (62 Stat. 683) and C. 646 (62 Stat. 896); and footnotes concerning the amendment of Sections 7 and 11 by act of Dec. 29, 1950, C. 1184 (64 Stat. 1125).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

⁴ This section, and also section 11, which amend the respective sections of the Clayton Act, were enacted by Act of Dec. 29, 1950 (P.L. 899; 64 Stat. 1125; 15 U.S.C. 18).

constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

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

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

SEC. 8. INTERLOCKING DIRECTORS, OFFICERS, OR EMPLOYEES OF BANKS AND DIRECTORS OF OTHER CORPORATIONS. (38 Stat. 732 (as amended by 48 Stat. 718) ; 15 U.S.C.A., sec. 19.)

SEC. 8. No private banker or director, officer, or employee of any member bank of the Federal Reserve System or any branch thereof shall be at the same time a director, officer, or employee of any other bank, banking association, savings bank, or trust company organized under the National Bank Act or organized under the laws of any State or of the District of Columbia, or any branch thereof, except that the Board of Governors of the Federal Reserve System may by regulation permit such service as a director, officer, or employee of not more than one other such institution or branch thereof; but the foregoing prohibition shall not apply in the case of any one or more of the following or any branch thereof :

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

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

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

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

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

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

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

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

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

That from and after two years from the date of the approval of this Act no person at the same time shall be a director in any two or more corporations,, any one of which has capital, surplus, and undivided profits aggregating more than \$1000,000, engaged in whole or in part in commerce, other than banks, banking associations, trust companies, and common carriers subject to the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination, of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this Act it shall be lawful for him to continue as such for one year thereafter.

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

SEC. 9. WILLFUL MISAPPLICATION, EMBEZZLEMENT, ETC., OF MONEYS, FUNDS, ETC., OF COMMON CARRIER A FELONY. (38 Stat. 733; 18 U.S.C.A., sec. 412.)

SEC. 9.⁵ Every president, director, officer or manager of any firm, association or corporation engaged in commerce as a common carrier, who embezzles, steals, abstracts, or willfully misapplies, or willfully permits to be misapplied, any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation, arising or accruing from, or used in, such commerce, in whole or in part, or willfully and knowingly converts the same to his own use or to the use of another, shall be deemed guilty of a felony and upon conviction shall be fined not less than \$500 or confined in the penitentiary not less than one year nor more than ten years, or both, in the discretion of the court.

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

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

⁵ Repealed by Act of June 25, 1948, c. 645 (62 Stat. 683), which revised, codified, and acted into "positive law" Title 18 of the Code (Crimes and Criminal Procedure). Said act reenacted said matter as to substance, as 18 U.S.C., See- 660 (62 Stat 730).

SEC. 10. LIMITATIONS UPON DEALINGS AND CONTRACTS OF COMMON CARRIERS, WHOSE INTERLOCKING DIRECTORS, ETC. (38 Stat. 734; 15 U.S.C.A., sec. 20.)

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

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

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

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

SEC. 11. JURISDICTION TO ENFORCE COMPLIANCE, COMPLAINTS, FINDINGS, AND ORDERS. APPEALS, SERVICE. (38 Stat. 734; 15 U.S.C.A., sec. 21)

Sec. 11(a)⁶ That authority to enforce compliance with sections 2, 3, 7, and 8 of this Act by the persons respectively subject thereto is hereby vested in the Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act, as amended; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; in the Civil Aeronautics Board where applicable to air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1038; in the Federal Reserve Board where applicable to

⁶ This section, and also section 7, which amend the respective sections of the Clayton Act, were enacted by Act of Dec. 29, 1950. (P.L. 899; 64 Stat. 1125; 15 U.S.C. 21.)

banks, banking associations, and trust companies; and in the Federal Trade Commission where applicable to all other character of commerce to be exercised as follows:

(b) Whenever the Commission or Board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections 2, 3, 7, and 8 of this Act, it shall issue and serve -upon such person and the Attorney General a complaint stating its charges -in that respect, and containing a notice of hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The -person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission, or Board requiring such person to cease and desist from the violation of the law so charged in said complaint. The Attorney General shall have the right to intervene and appear in said proceeding and any person may make application, and upon good cause shown may be allowed by the Commission or Board, to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission or Board. If upon such hearing the Commission or Board, as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing, in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock, or other share capital, or assets, held or rid itself of the directors chosen contrary to the provisions of sections 7 and 8 of this Act, if any there be, In the manner and within the time fixed by said order. Until the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the record in the proceeding has been filed in a court of appeals of the United States, as hereinafter provided, the Commission or Board may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section. 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 or Board may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by it under this section, whenever in the opinion of the Commission or Board 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 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 court of appeals of the United States, in the manner provided in subsection (c) of this section.⁷

(c) Any person required by such order of the commission or board to cease and desist from any such violation may obtain a review of such order in the court of appeals of the United States for any circuit within which such violation

⁷ Parts of paragraphs two, three, four and five of this section were amended by Public Law 85-791, 85th Cong., H.R. 6788, approved August 28, 1958, 72 Stat. 943.

The first and second paragraphs of this section were redesignated as subsections (a) and (b), the last sentence of subsection (b) was amended, and the third, fourth, fifth, sixth and seventh paragraphs were amended by public Law 86-107, 86th Cong., S. 726, approved July 23, 1959, 73 Stat. 243-246.

The amendments so made do not apply to any proceeding initiated before the date of ,enactment of that Act under the third or fourth paragraph of section II. Each such proceeding continues to be governed by the provisions of such section as they existed on the day preceding the date of enactment of Public Law 86-107.

occurred or within which such person resides or carries on business, by filing in the court, within sixty days after the date of the service of such order, a written petition praying that the order of the commission or board be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the commission or board, and thereupon the commission or board shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon such filing of the petition the court shall have jurisdiction of the proceeding and of the question determined therein concurrently with the commission or board until the filing of the record, and shall have power to make and enter a decree affirming, modifying, or setting aside the order of the commission or board, and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite. The findings of the commission or board as to the facts, if supported by substantial evidence, shall be conclusive. To the extent that the order of the commission or board is affirmed, the court shall issue its own order commanding obedience to the terms of such order of the commission or board. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence 'in the proceeding before the commission or board, the court may order such additional evidence to be taken before the commission or board, and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission or board may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and shall file such modified or new findings, which, if supported by substantial 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 1254 of title 28 of the United States Code.

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

(e) Such proceedings in the 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 board or judgment of the court to enforce the same shall in anywise relieve or absolve any person from any liability under the antitrust laws.

(f) Complaints, orders, and other processes of the commission or board under 'this section may be served by anyone duly authorized by the commission or board, either (1) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (2), by leaving a copy thereof at the residence or the principal office or place of business of such person; or (3) by mailing by registered or certified mail a copy thereof addressed to such person 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 mailed by registered or certified mail as aforesaid shall be proof of the service of the same.

(g) Any order issued under subsection (b) 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 or

board 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 or board has been affirmed, or the petition for review has been dismissed by the 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 or board has been affirmed or the petition for review has been dismissed by the 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 or board be affirmed or the petition for review be dismissed.

(h) If the Supreme Court directs that the order of the commission or board be modified or set aside, the order of the commission or board 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 or board shall become final when so corrected.

(i) If the order of the commission or board is modified or set aside by the 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 or board rendered in accordance with the mandate of the court of appeals shall become final on the expiration of thirty days from the time such order of the commission or board 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 or board shall become final when so corrected.

(j) If the Supreme Court orders a rehearing; or if the case is remanded by the court of appeals to the commission or board 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 or board rendered upon such rehearing shall become final in the same manner as though no prior order of the commission or board had been rendered.

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

(1) Any person who violates any order issued by the commission or board under subsection (b) after such order has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than \$5,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States. Each separate violation of any such order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the commission or board each day of continuance of such failure or neglect shall be deemed a separate offense.

SEC. 12. PLACE OF PROCEEDING UNDER ANTITRUST LAWS. SERVICE OF PROCESS. (38 Stat. 736; 15 U.S.C.A., sec. 22.)

SEC. 12. That any suit, action, or proceeding under the antitrust laws against a corporation may be brought not only in the judicial district whereof it is

an inhabitant, but also in any district wherein it may be found or transact, business; and all process in such cases may be served in the district of which it is an inhabitant, or wherever it may be found.

SEC.13. SUBPOENAS FOR WITNESS IN PROCEEDINGS BY OR ON BEHALF OF THE UNITED STATES UNDER ANTITRUST LAWS. (38 Stat. 736; 15 U.S.C.A., sec. 23.)

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

SEC. 14. VIOLATION BY CORPORATION OF PENAL PROVISIONS OF ANTITRUST LAWS. (38 Stat. 736; 15 U.S.C.A., sec. 24.)

SEC. 14. That whenever a corporation shall violate any of the penal provisions of the antitrust laws, such violation shall be deemed to be also that of the individual directors, officers, or agents of such corporation who shall have authorized, ordered, or done any of the acts constituting in whole or in part such violation, and such violation shall be deemed a misdemeanor, and upon conviction therefor of any such director, officer, or agent he shall be punished by a fine of not exceeding \$6,000 or by imprisonment for not exceeding one year, or by both, in the discretion of the court.

SEC. 15. JURISDICTION OF UNITED STATES DISTRICT COURTS TO PREVENT AND RESTRAIN VIOLATIONS OF THIS ACT. (38 Stat. 736; 15 U.S.C.A., sec. 25.)

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

SEC 16. INJUNCTIVE RELIEF AGAINST THREATENED LOSS BY VIOLATION OF ANTITRUST LAWS. (38 Stat. 737; 15 U.S.C.A., sec. 26.)

SEC. 16. That any person, firm, corporation, or association shall be entitled to sue for and have injunctive relief, in any court of the United States having Jurisdiction over the parties, as against threatened loss or damage by a violation of the antitrust laws, including sections two, three, seven, and eight of this Act,

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

SEC. 17. PRELIMINARY INJUNCTIONS, TEMPORARY RESTRAINING ORDERS. (38 Stat. 737; first two paragraphs are 28 U.S.C.A., see. 381.)

SEC. 17.⁸ That no preliminary injunction shall be issued without notice to the opposite party. No temporary restraining order shall be granted without notice to the opposite party unless it shall clearly appear from specific facts shown by affidavit or by the verified bill that immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and a hearing had thereon. Every such temporary restraining order shall be endorsed with the date and hour of issuance, shall be forthwith filed in the clerk's office and entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry, not to exceed ten days, as the court or judge may fix, unless within the time so fixed the order is extended for a like period for good cause shown, and the reasons for such extensions shall be entered of record. In case a temporary restraining order shall be granted without notice in the contingency specified, the matter of the issuance of a preliminary injunction shall be set down for a hearing at the earliest possible time and shall take precedence of all matters except older matters of the same character; and when the same comes up for hearing the party obtaining the temporary restraining order shall proceed with the application for a preliminary injunction, and if he does not do so the court shall dissolve the temporary restraining order. Upon two days' notice to the party obtaining such temporary restraining order the opposite party may appear and move the dissolution or modification of the order, and in that event the court or judge shall proceed to hear and determine the motion as expeditiously as the ends of justice may require.

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

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

SEC. 18 NO RESTRAINING ORDER OR INTERLOCUTORY ORDER OF INJUNCTION WITHOUT GIVING SECURITY. (38 Stat. 738; 28 U.S.C.A. sec. 382.)

SEC. 18.⁹ That, except as otherwise provided in section 16 of this Act, no restraining order or interlocutory order of injunction shall issue, except upon the giving of security by the applicant in such sum as the court or judge may

⁸ See second paragraph of footnote 13.

⁹ See second paragraph of footnote 13.

deem proper, conditioned upon the payment of such costs and damages as may be incurred or suffered by any party who may be found to have been wrongfully enjoined or restrained thereby.

SEC. 19. ORDERS OF INJUNCTION OR RESTRAINING ORDERS-REQUIREMENTS. (38 Stat. 738; 28 U.S.C.A., sec. 383.)

SEC. 19.¹⁰ That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained, and shall be binding only upon the parties to the suit, their officers, agents, servants, employees and attorneys, or those in active concert or participating with them, and who shall, by personal service or otherwise, have received actual notice of the same.

SEC. 20. RESTRAINING ORDERS OR INJUNCTIONS BETWEEN AN EMPLOYER AND EMPLOYEES, EMPLOYERS AND EMPLOYEES, ETC., INVOLVING OR GROWING OUT OF TERMS OR CONDITIONS OF EMPLOYMENT. (38 Stat. 738; 29 U.S.C.A., sec. 52.)

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

And no such restraining order or injunction shall prohibit any person or persons, whether singly or in concert, from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at any place where any such person or persons may lawfully be, for the purpose of peacefully obtaining or communicating information, or from peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful and lawful means so to do; or from paying or giving to, or withholding from, any persons engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto; nor shall any of the acts specified in this paragraph be considered or held to be violations of any law of the United States.

SEC. 21. DISOBEDIENCE OF ANY LAWFUL WRIT, PROCESS, ETC., OF ANY UNITED STATES DISTRICT COURT, OR ANY DISTRICT OF COLUMBIA COURT. (38 Stat. 738; 28 U.S.C.A., sec. 386.)

SEC. 21.¹¹ That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia by doing any act or thing therein, or thereby forbidden to be done by him, if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States, or under the laws of any State in which the act was committed, shall be proceeded against for his said contempt hereinafter provided.

¹⁰ Ibid.

¹¹ See footnote 13.

SEC. 22. RULE TO SHOW CAUSE OR ARREST. TRIAL. PENALTIES. (38 Stat. 738; 28 U.S.C.A., sec. 387.)

SEC. 22.¹² That whenever it shall be made to appear to any district court or judge thereof, or to any judge therein sitting, by the return of a proper officer or lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor, which rule, together with a copy of the affidavit or information, shall be served upon the person charged, with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. if upon or by such return, in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court: Provided, however, That if the accused, being a natural person, fall or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable bail for his attendance at the trial and his submission to the final judgment of the court. Where the accused is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

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

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

¹² Ibid.

SEC. 23. EVIDENCE, APPEALS. (38 Stat. 739; 28 U.S.C.A., sec. 388.)

SEC. 23.¹³ That the evidence taken upon the trial of any persons so accused may, be preserved, by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as justice may require. Upon the granting of such writ of error, execution of judgment shall be stayed, and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in any reasonable sum as may be required by the court, or by any justice or any judge of any district court of the United States or any court of the District of Columbia.

SEC. 24 CASES OF CONTEMPT NOT SPECIFICALLY EMBRACED IN SECTION 21 NOT AFFECTED. (38 Stat. 739; 28 U.S.C.A., sec. 389.)

SEC. 24.¹⁴ That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all the other cases of contempt not specifically embraced within section twenty-one of this Act, may be punished in conformity to the usages at law and in equity now prevailing.

SEC. 25. PROCEEDINGS FOR CONTEMPT LIMITATIONS. (38 Stat. 740; 28 U.S.C.A., sec. 390.)

SEC. 25.¹⁵ That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this Act.

SEC 26. INVALIDING OF ANY CLAUSE, SENTENCE, ETC., NOT TO IMPAIR REMAINDER OF ACT. (38 Stat. 740; 15 U.S.C.A., sec. 27.)

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

Approved, October 15, 1914.*

¹⁵ Sections 21 to 25, inclusive, were repealed by Act of June 25, 1948, c- 645 (62 Stat. 893), which revised, codified and enacted into "positive law," Title 18 of the Code (Crimes and Criminal Procedure). Said act reenacted said matter, excluding Section 23, as to substance, as 18 U.S.C., Section 402 (as amended by Public Law 72, May 21, 1949, 81st Congress), 18 U.S.C., Section 3285 and 18 U.S.C., Section 3691. Section 23 was omitted as no longer required in view of the civil and criminal rules promulgated by the Supreme Court.

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

¹⁴ A See footnote 13.

¹⁵ See footnote 13.

*Original act.

Flammable Fabrics Act

(Approved June 30, 1953 ; 67 Stat. 111; 15 U. S. C. Sec. 1191)

[PUBLIC—No. 88—83D CONGRESS, CH. 164-1ST SESS.]

[H.R. 5069]

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

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

SHORT TITLE

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

DEFINITIONS

SEC. 2. As used in this Act-

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

(b) The term "commerce" means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

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

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

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

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

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

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

PROHIBITED TRANSACTIONS

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

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

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

STANDARD OF FLAMMABILITY

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

(b) If at any time the Secretary of Commerce finds that the Commercial Standards referred to in subsection (a) of this section are inadequate for the protection of the public interest, he shall submit to the Congress a report setting forth his findings together with such proposals for legislation as he deems appropriate.

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

ADMINISTRATION AND ENFORCEMENT

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

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

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

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

(d) The Commission is authorized to-

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

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

INJUNCTION AND CONDEMNATION PROCEEDINGS

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

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

(c) In any such action the court upon application seasonably made before trial shall by order allow any party in interest, his attorney or agent, to obtain a representative sample of the article of wearing apparel or fabric seized.

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

PENALTIES

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

GUARANTY

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

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

SHIPMENTS FROM FOREIGN COUNTRIES

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

INTERPRETATION AND SEPARABILITY

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

EXCLUSIONS

SEC. 11. The provisions of this Act shall not apply (a) to any common carrier, contract carrier, or freight forwarder with respect to an article of wearing apparel or fabric shipped or delivered for shipment into commerce in the ordinary

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

EFFECTIVE DATE

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

AUTHORIZATION OF NECESSARY APPROPRIATIONS

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

Approved June 30, 1953.

Textile Fiber Products Identification Act

[Public Law 85-897, 85th Congress, H.R. 469, September 2, 1958]

AN ACT To protect producers and consumers against misbranding and false advertising of the fiber content of textile fiber products, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Textile Fiber Products Identification Act".

DEFINITIONS

SEC. 2. As used in the Act-

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

(b) The term "fiber" or "textile fiber" means a unit of matter which is capable of being spun into a yarn or made into a fabric by bonding or by interlacing in a variety of methods including weaving, knitting, braiding, felting, twisting, or webbing, and which is the basic structural element of textile products. (c) The term "natural fiber" means any fiber that exists as such in the natural state.

(d) The term "manufactured fiber" means any fiber derived by a process of manufacture from any substance which, at any point in the manufacturing process, is not a fiber.

(e) The term "yarn" means a strand of textile fiber in a form suitable for weaving, knitting, braiding, felting, webbing, or otherwise fabricating into a fabric.

(f) The term "fabric" means any material woven, knitted, felted, or otherwise produced from, or in combination with, any natural or manufactured fiber, yarn, or substitute therefor.

(g) The term "household textile articles" means articles of wearing apparel, costumes and accessories, draperies, floor coverings, furnishings, beddings, and other textile goods of a type customarily used in a household regardless of where used in fact.

(h) The term "textile fiber product" means—

(1) any fiber, whether in the finished or unfinished state, used or intended for use in household textile articles;

(2) any yarn or fabric, whether in the finished or unfinished state, used or intended for use in household textile articles; and

(3) any household textile article made in whole or in part of yarn or fabric; except that such term does not include a product required to be labeled under the Wool Products Labeling Act of 1939.

(i) The term "affixed" means attached to the textile fiber product in any manner.

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

(k) The term "commerce" means commerce among the several States or with foreign nations, or 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.

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

(m) The term "ultimate consumer" means a person who obtains a textile fiber product by purchase or exchange with no intent to sell or exchange such textile fiber product in any form.

MISBRANDING AND FALSE ADVERTISING DECLARED UNLAWFUL

SEC. 3. (a) The introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product which is misbranded or falsely or deceptively advertised within the meaning of this Act or the rules and regulations promulgated thereunder, is unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(b) The sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce, and which is misbranded or falsely or deceptively advertised within the meaning of this Act or the rules and regulations promulgated thereunder, is unlawful, and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(c) The sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, which is misbranded or falsely or deceptively advertised, within the meaning of this Act or the rules and regulations promulgated thereunder, is unlawful, and shall be an unfair method of competition and an unfair and deceptive act or practice in commerce under the Federal Trade Commission Act.

(d) This section shall not apply

(1) to any common carrier or contract carrier or freight forwarder with respect to a textile fiber product received, shipped, delivered, or handled by it for shipment in the ordinary course of its business;

(2) to any processor or finisher in performing a contract for the account of a person subject to the provisions of this Act if the processor or finisher does not change the textile fiber content of the textile fiber product contrary to the terms of such contract;

(3) with respect to the manufacture, delivery for transportation, transportation, sale, or offering for sale of a textile fiber product for exportation from the United States to any foreign country;

(4) to any publisher or other advertising agency or medium for the dissemination of advertising or promotional material, except the manufacturer,

distributor, or seller of the textile fiber product to which the false or deceptive advertisement relates, if such publisher or other advertising agency or medium furnishes to the Commission, upon request, the name and post office address of the manufacturer, distributor, seller, or other person residing in the United States, who caused the dissemination of the advertising material; or

(5) to any textile fiber product until such product has been produced by the manufacturer or processor in the form intended for sale or delivery to, or for use by, the ultimate consumer: Provided, That this exemption shall apply only if such textile fiber product is covered by an invoice or other paper relating to the marketing or handling of the textile fiber product and such invoice or paper correctly discloses the information with respect to the textile fiber product which would otherwise be required under section 4 of this Act to be on the stamp, tag, label, or other identification and the name and address of the person issuing the invoice or paper.

MISBRANDING AND FALSE ADVERTISING OF TEXTILE FIBER PRODUCTS

SEC. 4. (a) Except as otherwise provided in this Act, a textile fiber product shall be misbranded if it is falsely or deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

(b) Except as otherwise provided in this Act, a textile fiber product shall be misbranded if a stamp, tag, label, or other means of Identification, or substitute therefor authorized by section 5, is not on or affixed to the product showing in words and figures plainly legible, the following:

(1) The constituent fiber or combination of fibers in the textile fiber product, designating with equal prominence each natural or manufactured fiber in the textile fiber product by its generic name in the order of predominance by the weight thereof if the weight of such fiber is 5 per centum or more of the total fiber weight of the product, but nothing in this section shall be construed as prohibiting the use of a nondeceptive trademark in conjunction with a designated generic name: Provided, That exclusive of permissible ornamentation, any fiber or group of fibers present in an amount of 5 per centum or less by weight of the total fiber content shall not be designated by the generic name or the trademark of such fiber or fibers, but shall be designated only as "other fiber" or "other fibers" as the case may be.

(2) The percentage of each fiber present, by weight, in the total fiber content of the textile fiber product, exclusive of ornamentation not exceeding 5 per centum by weight of the total fiber content: Provided, That, exclusive of permissible ornamentation, any fiber or group of fibers present in an amount of 5 per centum or less by weight of the total fiber content shall not be designated by the generic name or trademark of such fiber or fibers, but shall be designated only as "other fiber" or "other fibers" as the case may be: Provided further, That in the case of a textile fiber product which contains more than one kind of fiber, deviation in the fiber content of any fiber in such product from the amount stated on the stamp, tag, label, or other Identification shall not be a misbranding under this section unless such deviation is in excess of reasonable tolerances which shall be established by the Commission: And provided further, That any such deviation which exceeds said tolerances shall not be a misbranding if the person charged proves that the deviation resulted from unavoidable variations in manufacture and despite due care to make accurate the statements on the tag, stamp, label, or other identification.

(3) The name, or other Identification issued and registered by the Commission, of the manufacturer of the product or one or more persons subject to section 3 with respect to such product.

(4) if it is an imported textile fiber product the name of the country where processed or manufactured.

(c) For the purposes of this Act, a textile fiber product shall be considered to, be falsely or deceptively advertised if any disclosure or implication of fiber content is made in any written advertisement which is used to aid, promote, or assist directly or indirectly in the sale or offering for sale of such textile fiber product, unless the same information as that required to be shown on the stamp, tag, label, or other identification under section 4(b) (1) and (2) is contained in the heading, body, or other part of such written advertisement, except that the percentages of the fiber present in the textile fiber product need not be stated.

(d) In addition to the information required in this section, the stamp, tag, label, or other means of identification, or advertisement may contain other information not violating the provisions of this Act.

(e) This section shall not be construed as requiring the affixing of a stamp, tag, label, or other means of identification to each textile fiber product contained in a package if (1) such textile fiber products are intended for sale to the ultimate consumer in such package (2) such package has affixed to it a stamp, tag, label, or other means of Identification bearing, with respect to the textile fiber products contained therein, the information required by subsection (b), and (3) the information on the stamp, tag, label, or other means of identification affixed to such package is equally applicable with respect to each textile fiber product contained therein.

(f) This section shall not be construed as requiring designation of the fiber content of any portion of fabric, when sold at retail, which is severed from bolts, pieces, or rolls of fabric labeled in accordance with the provisions of this section. at the time of such sale: Provided, That if any portion of fabric severed from a bolt, piece, or roll of fabric is in any manner represented as containing percentages of natural or manufactured fibers, other than that which is set forth. on the labeled bolt, piece, or roll, this section shall be applicable thereto, and the information required shall be separately set forth and segregated as required by this section.

(g) For the purposes of this Act, a textile fiber product shall be considered to. be falsely or deceptively advertised if the name or symbol of any fur-bearing animal is used in the advertisement of such product unless such product, or the part thereof in connection with which the name or symbol of a fur-bearing animal is used, is a fur or fur product within the meaning of the Fur Products Labeling Act: Provided, however, That where a textile fiber product contains the hair or fiber of a fur-bearing animal, the name of such animal, in conjunction with the word "fiber", "hair", or "blend", may be used.

(h) For the purposes of this Act, a textile fiber product shall be misbranded if it is used as stuffing in any upholstered product, mattress, or cushion after having been previously used as stuffing in any other upholstered product, mattress, or cushion, unless the upholstered product, mattress, or cushion containing such textile fiber product bears a stamp, tag, or label approved by the Commission indicating in words plainly legible that it contains reused stuffing.

REMOVAL OF STAMP, TAG, LABEL, OR OTHER IDENTIFICATION

SEC. 5. (a) After shipment of a textile fiber product in commerce it shall be unlawful, except as provided in this Act, to remove or mutilate, or cause or participate in the removal or mutilation of, prior to the time any textile fiber product is sold and delivered to the ultimate consumer, any stamp, tag, label, or other Identification required by this Act to be affixed to such textile fiber product, and any person violating this section shall be guilty of an unfair method of competition, and an unfair or deceptive act or practice, under the Federal Trade Commission Act.

(b) Any person-

(1) introducing, selling, advertising, or offering for sale, in commerce, or Importing into the United States, a textile fiber product subject to the provisions of this Act, or

(2) selling, advertising, or offering for sale a textile fiber product whether in its original state or contained in other textile fiber products, which has been shipped, advertised, or offered for sale, in commerce.

may substitute for the stamp, tag, label, or other means of identification required to be affixed to such textile product pursuant to section 4 (b), a stamp, tag, label, or other means of identification conforming to the requirements of section 4(b), and such substituted stamp, tag, label, or other means of identification shall show the name or other identification issued and registered by the Commission of the person making the substitution.

(c) If any person other than the ultimate consumer breaks a package which bears a stamp, tag, label, or other means of identification conforming to the requirements of section 4, and if such package contains one or more units of a textile fiber product to which a stamp, tag, label, or other identification conforming to the requirements of section 4 is not affixed, such person shall affix a stamp, tag, label, or other identification bearing the information on the stamp, tag, label, or other means of identification attached to such broken package to each unit of textile fiber product taken from such broken package.

RECORDS

SEC. 6. (a) Every manufacturer of textile fiber products subject to this Act shall maintain proper records showing the fiber content as required by this Act of all such products made by him, and shall preserve such records for at least three years.

(b) Any person substituting a stamp, tag, label, or other identification pursuant to section 5(b) shall keep such records as will show the information set forth on the stamp, tag, label, or other identification that he removed and the name or names of the person or persons from whom such textile fiber product was received, and shall preserve such records for at least three years.

(e) The neglect or refusal to maintain or preserve the records required by this section is unlawful, and any person neglecting or refusing to maintain such records shall be guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce, under the Federal Trade Commission Act.

ENFORCEMENT OF THE ACT

SEC. 7. (a) Except as otherwise specifically provided herein, this Act shall be enforced by the Federal Trade Commission under rules, regulations, and procedure provided for in the Federal Trade Commission Act.

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

(c) The Commission is authorized and directed to make such rules and regulations, including the establishment of generic names of manufactured fibers, under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement

(d) The Commission is authorized to cause inspections, analyses, tests, and examinations to be made of any product subject to this Act.

INJUNCTION PROCEEDINGS

SEC. 8. Whenever the Commission has reason to believe—

(a) that any person is doing, or is about to do, an act which by section 3, 5, 6, 9, or 10 (b) is declared to be unlawful; and

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

EXCLUSION OF MISBRANDED TEXTILE FIBER PRODUCTS

SEC. 9. All textile fiber products imported into the United States shall be stamped, tagged, labeled, or otherwise identified in accordance with the provisions of section 4 of this Act, and all invoices of such products required pursuant to section 484 of the Tariff Act of 1930, shall set forth, in addition to the matter therein specified, the information with respect to said products required under the provisions of section 4(b) of this Act, which information shall be in the invoices prior to their certification, if such certification is required pursuant to section 484 of the Tariff Act of 1930. The falsification of, or failure to set forth the required information in such invoices, or the falsification or perjury of the consignee's declaration provided for in section 485 of the Tariff Act of 1930, insofar as it relates to such information, is unlawful, and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act; and any person who falsifies, or perjures the consignee's declaration insofar as it relates to such information, may thenceforth be prohibited by the Commission from importing, or participating in the importation of, any textile fiber product into the United States except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act. A verified statement from the manufacturer or producer of such products showing their fiber content as required under the provisions of this Act may be required under regulation prescribed by the Secretary of the Treasury.

GUARANTY

SEC. 10. (a) No person shall be guilty of an unlawful act under section 3 if he establishes a guaranty received in good faith, signed by and containing the name and address of the person residing in the United States by whom the textile fiber product guaranteed was manufactured or from whom it was received, that said product is not misbranded or falsely invoiced under the provisions of this Act. Said guaranty shall be (1) a separate guaranty specifically designating the textile fiber product guaranteed, in which case it may be on the invoice or other paper relating to said product; or (2) a continuing guaranty given by seller to the buyer applicable to all textile fiber products sold to or

to be sold to buyer by seller in a form as the Commission, by rules and regulations, may prescribe; or (3) a continuing guaranty filed with the Commission applicable to all textile fiber products handled by a guarantor in such form as the Commission by rules and regulations may prescribe.

(b) The furnishing of a false guaranty, except where the person furnishing such false guaranty relies on a guaranty to the same effect received in good faith signed by and containing the name and address of the person residing in the United States by whom the product guaranteed was manufactured or from whom it was received, is unlawful, and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce, within the meaning of the Federal Trade Commission Act.

CRIMINAL PENALTY

SEC. 11. (a) Any person who willfully does an act which by section 3, 5, 6, 9, or 10 (b) is declared to be unlawful shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$5,000 or be imprisoned not more than one year, or both, in the discretion of the court: Provided, That nothing in this section shall limit any other provision of this Act.

(b) Whenever the Commission has reason to believe that any person is guilty of a misdemeanor under this section, it may certify all pertinent facts to the Attorney General. If, on the basis of the facts certified, the Attorney General concurs in such belief, it shall be his duty to cause appropriate proceedings to be brought for the enforcement of the provisions of this section against such person.

EXEMPTIONS

SEC. 12. (a) None of the provisions of this Act shall be construed to apply to-

- (1) upholstery stuffing, except as provided in section 4(h)
- (2) outer coverings of furniture, mattresses, and box springs;
- (3) linings or interlinings incorporated primarily for structural purposes and not for warmth;
- (4) filling or padding incorporated primarily for structural purposes and not for warmth;
- (5) stiffenings, trimmings, facings, or interfacings;
- (6) backings of, and paddings or cushions to be used under, floor coverings;
- (7) sewing and handicraft threads;
- (8) bandages, surgical dressings, and other textile fiber products, the labeling of which is subject to the requirements of the Federal Food, Drug and Cosmetic Act of 1938, as amended;
- (9) waste materials not intended for use in a textile fiber product;
- (10) textile fiber products incorporated in shoes or overshoes or similar outer footwear;
- (11) textile fiber products incorporated in headwear, handbags, luggage, brushes, lampshades, or toys, catamenial devices, adhesive tapes and adhesive sheets, cleaning cloths Impregnated with chemicals, or diapers.

The exemption provided for any article by paragraph (3) or (4) of this subsection shall not be applicable if any representation as to fiber content of such article is made in any advertisement, label, or other means of Identification covered by section 4 of this Act.

(b) The Commission may exclude from the provisions of this Act other textile fiber products (1) which have an insignificant or inconsequential textile fiber content, or (2) with respect to which the disclosure of textile fiber content is not necessary for the protection of the ultimate consumer.

SEPARABILITY CLAUSE

SEC. 13. If any provision of this Act, or the application thereof to any person, as that term is herein defined, is held invalid, the remainder of the Act and the application of the remaining provisions to any person shall not be affected thereby.

APPLICATION OF EXISTING LAWS

SEC. 14. The provisions of this Act shall be held to be in addition to, and not In substitution for or limitation of, the provisions of any other Act of the United States.

EFFECTIVE DATE

SEC. 15. This Act shall take effect eighteen months after enactment, except for the promulgation of rules and regulations by the Commission, which shall be promulgated within nine months after the enactment of this Act. The Commission shall provide for the exception of any textile fiber product acquired prior to the effective date of this Act.

Approved September 2, 1958.

General Investigations by the Commission, since 1915

Since its establishment in 1915, the Federal Trade Commission has conducted numerous general inquiries which are alphabetically listed and briefly described in the following pages.¹ They were made at the request of the President, the Congress, the Attorney General, Government agencies, or on motion of the Commission pursuant to the Federal Trade Commission Act.

Reports on these inquiries in many instances have been published as Senate or House documents or as Commission publications. Printed documents, unless indicated as being out of print,² may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D. C. Proposed publications are available without charge from the Federal Trade Commission while the supply lasts.

Agencies initiating or requesting investigations are indicated in parentheses in the headings. investigations, the results of which have been published, are listed below. Following this listing are unpublished investigations conducted by the Commission.

Accounting Systems (F. T. C.).³—Pointing the way to a general Improvement in accounting practices, the Commission, published *Fundamentals of a Cost System for Manufacturers* (H. Doc. 1356, 64th, 31 p., o. p., 7/1/16) and *A System of Accounts for Retail Merchants* (19 p., o. p., 7/15/16).

Accounting Systems.—See *Distribution Cost Accounting*.

Advertising as a Factor in Distribution.—See *Distribution Methods and Costs*.

Agricultural Implements.—See *Farm Implements and Distribution Methods and Costs*.

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

¹ The wartime cost-finding inquiries, 1917-18 (p. 122), include approximately 870 separate investigations.

² Documents out of print (designated "o. p.") are available in depository libraries.

³ Inquiries desired by either House of Congress are now undertaken by the Commission as a result of concurrent resolutions of both Houses.

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

Agricultural Income (Congress).—Investigating a decline in agricultural income and increases or decreases in the income of corporations manufacturing and distributing wheat, cotton, tobacco, livestock, milk, and potato products (Public Res. 61, 74th, 8/27/35), and table and juice grapes, fresh fruits and vegetables (Public Res. 112, 74th, 6/20/36), the Commission made recommendations concerning, among other things, the marketing of commodities covered by the inquiry; corporate consolidations and mergers;⁵ "unbalanced agricultural industrial relations; cooperative associations; production financing; transportation; and terminal markets. Its recommendations for Improvement of the Perishable Agricultural Commodities Act were adopted by Congress in amending that act (Public, 328, 75th) in 1937. [Report of the F. T. C. on Agricultural Income Inquiry, Part I, Principal Farm Products, 1,134 p., 3/2/37 (summary, conclusions, and recommendations, S. Doc. 54, 75th, 40 p., o. p.) ; Part II, Fruits, Vegetables, and, Grapes, 906 p., 6/10/37, o. p.; Part III, Supplementary Report, 154 p., 11/8/37; and interim reports of 12/26/35 (H. Doc. 380, 74th, 6 p.), and 2/1/37 (S. Doc. 17, 75th, 16 p., o. p.).]

Agricultural Prices.—See Price Deflation.

Antibiotics Manufacture (F. T. C).—Because of the rising Importance and the cost of antibiotic drugs, and the lack of published information on their production, a Commission resolution of July 13, 1956, authorized the study which appeared as Economic Report on Antibiotics Manufacture (361 p., 6/27/58). This volume covered the origin and history of the industry, the companies manufacturing antibiotics, production processes, marketing, prices, costs, profits, patents and trademarks, and public health aspects.

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., o. p., 3/3/23).

Cartels.—See paragraphs headed Copper Industry, International Phosphate Cartels, Sulphur Industry, International Electrical Equipment Cartel, International Steel Cartels, Fertilizer (F. T. C.), International Petroleum Cartels, and International Alkali Cartels.

Cement (Senate)Inquiry into the cement industry's competitive conditions and distributing processes (S. Res. 448, 71st, 2/16/31) showed that rigid application of the multiple basing-point price system⁶ tended to lessen price competition and destroy the value of sealed bids; concerted activities of manufacturers and dealers strengthened the system's price effectiveness; and dealer associations' practices were designed to restrict sales to recognized "legitimate" dealers (Cement Industry, S. Doc. 71, 73d, 160 p., o. p., 6/9/33).

⁴ Conditions With Respect to the Sale and Distribution of Milk and Dairy Products (H. Doc. 94, 75th, 1/4/87), p. 38; Report of the F. T. C. on Agricultural Income Inquiry, Part I (8/2/37), P. 26; Agricultural Implement and Machinery Industry (H. Doc. 702, 75th, 6/6/89), p. 1038; The Present Trend of Corporate Mergers and Acquisitions 8/7/47) ; The Merger Movement: A Summary Report (1948) : and P. T. C. Annual Reports: 1938, pp. 19 and 29; 1939, p 14; 1940, p. 12; 1941, p. 19; 1942, p. 9; 1943. p. 9; 1944, p. 7; 1945, p. 8; 1946, p. 12; 1947, p. 12; and 1948, p. 11.

⁵ See footnote 4 above.

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

Chain Stores (Senate).— Practically every phase of chain-store operation was covered (S. Res. 224, 70th, 5/5/28), including cooperative chains, chain-store manufacturing and wholesale business, leaders and loss leaders, private brands, short weighing and overweighing and sales, costs, profits, wages, special discounts and allowances, and prices and margins of chain and independent grocery and drug distributors in selected cities. (For subtitles of 33 reports published under the general title, Chain Stores, 1931-33, see F. T. C. Annual Report, 1941, p. 201.)

In the Final Report on the Chain-Store Investigation (S. Doc. 4, 74th, 110 p., o. p., 12/14/34), legal remedies available to combat monopolistic tendencies in chain-store development were discussed." The Commission's recommendations pointed the way to subsequent enactment of the Robinson-Patman Act (1936) prohibiting price and other discriminations, and the Wheeler-Lea Act (1938) which amended the Federal Trade Commission Act so as to broaden the prohibition of unfair methods of competition in section 5 to include unfair or deceptive acts or practices in interstate commerce.

Cigarette Shortage (F. T. C. and Senate Interstate Commerce Committee Chairman), Wartime, 1944-45.—In response to complaints from the public and a request from the Chairman of the Senate Interstate Commerce Committee (letter dated 12/1/44), the Commission investigated the cigarette shortage and reported, among other things that the scarcity was directly traceable to the large volume of cigarettes moving to the armed forces and the Allies; that It was not attributable to violations of laws administered by the Commission; but that certain undesirable practices such as hoarding and tie-in sales had developed. (Report of the P. T. C. on the Cigarette Shortage, 33 pages, processed, o. p., 2/13/45.)

Coal (Congress and F. T. C.), Wartime, 1917-18, Etc.—From 1916 through the first World War period and afterward, the Commission at different times investigated anthracite and bituminous coal prices and 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 (1-1. 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, 4:20 p., o. p., 6/19/17) -pursuant to S. Res. 217, 64th 2/22/16; H. Res. 352, 64th, 8/18/16, and S. Res. 51, 65th, 5/1/17; 'Washington, D. C., Retail Coal Situation (5 p., release, processed, o. P., 8/11/17) -pursuant to F. T. C. motion; investment and Profit in Soft-Coal Mining (two parts, 5/31/22 and 7/6/22, 218 p., o. p., S. Doc. 207, 65th)-pursuant to F. T. C. motion; and Report of the F. T. C. on Premium Prices of Anthracite (97 p., o. p., 7/6/25)-pursuant to F. T. C. motion.

Coal, Cost of Production (F. T. C.), Wartime, 1917-18—President Wilson fixed coal prices by Executive order under the Lever Act (1917) on the basis of information furnished by the Commission. For use of the U. S. Fuel Administration in continuing price control, the Commission compiled monthly cost production reports, collecting cost records for 1917-18 for about 99 percent of the anthracite and 95 percent of the bituminous coal production (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.; (2) Illinois, bituminous, 127 p., o. p.; (4) Alabama, Tennessee, and Kentucky, bituminous, 210 p., o. p.; (5) Ohio, Indiana, and Michigan, bituminous, 288 p., o. p.; (6) Maryland, West Virginia, and Virginia, bituminous, 286 p., o. p.; and (7) trans-Mississippi States, bituminous, 459 p., o. p.).

⁷ See footnote 4.

Coal, Current Monthly Reports (F. T. C.) The Commission (December 1919) initiated a system of current monthly returns from the soft coal industry similar to those compiled during the World War, 1917-18 (Coal—Monthly Reports on Cost of Production, 4/20/20 to 10/30/20, Nos. 1 to 6, and two quarterly reports with revised costs, 8/25/20 and 12/6/20. processed, o. p.). An injunction to prevent the calling for the monthly reports (denied about 7 years later) led to their abandonment.

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

Combed Cotton Yarns.—See Textiles.

Commercial Bribery (F. T. C.).—Investigating the prevalence of bribery of customers' employees as a means of obtaining trade, the Commission published A Special Report on Commercial Bribery (H. Doc. 1107, 65th, 3 p., o. p., 5/15/18), recommending legislation striking at this practice; Commercial Bribery (S. Doc. unnumbered, 65th, 36 p., q. p., 8/22/18) ; and Commercial Bribery (S. Doc. 258, 66th, 7 p., o. p., 3/18/20).

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

Concentration of Productive Facilities (F. T. C.).—In a study of the extent of concentration of economic power, the Commission reported that 46 percent of the total net capital assets of all manufacturing corporations in the United States in 1947 was concentrated in the 113 largest manufacturers. The report is entitled. The Concentration of Productive Facilities, 1947-Total Manufacturing and 26 Selected Industries (96 p.). See also Divergence between Plant and Company Concentration.

Control of Iron Ore (F. T. C.).—A study of the concentration of iron ore supplies covers the sources and consumption of Iron ore in 1948, an estimate of reserves available to major companies and an analysis of effect of possible. shortage on big and small companies. The Control of Iron Ore, o. p. (1952).

Cooperation in American Export Trade.—See Foreign Trade.

Cooperation in Foreign Countries (F. T. C.).—Inquiries made by the Commission regarding the cooperative movement in 15 European countries resulted in & report, Cooperation in Foreign Countries (S. Doc. 171, 68th, 202 p., o. p., 11/29/24),. recommending further development of cooperation in the United States.

Cooperative Marketing (Senate).—This inquiry (S. Res. 34, 69th, 3/17/25) covered the development of the cooperative movement in the U. S. and Illegal) interferences with the formation and operation of cooperatives; and a comparative study of costs, prices, and marketing methods (Cooperative Marketing, S.. Doc. 95, 70th, 721 p., o. p., 4/30/28).

Copper.— See Wartime Cost Finding, 1917-18.

Copper Industry (F. T. C.) The Commission's report on The, Copper Industry,. transmitted to Congress (3/11/47), was in two parts: Part I—The Copper Industry of the United States and International Copper Cartels, and Part II-Concentration and Control by the Three Dominant Companies, o. p. The Commission reported that "The copper situation is particularly serious, not only because of the concentration of control of the ore reserves and of the productive capacity, but,

also because the domestic supply is inadequate to meet the demands of high level national production and employment. Furthermore, the production of foreign copper, on which the United States will become increasingly dependent, is likewise dominated by a few corporate groups which in the past have operated cooperatively in cartels to regulate production and prices."

Corporation Reports.—See Quarterly Financial Reports.

Corporate Mergers and Acquisitions (F.T.C.)—To determine the impact on the Nation's economy of corporate mergers and acquisitions, the Commission made a study of the merger movement for the years 1940-46, inclusive. The results of the study were transmitted to Congress in a report entitled *The Present Trend of Corporate Mergers and Acquisitions* (23 p., o. p., 3/7/47), which showed, among other things, that during the period covered, more than 1,800 formerly independent competitive firms in manufacturing and mining industries alone had disappeared as a result of mergers or acquisitions, and that more than one-third of the total number of acquisitions occurred in only three industries, food, nonelectrical machinery, and textiles and apparel—all predominantly small business" fields.

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

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

Cost Accounting.—See Accounting Systems.

Cost of Living (President), Wartime, 1917-18.—Delegates from the various States met in Washington, April 30 and May 1, 1917, at the request of the Federal Trade Commission, and considered the rapid rise of wartime prices and the plans then being made for the Commission's general investigation of foodstuffs. [See *Foods (President), Wartime, 1917-18*, herein.] Proceedings of the conference were published (*High Cost of Living*, 119 p., o. p.).

Cotton Industry.—See Textiles.

Cottonseed Industry (House), investigating alleged price fixing (H. Res. 439, 69th, 3/2/27), the Commission reported evidence of cooperation among State association.⁴ but no indication that cottonseed crushers or refineries had fixed prices in violation of the antitrust laws (*Cottonseed Industry*, H. Doc. 193, 70th, 87 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., o. p., with 11 vols. testimony, S. Doc. 209, 71st, 5/19/33).

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

Distribution.—See Millinery Distribution.

Distribution of Steel Consumption.—A study to determine the distribution of steel in a time of shortage, when control over distribution rests with the producers. (1949-1950) The results of the study were transmitted to the Subcommittee on Monopoly of the Senate Select Committee on Small Business and published as a committee print. (20p) o. p., 3/31/52.

Distribution Methods and Costs (F. T. C.).—This inquiry into methods and costs of distributing important consumer commodities (F. T. O. Res., 6/27/40) was undertaken by the Commission pursuant to authority conferred upon it by section 6 of the F. T. C. Act. Eight parts of the F. T. C. Report on Distribution Methods and Costs were transmitted to Congress and published under the subtitles: Part I, Important Food Products (11/11/43, 223 p., o. p.) ; Part III, Building Materials-Lumber, Paints and Varnishes, and Portland Cement (2/19/44, 50 p., o. p.) ; Part IV, Petroleum Products, Automobiles, Rubber Tires and Tubes, Electrical Household Appliances, and Agricultural Implements (1.3/2/44, 189 p., o. p.) ; Part V, Advertising as a Factor in Distribution (10/30/44, 50 p.) ; Part VI, Milk Distribution, Prices, Spreads and Profits (6/18/45, 58 p., o. p.) Part VII, Cost of Production and Distribution of Fish in the Great Lakes Area, (6/30/45, 59 p.) ; Part VIII, Cost of Production and Distribution of Fish in New England (6/30/45, 118 p.); and Part IX, Cost of Production and Distribution of Fish on the Pacific Coast (7/25/46, 82 p.). The inquiries relating to fish were conducted in cooperation with the Coordinator of Fisheries, Interior Department. During World War II special reports on the distribution of some 20 commodity groups were made for confidential use of the Office of Price Administration and other war agencies.

Divergence Between Plant and Company Concentration (F. T. C.).—In this 1950 report, the Commission measured the divergence between plant and company concentration for each of 340 manufacturing industries. The Divergence between Plant and Company Concentration, 1947 (162 p., o. p.). See also Commission of Productive Facilities.

Du Pont Investments (F. T. C.).—The Report of the F. T. C. on Du Pont Investments (F. T. C. motion 7/29/27: report, 46 p., o. p. processed, 2/1/29) discussed reported acquisition by E. I. du Pont de Nemours & Co. of U. S. Steel Corp. stock. together with previously reported holdings in General Motors Corp.

Electric and Gas Utilities, and Electric Power.—See Power.

Farm Implements (Senate), Wartime, 1917-18.—The Report of the F. T. C. on the Causes of High Prices of Farm Implements (inquiry under S. Res. 223, 65th, 5/13/18; report, 713 p., o. p., 5/4/20) disclosed numerous trade combinations for advancing prices and declared the consent decree for dissolution of international Harvester Co. to be inadequate. The Commission recommended revision of the decree and the Department of Justice proceeded to that end.

Farm Implements (F. T. C.).—A 1948 report on the Manufacture and Distribution of Farm Implements (160 p., also 8 p. processed summary) concerns the production and distribution policies of large manufacturers of farm machinery. The report includes information respecting important developments and trends in the industry.

Feeds, Commercial (Senate).—Seeking to determine whether purported combinations in restraint of trade existed (S. Res. 140, 66th, 7/31/19), the Com-

mission found that although some association activities were in restraint of trade, there were no substantial antitrust violations (Report of the F. T. C. on Commercial Feeds, 206 p., o. p., 8/29/21).

Fertilizer (Senate), Begun by the Commissioner of Corporations⁸ (S. Res. 487, 62d, 3/1/13), this inquiry disclosed extensive use of bogus independent fertilizer companies for competitive purposes (Fertilizer Industry, S. Doc. 551, 64th, 269 p., o. p., 8/19/16). Agreements for abolition of such unfair competition were reached.

Fertilizer (Senate).—A second fertilizer inquiry (S. Res. 307, 67th, 6/17/22) developed that active competition generally prevailed in that industry in the U. S., although in some foreign countries combinations controlled certain important raw materials. The Commission recommended Improved agricultural credits and more extended cooperation by farmers in buying fertilizer (Fertilizer Industry, S. Doc. 347, 67th, 87 p., o. p., 3/3/23).

Fertilizer (F. T. C.).—The Commission's 1949 report on The Fertilizer Industry (100 p.) is concerned primarily with restrictions and wastes which interfere with the supply of plant food materials in the quantities needed and at prices low enough to facilitate maintenance of soil fertility. The Nation's resources of nitrogen, phosphate, and potash are discussed, and the inter-relationships of producers and mixers are reviewed. The report also summarizes available information concerning cartel control of nitrogen, phosphates, and potash.

Fish.—See Distribution Methods and Costs.

Flags (Senate), Wartime, 1917-18.—Unprecedented increases in the prices of U. S. flags in 1917, due to wartime demand, were investigated (S. Res. 35, 65th, 4/16/17). The inquiry was reported in Prices of American Flags (S. Doc. 82, 65th, 6 p., o. p., 7/26/17).

Flour Milling.—See Food, below.

Food (President), Wartime, 1917-18.—President Wilson, as a wartime emergency measure (2/7/17), directed the Commission "to investigate and report the facts relating to the production, ownership, manufacture, storage, and distribution of foodstuffs" and "to ascertain the facts bearing on alleged violations of the antitrust acts." Two major series of reports related to meat packing and the grain trade with separate inquiries into flour milling, canned vegetables and fruits, canned salmon, and related matters, as listed below.

Food (President) Continued-Meat Packing.—Food Investigation-Report of the F. T. C. on the Meat-Packing Industry was published in six parts: I. Extent and Growth of Power of the Five Packers in Meat and Other Industries (6/24/19, 574 p., o. p.) ; II. Evidence of Combination Among Packers (11/25/18, 294 p., o. p.) ; III. Methods of the Five Packers in Controlling the Meat-Packing Industry (6/28/19, 325 p., o. p.) ; IV. The Five Large 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 o. p., 7/3/18).

The reports first led to antitrust proceedings against the Big Five Packers, resulting in a consent decree (Supreme Court of the D. C., 2/27/20),⁹ which had substantially the effect of Federal legislation in restricting their future operations to certain lines of activity. As a further result of the investigation, Con-

⁸ The Commission was created September 20, 1914, upon passage of the Federal Trade Commission Act, sec. 8 of which provided that "all pending investigations and proceedings of the Bureau of Corporations (of the Department of Commerce) shall be continued by the Commission."

⁹ The legal history of the consent decree and a summary of divergent economic interests involved in the question of packers participation in unrelated lines of food products were set forth by the Commission in Packer Consent Decree (S. Doc. 219, 68th, 44 p. o. p., 2/20/25), prepared pursuant to S. Res. 278, 68th, 12/8/24.

gress enacted the Packers 'and Stockyards Act (1921), adopting the Commission's recommendation that the packers be divorced from control of the stockyards. (The meat-packing industry is further referred to under Meat Packing Profit Limitation, p. 150.)

Food (President) Continued-Grain Trade.—Covering the industry from country elevator to central market, the Report of the F. T. C. on the Grain Trade was published in seven parts: I. Country Grain Marketing (9/15/20, 350 o. p.) ; II. Terminal Grain Markets and Exchanges (9/15/20, 3,33 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 Home Committee on Agriculture, Future Trading, hearings, 67th, April 25-May 2, 1921) was an important factor in enactment of the Grain Futures Act (1921). (Further reference to the grain trade is made under Grain Elevators, Grain Exporters, and Grain Wheat Prices, p. 149.)

Food (President) Continued—Bakeries and Flour Milling.—One F. T. C. report was published by the Food Administration (U. S. Food Administration, Report of the F. T. C. on Bakery Business in United States, pp. 5-13, o. p. 1133/17). Other reports were: Food Investigation, Report of the F. T. C. on Flour Milling and Jobbing (4/4/18, 27 p., o. p.) and Commercial Wheat Flour Milling (9/15/20, 118 p., o. p.).

Food (President) Continued-Canned Foods,¹⁰ Private Car Lines, Wholesale Food Marketing.—Under the general title Food Investigation were published Report of the F. T. C. on Canned Foods—General Report and Canned Vegetables and Fruits (5/18/18, 83 p., o. p.) ; Report of the F. T. C. on Canned Foods—Canned Salmon (12/27/18, 83 p., o. p.) ; Report of the F. T. C. on Private Car Lines, regarding transportation of meats, fruits, and vegetables (6/27/19, 271 p., o. p.) ; and Report of the F. T. C. on Wholesale Marketing of Food (6/30/19, 268 p., o. p.), which recommended that a wholesale dealer in perishable food products should be required to procure a Federal license and that Federal inspection and standards should be provided. Provisions in accordance with these recommendations were incorporated in the Perishable Agricultural Commodities Act (1930).

Food-Bread and Flour (Senate).—Reports on this inquiry (S. Res. 163, 68th, 2/26/24) were: Competitive Conditions in Flour Milling (S. Doc. 97, 70th, 140 p., o. p., 5/3/26) ; Bakery Combines and Profits (S. Doc. 212, 69th, 95 p., 2/11/27) ; Competition and Profits in Bread and Flour (S. Doc. 98, 70th, 509 p., o. p., 1/11/28) ; and Conditions in the Flour Milling Business, supplementary (S. Doc. 96, 72d, 26 p., o. p., 5/28/32).

Food-Wholesale Baking Industry (F. T. C.).—This inquiry (F. T. C. Res., 8/31/45) resulted in two reports to Congress: Wholesale Baking Industry, Part I—Waste in the Distribution of Bread (4/22/46, processed, 29 p., o. p. and Wholesale Baking Industry, Part II—Costs, Prices and Profits (8/7/46, 137 p., o. p.). Part I developed facts concerning wasteful and uneconomic practices in the distribution of bread, including consignment selling which involves the taking back of unsold bread; furnishing, by gift or loan, bread racks, stands, fixtures, etc., to induce distributors to handle a given company's products. It was found that, although War Food Order No. 1 which prohibited these practices was only partially observed, in 1945 as compared with 1942, the quantity of bread saved

¹⁰ In connection with its wartime cost finding inquiries, 1917-18, p. 124 herein, the Commission published Report of the F. T. C. on Canned Foods 1918—Corn, Peas, String Beans, Tomatoes, and Salmon (86 p., 11/21/21).

was sufficient to supply the population of England, Scotland, and Wales with a daily ration of one-third of a loaf for 30 days, the population of France for 36 days, or the population of Finland for nearly 1 year. The Commission suggested that "a careful examination of present laws be made by the legislative and executive branches of the Government to determine what legislation, if any, is needed to permanently eliminate wasteful trade practices and predatory competition which threaten the existence of many small bakers, foredoom new ventures to failure and promote regional monopolistic control of the wholesale bread-baking industry."

Part II presents information concerning prices and pricing practices in the industry, profits earned, and unit costs of production and distribution. It compares the details of production and distribution costs for bread and rolls, other bakery products, and for all bakery products for two operating periods in 1945, March and September. Comparisons of costs are also made for these two periods for plants arranged by geographical areas. Comparisons of the costs of production and distribution are made by size groups of wholesale bakeries.

Food—Fish.—See Distribution Methods and Costs.

Food-Flour Milling (Senate).—This study of costs, profits, and other factors (S. Res. 212, 67th, 1/18/22) was reported in Wheat Flour Milling Industry (S. Doc. 130, 68th, 130 p., o. p., 5/16/24).

Food-Flour-Milling Industry, Growth and Concentration in (F. T. C.).—The Commission's study showed that there has been a progressive increase in the size of flour-mill operations and a progressive decrease in the number of flour-milling establishments. Nevertheless, the Commission reported, there is a lesser degree of concentration in the flour-milling industry than in many other important industries. The results of the study were presented to Congress in a report on the Growth and Concentration in the Flour-Milling Industry (6/2/47, 36 P.).

Food-Grain Elevators (F. T. C.), Wartime, 1917-18.—In view of certain bills pending before Congress with reference to regulation of the grain trade, the Commission, in a preliminary report, Profits of Country and Terminal Grain Elevators (S. Doc. 40, 67th, 12 p., o. p., 6/13/21) presented certain data collected during Its inquiry into the grain trade ordered by the President.

Food-Grain Exporters (Senate).—The low prices of export wheat in 1921 gave rise to this inquiry (S. Res. 133, 67th, 12/22/21) concerning harmful speculative price manipulations on the grain exchanges and alleged conspiracies among country grain buyers to agree on maximum purchasing prices. The Commission recommended stricter supervision of exchanges and additional storage facilities for grain not controlled by grain dealers (Report of the F. T. C. on Methods and Operations of Grain Exporters, 2 vols., 387 p., o. p., 5/16/22 and 6/18/23).

Food-Grain, Wheat Prices (President).—An extraordinary decline of wheat prices was investigated (President Wilson's directive 10/12/20) and found to be due chiefly to abnormal market conditions (Report of the F. T. C. on Wheat Prices for the 1920 Crop, 91 p., o. p., 12/13/20).

Food-Important Food Products.—See Distribution Methods and Costs.

Food-Marketing (F. T. C.).—On October 9, 1958, the Commission launched a study of significant economic trends in food marketing. In the first phase of this investigation facts were developed concerning the growth of corporate chains and voluntary and cooperative wholesalers. On June 30, 1959, the Commission published a statistical report entitled Economic Inquiry into Food Marketing—Interim Report (6 p., 22 tables, o. p.). This was followed by publication of Economic Inquiry into Food Marketing, Part 1, Concentration and Integration in Retailing (January 1960, 338 p.).

Food-Wheat Packing Profit Limitation (Senate), Wartime, 1917-18.—Following an inquiry (S. Res. 177, 66th, 9/3/19) involving wartime control of this business as established by the U. S. Food Administration in 1917-18, the Com-

mission recommended greater control and lower maximum profits (Maximum Profit Limitation on Meat Packing Industry, S. Doc. 110, 66th, 179 p., o. p. 9/25/19).

Food-Milk.—See Distribution Methods and Costs.

Food-Milk and Milk Products (Senate), Wartime, 1917-18.—Covering an inquiry (S. Res. 431, 65th, 3/3/19) into fairness of milk prices to producers and of canned-milk prices to consumers, the Report of the F. T. C. on Milk and Milk Products 1914-18 (6/6/21, 234 p., o. p.) showed a marked concentration of control and questionable practices many of which later were recognized by the industry as being unfair.

Food-Milk and Dairy Products (House).—Competitive conditions in different milk-producing areas were investigated (H. Con. Res. 32, 73d, 6/15/34). Results of the inquiry were published in seven volumes: Report of the P. T. C. on the Sale and Distribution of Milk Products, Connecticut and Philadelphia Milksheds (H. Doc. 152, 74th, 901 p., o. p., 4/5/35) ; Report of the F. T. C. on the Sale and Distribution of Milk and Milk Products (Connecticut and Philadelphia Milksheds, interim report, H. Doc. 387, 74th, 125 p., o. p., 12/31/35) Chicago Sales Area (H. Doc. 451, 74th, 103 p., o. p., 4/15/36) ; Boston, Baltimore, Cincinnati, St. Louis (H. Doc. 501, 74th, 243 p., o. p., 6/4/36) ; Twin City Sales Area (H. Doc. 506, 74th, 71 p., o. p., 6/13/36) ; and New York Milk Sales Area (H. Doc. 95, 75th, 138 p., o. p., 9/30/36). The Commission reported that many of the industry's problems could be dealt with only by the States and recommended certain legislation and procedure, both State and Federal (Summary Report on Conditions with Respect to the Sale and Distribution of Milk and Dairy Products, H. Doc. 94, 75th, 39 p., o. p., 1/4/37). Legislation has been enacted in a number of States carrying into effect all or a portion of the Commission's recommendations.

Food-Peanut Prices (Senate).—An alleged price-fixing combination of peanut crushers and mills was investigated (S. Res. 139, 71st, 10/22/29). The Commission found that an industry-wide decline in prices of farmers' stock peanuts during the business depression was not due to such a combination, although pricing practices of certain mills tended to impede advancing and to accelerate declining prices (Prices and Competition Among Peanut Mills, S. Doc. 132, 72d, 78 p., o. p., 6/30/32).

Food-Raisin Combination (Attorney General).—Investigating allegations of a combination among California raisin growers (referred to F. T. C. 9/30/19), the Commission found the enterprise not only organized in restraint of trade but conducted in a manner threatening financial disaster to the growers. The Commission recommended changes which the growers adopted (California Associated Raisin Co., 26 p., processed, o. p., 6/8/20).

Food-Southern Livestock Prices (Senate).—Although the low prices of southern livestock in 1919 gave rise to a belief that discrimination was being practiced, a Commission investigation (S. Res. 133, 66th, 7/25/19) revealed the alleged discrimination did not appear to exist (Southern Livestock Prices, S. Doc. 209, 66th, 11 p., o. p., 2/2/20).

Food-Sugar (House).—An extraordinary advance in the price of sugar in 1919 (H. Res. 150, 66th, 10/1/19) was found to be due chiefly to speculation and hoarding. The Commission made recommendations for correcting these abuses (Report of the F. T. C. on Sugar Supply and Prices, 205 p., o. p., 11/15/20).

Food-Sugar, Beet (F. T. C.).—Initiated by the Commissioner of Corporations," 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).

¹¹ See footnote 8.

Foreign Trade—Antidumping Legislation (F. T. C.).—To develop information for use of Congress in its consideration of amendments to the antidumping laws, the Commission studied recognized types of dumping and provisions for preventing the dumping of goods from foreign countries (Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries S. Doc. 112, 73d, 100 p., o. p., 1/11/34; supplemental report, 111 p., o. p., processed, 6/27/38).

Foreign Trade—Cooperation in American Export Trade (F. T. C.).—This inquiry related to competitive conditions affecting Americans in international trade. The Export Trade Act, also known as the Webb-Pomerene law, authorizing the association of U. S. manufacturers for export trade, was enacted as a result of Commission recommendations (Cooperation in American Export Trade, 2 vols., 984 p., o. p., 6/30/16; also summary, S. Doc. 426, 64th, 7 p., o. p., 5/2/16; and conclusions 1916. 14 p., o. p.).

Foreign Trade—Cotton Growing Corporation (Senate).—The report of an inquiry (S. Res. 317, 68th, 1/27/25) concerning the development of this British company, Empire Cotton Growing Corporation (S. Doc. 226, 68th, 30 p., o. p., 2/28/25), showed there was then little danger of serious competition with the American grower or of a possibility that the United States would lose its position as the largest producer of raw cotton.

Gasoline.—See Petroleum.

Grain.—See Food.

Grain Exchange Actions (F. T. C. and Chairman of Senate Committee on Agriculture and Forestry).—The Commission's report on Economic Effects of Grain Exchange Actions Affecting Futures Trading During the First Six Months of 1946 (85 p., o. p., 2/4/47) presents results of a special study made at the request of the then Chairman of the Senate Committee on Agriculture and Forestry. The report reviews the factors which made it impossible, during the first half of 1943, for futures trading to be conducted in the usual manner on the Chicago, Kansas City and Minneapolis grain exchanges under existing conditions of Government price control and severe restrictions on the movement of short supplies of free grain in the cash market. The report also discusses the economic effects of emergency actions taken by the exchanges on the interests trading in futures, and suggests, among other things, that both the Commodity Exchange Act and the U. S. Warehouse Act "should be so amplified and coordinated, or even combined, as to make effective the type and scope of regulation over futures trading contemplated by the Congress in enacting the Commodity Exchange Act."

Guarantee Against Price Decline (F. T. C.).—Answers to a circular letter (12/26/19) calling for information and opinions on this subject were published in Digest of Replies in Response to an inquiry of the F. T. C. Relative to the Practice of Giving Guarantee Against Price Decline (68 p., o. p. 5/27/20).

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

Independent Harvester Co. (Senate), Wartime, 1917-18.—After investigation (S. Res. 212, 65th, 3/11/18) of the organization and methods of operation of the company which had been formed several years before to compete with the "harvester trust," but which had passed into receivership, the F. T. C. Report to the Senate on the Independent Harvester Co. (5 p., release, processed, o. p., 5/15/18) showed the company's failure was due to mismanagement and insufficient capital.

Industrial Concentration and Product Diversification in the 1,000 Largest Manufacturing Companies: 1950 (F. T. C.).—This purely statistical report published in January 1957 has 127 pages of text which state the findings in 52 text tables and 22 charts covering all manufacturing, food, electrical apparatus, and transportation equipment, and 529 pages of appendix tables covering these and other manufacturing industries. The 4 leading shippers of each product are identified, but shipments by individual companies are not disclosed.

Interlocking Directorates (F. T. C.).—This 1950 report on Interlocking Directorates summarizes the interlocking relationships among directors of the 1,000 largest manufacturing corporations. It also covers the interlocking directorates between these corporations and a selected list of banks, investment trusts, insurance companies, railroads, public utilities, and distributive enterprises.

International Alkali Cartels (F. T. C.).—In a report (1950) on International Cartels in the Alkali Industry, o. p., the Commission discussed the nature, extent, and effect of international agreements concerning baking soda, soda ash, and caustic soda to which organized groups of American and European alkali producers were parties from 1924 until 1946.

International Electrical Equipment Cartel (F. T. C.).—In its 1948 report on this subject (107 p., also 10 p. processed summary) the Commission points out the high degree of economic concentration in the electrical equipment industry which exists in each of the important industrial nations.

International Petroleum Cartel.—A staff study of the activities of the seven major oil companies in relation to control over the international oil industry. Staff Report to the Federal Trade Commission submitted to the Subcommittee on Monopoly of the Select Committee on Small Business, U. S. Senate Committee print No. 6, 82d Cong.—2d sess. 378 p., o. p., 1952.

International Phosphate Cartels (F. T. C.).—The F. T. C. Report on International Phosphate Cartels (F. T. C. Res. 9/19/44) developed facts with respect to the practices, arrangements and agreements between domestic phosphate companies and foreign competitors through international cartels, through which minimum export prices were fixed. These prices varied from market to market, depending upon competition, ocean freight rates, and other factors. The agreements established fixed quotas in each grade, and sales were allocated among members of the Phosphate Export Association according to their quotas and the grade involved. The report (processed, 60 p.) was transmitted to Congress

International Steel Cartels (F. T. C.).—A report to Congress concerning numerous cartel agreements relating to steel which were adopted between World War I and World War II. Certain American companies participated in these agreements, which were both national and international in scope. The international agreements allotted quotas to the different national groups, fixed prices in the export trade, and established reserved and unreserved areas. (International Steel Cartels (1948), 115 p., o. p., also 12 p. processed summary.)

Iron Ore.—See Control of Iron Ore.

Large Manufacturing Companies (F. T. C.).—This 1951 report, entitled A List of 1,000 Large Manufacturing Companies, Their Subsidiaries and Affiliates, 1948, shows for each of the 1,000 largest manufacturing corporations which publish financial statements the percentage of stock interest held by the corporation in each of its subsidiaries and affiliates. The parent corporations are grouped in 21 major industries and ranked as to size on the basis of their total assets in 1948, 223 p., o. p., 6/1/51.

Leather and Shoes (F. T. C. and House), Wartime, 1917-18.—General complaint regarding high prices of shoes led to this inquiry, which is reported in Hide and Leather Situation, preliminary report (H. Doc. 857, 65th, 5 p., o. p., 1/23/18),

and Report on Leather and Shoe Industries (180 p., o. p., 8/21/19). A further study (H. Res. 217, 66th, 8/19/19) resulted in the Report of the F. T. C. on Shoe and Leather Costs and Prices (212 p., o. p., 6/10/21).

Lumber—Costs.—See Wartime Cost Finding, 1917-18.

Lumber Trade Associations (Attorney General).—The Commission's extensive survey of lumber manufacturers' associations (referred to F. T. C., 9/4/19) resulted in Department of Justice proceedings against certain associations for alleged antitrust law violations. Documents published were: Report of the P. 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. and Western Red Cedar Association, Lifetime Post Association, and Western Red Cedarmen's Information Bureau (22 p., o. p., 1/24/23), also known as Activities of Trade Associations and Manufacturers of Posts and Poles in the Rocky Mountain and Mississippi Valley Territory (S. Doc. 293, 67th, o. p.) and Report of the F. T. C. on Northern Hemlock and Hardwood Manufacturers Association (52 p., o. p., 5/7/23).

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

Meat-Packing Profit Limitations.—See Food.

Mergers (F. T. C.).— (See Corporate Mergers.)

Milk.—See Food.

Millinery Distribution (President).—This inquiry, requested by President Roosevelt, embraced growth and development of syndicates operating units for retail millinery distribution, the units consisting of leased departments in department or specialty stores (Report to the President of the United States on Distribution Methods in the Millinery Industry, 65 p., processed, 11/21/39, o. p.).

Monopolistic Practices and Small Business.— A study by the staff of the Commission on the effect of certain monopolistic practices on small business, requested by the Subcommittee on Monopoly of the Senate Select Committee on Small Business. The results were transmitted to the Subcommittee and published as a committee print by Selected Committee on Small Business, U.S. Senate, 82d Cong. (88 p. 3/31/52).

Motor Vehicles (Congress).—Investigating (Public Res. 87, 75th, 4/13/38) distribution and retail sales policies of motor vehicle manufacturers and dealers, the Commission found, among other things, a high degree of concentration and strong competition; that many local dealers' associations fixed prices and operated used-car valuation or appraisal bureaus essentially as combinations to restrict competition; that inequities existed in dealer agreements and in certain manufacturers' treatment of some dealers; and that some companies' car finance plans developed serious abuses (Motor Vehicle Industry, H. Doc. 468, 76th, 1077 p., o. p., 6/5/39). The leading companies voluntarily adopted a number of the Commission's recommendations as company policies.

National Wealth and Income (Senate).—In 1922 the national wealth was estimated (inquiry pursuant to S. Res. 451, 67th, 2/28/23) at \$353,000,000,000 and the national income in 1923 at \$70,000,000,000 [National Wealth and Income (S. Doc. 126, 69th, 381 p., o. p., 5/25/26) and Taxation and Tax-Exempt Income (S. Doc. 148, 68th, 144 p., o. p., 6/6/24)

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

Packer Consent Decree.—See Food (President) Continued—Meat Packing. "Paper-Book (Senate), Wartime, 1917-18.—This inquiry (S. Res. 269, 64th, 9/7/16) resulted in proceedings by the Commission against certain manufacturers to prevent price enhancement and the Commission recommended legislation to repress trade restraints [Book Paper Industry—A Preliminary Report (S. Doc. 45, 65th, 11 p., o. p., 6/13/17), and Book Paper Industry—Final Report (S. Doc. 76, 65th, 125 p., o. p., 8/21/17)].

Paper—Newsprint (Senate), Wartime, 1917-18.—High prices of newsprint (S. Res. 177, 64th, 4/2/16) 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 manufacturer& 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 ., o. p., 7/10/17)]

Paper—Newsprint (Senate).—The question investigated (S. Res. 337, 70th, 2/27/29) was whether a monopoly existed among newsprint manufacturers and distributors in supplying paper to publishers of small dailies and weeklies (Newsprint Paper Industry, S. Doc. 214, 71st, 116 p., o. p., 6/30/30).

Petroleum.—See International Petroleum Cartel.

Petroleum Products.—See Distribution Methods and Costs.

Petroleum and Petroleum Products, Prices (President and Congress).—At different times the Commission has studied prices of petroleum and petroleum products and issued reports thereon as follows: Investigation of the Price of Gasoline, preliminary (S. Doc. 403, 64th, 15 p., o. p., 4/10/16) and Report on, the Price, of Gasoline in 1915 (H. Doc. 74, 65th, 224 p., o. p., 4/11/17—both pursuant to S. Res. 109, 63d, 6/18/13¹² and S. Res. 457, 63d, 9/28/14, which reports discussed high prices and the Standard Oil Companies' division of marketing territory among themselves, the Commission suggesting several plans for restoring effective competition; Advance in the Prices of Petroleum Products (H. Doc. 801, 66th, 57 p., o. p., 6/1/20)—pursuant to H. Res. 501, 66th, 4/5/20, in which report the Commission made constructive proposals to conserve the oil supply; Letter of Submittal and Summary of Report on Gasoline Prices in 1924 (24 p. processed, 6/4/24, and Cong. Rec., 2/28/25, p. 5158)—pursuant to request of President Coolidge, 2/7/24; Petroleum Industry—Prices, Profits and Competition (S. Doc. 61, 70th, 360 p., o. p., 12/12/27)—pursuant to S. Res. 31, 69th, 6/3/36; Importation of Foreign Gasoline at Detroit, Mich., (S. Doc. 206, 72d, 3 p., o. p., 2/27/33)—pursuant to S. Res. 274, 72d, 7/16/32; and Gasoline Prices (S. Doc. 178, 73d, 22 p., o. p., 5/10/34)—pursuant to S. Res. 166, 73d, 2/2/34.

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

Petroleum Pipe Lines (Senate).—Begun by the Bureau of Corporations,¹³ this inquiry (S. Res. 109, 63d, 6/18/13) showed the dominating importance of the pipe lines of the great midcontinent oil fields and reported practices of the pipe-

¹² See footnote 8.

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

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., o. p.)—pursuant to S. Res. 138, 66th, 7/31/19; Reports of the F. T. C. on the Petroleum industry Of Wyoming (54 p., o. p., 1/3/21)—pursuant to F. T. C. motion; Petroleum Trade in Wyoming and Montana (S. Doc. 233, 67th, 4 p., o. p., 7/13/22)—pursuant to F. T. C. motion, in which report legislation to remedy existing conditions was recommended; and Report of the F. T. C. on Panhandle, Crude Petroleum (Texas) (19 p., o. p., 2/3/28)—pursuant to F. T. C. motion, 10/6/26 (in response to requests of producers of crude petroleum).

Potomac Electric Power Co. (Procurement Director, United States Treasury).—A study (2/29/44) of the financial history and operations of this corporation for the years 1896-1943 was made at the request of the Director of Procurement, United States Treasury, and the report thereon was introduced into the record in the corporation's electric rate case before the District of Columbia Public Utilities Commission.

Power-Electric (Senate).—This inquiry (S. Res. 329, 68th, 2/9/25) resulted in two reports, the first of which, Electric Power Industry—Control of Power Companies (S. Doc. 213, 69th, 272 p., o. p., 2/21/27) dealt with the organization, control, and ownership of commercial electric-power companies. It called attention to the dangerous degree to which pyramiding had been practiced in superimposing a series of holding companies over the underlying operating companies, and was influential in bringing about the more comprehensive inquiry described under Power—Utility Corps., below. Supply of Electrical Equipment and Competitive Conditions (S. Doc. 46, 70th, 282 p., o. p., 1/12/28) showed, among other things, the dominating position of General Electric Co. in the equipment field.

Power—Interstate Transmission (Senate).—Investigation (S. Res. 151, 71st, 11/8/29) was made of the quantity of electric energy transmitted across State lines and used for development of power or light, or both (Interstate Movement of Electric Energy, S. Doc. 238, 71st, 134 p., o. p., 12/20/30).

Power—Utility Corporations (Electric and Gas Utilities) (Senate).—This extensive inquiry (S. Res. 83, 70th, 2/15/28; Public Res. 46, 73d, 6/1/34; and F. T. C. Act, Sec. 6) embraced the financial set-up of electric and gas utility companies operating in interstate commerce and of their holding companies and other companies controlled by the holding companies. The inquiry also dealt with the utilities' efforts to influence public opinion with respect to municipal ownership of electric utilities. The Commission's reports and recommendations, focusing congressional attention upon certain unfair financial practices in connection with the organization of holding companies and the sale of securities, were among the influences which brought about enactment of such remedial legislation as the Securities Act (1933), the Public Utility Holding Company Act (1935), the Federal Power Act (1935), and the Natural Gas Act (1938).

Public hearings were held on all phases of the inquiry and monthly interim reports presented hundreds of detailed studies by the Commission's economists, attorneys, accountants, and other experts, based on examination of 29 holding companies having \$6,108,128,713 total assets; 70 subholding companies with \$5,685,463,201 total assets; and 278 operating companies with \$7,245,106,464 total assets. The testimony, exhibits, and final reports (Utility Corporations, S. Doc. 92, 70th, o. p.) comprised 95 volumes.¹⁴

¹⁴ Final reports were published in 1935 ; a general index in 1937. Some of the volumes are out of print. For report titles, see F. T. C. Annual Report, 1941, p. 221 ; and for lists of companies investigated, see F. T. C. Annual Reports, 1935, p. 21, and 1936, p. 36.

Price Bases (F. T. C.).—More than 3,500 manufacturers representing practically every industrial segment furnished data for this study (F. T. C. motion, 7/27/27) of methods used for computing delivered prices on industrial products and of the actual and potential influence of such methods on competitive markets and price levels. In the cement industry the basing-point method¹⁵ was found to have a tendency to establish unhealthy uniformity of delivered prices and cross-hauling or cross-freighting to be an economic evil (Report of the F. T. C. on Price Bases Inquiry, Basing-Point Formula, and Cement Prices, 218 p., o. p., 3/26/32). Illustrating the use in a heavy commodity industry of both a modified zone-price system and a uniform delivered-price system, the Commission examined price schedules of the more important manufacturers' of range boilers, 1932-36, disclosing that the industry operated under a zone-price formula, both before and after adoption of its N. R. A. code (Study of Zone-Price Formula in Range Boiler Industry, 5 p., processed, 3/30/36, a summary based on the complete report which was submitted to Congress but not printed).

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

Profiteering (Senate), Wartime, 1917-18.—Current conditions of profiteering (S. Res. 255, 65th, 6/10/18) as disclosed by various Commission investigations were reported in Profiteering (S. Doc. 248, 65th, 20 p., o. p., 6/29/18).

Quarterly Financial Report for Manufacturing Corporations.—Since 1947, the Federal Trade Commission has summarized for each calendar quarter uniform, confidential financial statements collected from a probability sample of all enterprises classified as manufacturers, except newspapers, which are required to file U. S. Corporation Income Tax Form 1120. The quarterly summaries, entitled Quarterly Financial Report for Manufacturing Corporations, are published by the Government Printing Office and sold by the Superintendent of Documents. In the published summaries, profits per dollar of sales and rates of profit on stockholders' equity are shown each quarter for each of 60 industry and size groups of manufacturing corporations. Also shown each quarter are 45 income statement and balance sheet items, and as many financial and operating ratios, for each of 45 industry and size groups of corporate manufacturers. (Similar reports for retail trade and wholesale trade corporations were published for the year 1950 and for each quarter of 1951 and 1952.)

Radio (House).—A comprehensive investigation of the radio industry (H. Res. 548, 67th, 3/4/23) ; Report of the F. T. C. on the Radio Industry, 347 p., o. p., 12/1/23) contributed materially to enactment of the Radio Act of 1927 and the succeeding Federal Communications Act of 1934. The investigation was followed by Commission and Department of Justice proceedings on monopoly charges which culminated in a consent decree (11/2/32; amended, 11/2/35).

Rags, Woolen.—See Textiles.

Raisin Combination.—See Food.

Range Boilers.—See Price Bases.

Rates of Return in Selected Industries (F. T. C.).—A comparison of the pre-war (World War II) and postwar rates of return on stockholders' investments after taxes for more than 500 identical manufacturing corporations. The present report, published annually, covers the years 1940 and 1947-56, includes 25 selected manufacturing industries.

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., o. p., 6/30/19) and Resale Price Maintenance (F. T. C. motion, 7/25/27; reports, Part I, H. Doc. 546, 70th, 141 p., o. p., 1/30/29, and Part II, 215 p., o. p., 6/22/31). The Report of the F. T. C. on Resale Price Maintenance, o. p., (F. T. C. Res., 4/25/39) was submitted to Congress 12/13/45. The inquiry developed facts concerning the programs of trade organizations interested in the extension and enforcement of minimum resale price maintenance contracts, and the effects of the operation of such contracts upon consumer prices and upon sales volumes of commodities in both the price-maintained and nonprice-maintained categories.

Rubber Tires and Tubes.—See Distribution Methods and Costs.

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

Southern Livestock Prices.—See Food.

Steel Code and Steel Code as Amended (Senate and President).—The Commission investigated (S. Res. 166 73d, 2/2/34) price fixing, price increases, and other matters (Practices of the Steel Industry Under the Code, S. Doc. 159, 73d, 79 p., o. p., 3/19/34) and the Commission and N. R. A. studied the effect of the multiple basing-point system under the amended code (Report of the F. T. C. to the President in Response to Executive Order of May 30, 1934, With Respect to the Basing-point System in the Steel Industry, 125 p., o. p., 11/30/34).¹⁷ The Commission recommended important code revisions.

Steel Companies, Proposed Merger (Senate).—An inquiry (S. Res. 286, 67th 5/12/22) into a proposed merger of Bethlehem Steel Corp. and Lackawanna Steel Co., and of Midvale Steel & Ordnance Co., Republic Iron & Steel Co., and Inland Steel Co., resulted in a two-volume report. Merger of Steel and Iron Companies (S. Doc. 208, 67th, 11 p., o. p., 6/5/22 and 9/7/22).

Steel Costs and Profits.—See Wartime Cost Findings, 1917-18.

Steel Sheet Piling-Collusive Bidding (President).—Steel sheet piling prices on certain Government contracts in New York, North Carolina, and Florida were investigated (inquiry referred to F. T. C. 11/20/35). The F. T. C. Report to the President on Steel Sheet Piling (42 p., processed, 6/10/36 o. p.) demonstrated the existence of collusive bidding because of a continued adherence to the basing-point system¹⁸ and provisions of the steel industry's code.

Stock Dividends (Senate).—The Senate requested (S. Res. 304, 69th, 12/22/26) the names and capitalizations of corporations which had issued stock dividends, and the amounts thereof, since the Supreme Court decision (3/8/20) holding that such dividends were not taxable. The same information for an equal period

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

¹⁷ As of the same date, the N. R. A. published its Report of the National Recovery Administration on the Operation of the Basing-Point System in the Iron and Steel Industry (175 p., processed). The basing-point system is also discussed in published reports listed under "Cement" and "Price Bases" herein.

¹⁸ See footnote 15.

prior to the decision was also requested. The Commission submitted a list of 10,245 corporations, pointing out that declaration of stock dividends at the rate prevailing did not appear to be a result of controlling necessity and seemed questionable as a business policy (Stock Dividends, S. Doc. 26, 70th, 273 p., o. p., 12/5/27).

Sugar.—See Food.

Sulphur Industry (F. T. C.).—In its report to Congress on The Sulphur Industry and International Cartels (6/16/47), o. p., the Commission stated that the operations of all four producers constituting the American sulphur industry generally have been highly profitable, and that the indications are that foreign cartel agreements entered into by Sulphur Export Corp., an export association organized under the Webb-Pomerene Law, have added to the profitability of the U. S. industry. On 2/7/47, after hearings, the Commission recommended that Sulphur Export Corp. readjust its business to conform to law.

Taxation and Tax-Exempt Income.—See National Wealth and Income. Temporary National Economic Committee, Studies of the F. T. C.—See F. T. C. Annual Report, 1941, p. 218, for titles.

Textiles (President).—President Roosevelt (Executive Order of 9/26/34) directed an inquiry into the textile industry's labor costs, profits, and investment structure to determine whether increased wages and reduced working hours could be sustained under prevailing economic conditions. Reports covering the cotton, woolen and worsted, silk and rayon, and thread, cordage and twine industries were: Report of the F. T. C. on Textile Industries, Parts I to VI, 12/31/34 to 6/20/35, 174 p., o. p. (Part VI financial tabulations processed 42 p., o. p.) ; Report of the F. T. C. on the Textile Industries in 1933 and 1934, Parts I to IV, 8/1/35 to 12/5/35, 129 p., o. p.; Parts II and III, o. p. (Part IV, processed, 21 p., o. p.; accompanying tables, processed, 72 p., o. p.) ; Cotton Spinning Companies Grouped by Types of Yarn Manufactured During 1933 and 1934, 1/31/36, 20 p., processed, o. p.; Cotton Weaving Companies Grouped by Types of Woven Goods Manufactured During 1933 and 1934, 3/24/36, 48 p., processed, o. p.; Textile Industries in the First Half of 1935, Parts I to III, 5/22/36 to 8/22/36, 119 p., processed, o. p.; Textile Industries in the Last Half of 1935, Parts I to III, 11/20/36 to 1/6/37, 155 p., processed, o. p.; and Textile Industries in the First half of 1936, Parts I to III, 1/21/37 to 2/11/37, 163 p., processed, o. p.

Textiles-Combed Cotton Yarns.—High prices of combed cotton yarns led to this inquiry (H. Res. 451, 66th, 4/5/20) which disclosed that while for several years profits and prices had advanced, they declined sharply late in 1920 (Report of the F. T. C. on Combed Yarns, 94 p., o. p., 4/14/21).

Textiles-Cotton Growing Corporation.—See Foreign Trade.

Textiles-Cotton Merchandising (Senate).—Investigating abuses in handling consigned cotton (S. Res. 252, 68th, 6/7/24), the Commission made recommendations designed to correct or alleviate existing conditions (Cotton Merchandising Practices, S. Doc. 194, 68th, 38 p., o. p., 1/20/25).

Textiles-Cotton Trade (Senate).—Investigation (S. Res. 262, 67th, 3/29/22) involved a decline in cotton prices, 1920-22, as reported in Preliminary Report of the F. T. C. on the Cotton Trade (S. Doc. 311, 67th, 28 p., o. p., 2/26/23). After a second inquiry (S. Res. 429, 67th, 1/31/23), the Commission recommended certain reforms in trading practices and particularly in permitting Southern delivery of cotton on New York futures contracts (The Cotton Trade, incl. testimony, S. Doc. 100, 68th, 2 vols., 510 p., o. p., 4/28/24). A subsequent Senate bill (S. 4411, 70th, 5/18/28) provided for Southern warehouse delivery, but, before any law was enacted, the New York Cotton Exchange adopted Southern delivery

on New York futures contracts (11/16/28 and 2/26/30) in accordance with the Commission's recommendations.

Textiles—Woolen Rag Trade (F. T. C.), Wartime, 1917-18—The Report on the Woolen Rag Trade (90 p., o. p., 6/30/19) contains information gathered during the World War, 1917-18, at the request of the War Industries Board, for its use in regulating the prices of woolen rags employed in the manufacture of clothing.

Tobacco (Senate).—Inquiry (S. Res. 329, 2/9/25) into activities of two well-known companies disclosed that alleged illegal agreements or conspiracies did not appear to exist. (The American Tobacco Co. and the Imperial Tobacco Co., S. Doc. 34, 69th, 129 p., o. p., 12/25/25).

Tobacco Marketing-Leaf (F. T. C.).—Although representative tobacco farmers in 1929 alleged existence of territorial and price agreements among larger manufacturers to control cured leaf tobacco prices, the Commission found no evidence of price agreements and recommended production curtailment and Improvement of marketing processes and cooperative relations (Report on Marketing of Leaf Tobacco in the Flue-Cured Districts of the States of North Carolina and Georgia, 54 p., o. p., processed, 5/23/31).

Tobacco Prices (Congress)Inquiries with respect to a decline of loose-leaf tobacco prices following the 1919 harvest (H. Res. 533, 66th, 6/3/20) and low tobacco prices as compared with high prices of manufactured tobacco products (S. Res. 129, 67th, 8/9/21) resulted in the Commission recommending modification of the 1911 decree (dissolving the old tobacco trust) to prohibit permanently the use of common purchasing agencies by certain companies and to bar their purchasing tobacco under any but their own names (Report of the F. T. C. on the Tobacco Industry, 162 p., o. p., 12/11/20, and Prices of Tobacco Products, S. Doc. 121, 67th, 109 p., o. p., 1/17/22).

Trade and Tariffs in South America (President).—Growing out of the First Pan-American Financial Conference held in Washington, May 24-29, 1915, this inquiry (referred to F. T. C. 7/22/15) was for the purpose of furnishing necessary information to the American branch of the International High Commission appointed as a result of the conference. Customs administration and tariff policy were among subjects discussed in the Report on Trade and Tariffs in Brazil, Uruguay, Argentina, China, Bolivia, and Peru (246 p., o. p., 6/30/16).

Twine.—See Sisal Hemp and Textiles.

Utilities.—See Power.

Wartime Cost Finding (President), 1917-184—President Wilson directed the Commission (7/25/17) to find the costs of production of numerous raw materials and manufactured products. The inquiry resulted in approximately 370 wartime cost investigations. At later dates reports on a few of them were published.¹⁹ including: Cost Reports of the F. T. C.—Copper (26 p., o. p., 6/30/19) ; Report of the F. T. C. on Wartime Costs and Profits of Southern Pine Lumber Companies (94 p., o. p., 5/1/22) ; and Report of the F. T. C. on Wartime Profits and Costs of the Steel Industry (138 p., o. p., 2/18/25). The unpublished reports²⁰ cover a wide variety of subjects. On the basis of the costs as found, prices were fixed, or controlled in various degrees, by Government agencies such as the War and Navy Departments, War Industries Board, Price Fixing Committee, Fuel and Administration, Food Administration, and Department of Agriculture. The Commission also conducted cost inquiries for the Interior Department, Tariff Commission, Post Office Department, Railroad Administration, and other Government departments or agencies. It is estimated that the inquiries helped to save the country many billions of dollars by checking unjustifiable price advances.

¹⁹ See footnote 10.

²⁰ Approximately 260 of the wartime cost inquiries are listed in the F. T. C. Annual Reports, 1918, pp. 29-30, and 1919, pp. 88-42, and in World War Activities of the F. T. C., 1917-18 (69 p., processed, 7/15/40).

Wartime Costs and Profits (F. T. C.), Cost and profit information for 4,107 identical companies for the period 1941-45 is contained in a Commission report on Wartime Costs and Profits for Manufacturing Corporations, 1941 to 1945 (30 p., processed, with 106 p. appendix). Compilation of the information contained in the report was began by the Office of Price Administration prior to the transfer of the financial reporting function of that agency to the Federal Trade Commission in December 1946.

Wartime Inquiries, 1917-18, Continued.—Further wartime inquiries of this period are described herein under the headings: Coal, Coal Reports-Cost of Production, Cost of Living, Flags, Food, Farm Implements, Independent Harvester Co., Leather and Shoes, Paper-Book, Paper-Newsprint, Profiteering, and Textiles—Woolen Rag Trade, o. p.

The following are unpublished investigations by the Commission for the use of other government agencies:

Aluminum Foundries (W. P. B.), Wartime, 1942-43,—Details were obtained for the War Production Board, at its request, from aluminum foundries throughout the U. S. covering their operations for May 1942 and their compliance with W. P. B. Supplementary Orders m-1-d, M-1-c, and M-1-f.

Antifreeze Solutions, Manufacturers of (W. P. B.), Wartime, 1943-44.—War Production Board Order L-258 of 1/20/43 prohibited production of salt and petroleum-base antifreeze solutions. While production of these products had ceased, great quantities were reported to be still in the hands of producers and distributors. To enable W. P. B. to determine what further action should be taken to protect essential automotive equipment from these solutions, it requested the Commission to locate producers' inventories as of 1/20/43, and to identify all deliveries made from such inventories to distributors subsequent to that date.

Capital Equipment (W. P. B.), Wartime, 1942-43,—For the War Production Board, a survey was made in connection with Priorities Regulation No. 12, as amended 10/3/42, of concerns named by it to determine whether orders had been improperly related to secure capital equipment or whether orders that had been related had been extended for the purpose of obtaining capital equipment in violation of priorities regulations.

Chromium Processors (W. P. B.), Wartime, 1942-43.—For the War Production Board, the Commission investigated the transactions of the major chromium processors to determine the extent to which they were complying with Amendment No. 2 to W. P. B. General Preference Order No. m-18a, issued 2/4/42. The investigation was conducted concurrently with a survey of nickel processors.

Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of (W. P. B.), Wartime.—1942-43.—The Commission conducted an investigation for the War Production Board to determine whether manufacturers of commercial cooking and plate warming equipment were complying with W. P. B. Limitation Orders L-182 and L-182 as amended 3/2/43; Conservation Orders M-126 and M-9-c, as amended; and Priorities Regulation No. 1.

Contractors, Prime, Forward Buying Practices of (W. P. B.), Wartime, 1942-43.—The matter of procurement, use, and inventory of stocks of critical materials involved in the operation of major plants devoting their efforts to war production was inquired into for the information of the War Production Board. Items such as accounting, inventory, control, purchase, practices, etc., formed a part of the inquiry.

Copper Base Alloy Ingot Makers (W. P. B.), Wartime, 1942-43.—This investigation was designed to ascertain the operations, shipments, and inventories of

copper, copper alloys, copper scrap, and copper base alloy ingot makers and was conducted for the purpose of determining the extent to which they were complying with governing W. P. B. Preference and Conservation Orders M-9-a and b, and M-9-c.

Copper, Primary Fabricators of (W. P. B.), Wartime, 1941-42.—A survey and inspection of a specified list of companies which used a large percentage of all refinery copper allocated, and at the same time represented a fair cross-section of the industry, were made to ascertain the degree of compliance accorded to preference, supplementary, and conservation orders and regulations of the Director of Priorities, Office of Production Management (later the War Production Board).

Cost of Living (President).—President Roosevelt, in a published letter (11/16/37), requested the Commission to investigate living costs. The Commission (11/20/37) adopted a resolution undertaking the inquiry and a few months thereafter submitted a report to the President.

Costume Jewelry, Manufacturers of (W. P. B.), Wartime, 1943-44.—Because It appeared that vast quantities of critical metals were being diverted Illegally from war use to the manufacture of costume Jewelry and similar items, the War Production Board requested the Commission to investigate 45 manufacturers to ascertain the facts concerning their compliance with W. P. B. Orders M-9-a, M-9-b, M-9-c, M-9-c-2, M-43, M—38, M-11, M-11-b, M-126, L-81, L-131, and L-131-a, all as amended.

Electric Lamp Manufacturers (W. P. B.), Wartime, 1942-43.—At the direction of the War Production Board, an investigation was made of the activities of manufacturers of portable electric lamps whose operations were subject to the restrictions Imposed by W. P. B. Limitation and Conservation Orders L-33 *and M-9-c.

Fertilizer and Related Products (O. P. A.), Wartime, 1942-43.—At the request of O. P. A. (June 1942), the Commission investigated costs, prices, and profits in the fertilizer and related products industries. The inquiry developed information with reference to the operations of 12 phosphate rock mines of :11 companies, and 40 plants of 24 companies producing sulphuric acid, superphosphate, and mixed fertilizer. One of the principal requirements of the inquiry was to obtain information concerning costs, prices, and profits for 103 separate formulas of popular-selling fertilizers during 1941 and 1942.

Food-Biscuits and Crackers (O. P. A.), Wartime, 1942-43.—As requested by the Office of Price Administration, the Commission investigated costs and profits in the biscuit and cracker manufacturing industry and submitted its report to that agency 3/25/43. The survey of 43 plants operated by 25 companies showed, among other things, that costs were lower and profits higher for the larger companies than for the smaller ones.

Food-Bread Baking (O. E. S.), Wartime, 1942-43.—This investigation was requested (10/23/42) by the Director of the Office of Economic Stabilization and was conducted to determine what economies could be made in the bread-baking industry so as to remove the need for a subsidy for wheat, to prevent an increase in bread prices, or to lower the price of bread to consumers. Essential information on more than 600 representative bakeries' practices, costs, prices, and profits was developed and reported to O. E. S. (12/29/42). The report also was furnished to the Secretary of Agriculture and special data gathered in the inquiry were tabulated for O. P. A.

Food-Bread Baking (O. P. A.), Wartime, 1941-42.—In the interest of the low-income consumer, for whom it was deemed necessary the price of bread should be held at a minimum, the Commission investigated costs, prices, and profits of 60 representative bread-baking companies, conveying its findings to O. P. A. (Jan. 1942) in an unpublished report.

Food-Flour Milling (O. E. S.), Wartime, 1942-43.—Requested by the Director of the Office of Economic Stabilization, this inquiry covered practices, costs, prices, and profits in the wheat flour-milling industry, Its purpose being to provide the Director with facts to determine what economies could be effected in the industry so as to eliminate the need for a wheat subsidy, without reducing farmers' returns, or to reduce bread prices. The report was made to O. E. S. and a more detailed report was prepared for O. P. A.

Fruit Growers and Shippers (W. P. B.), Wartime, 1943-44.—This investigation was requested by the War Production Board to determine whether 7 grape growers and 12 grape shippers, all located in California, were in violation of W. P. B. Order L-232 with respect to quotas affecting the use of lugs (wooden shipping containers).

Furnaces, Hot Air, Household (NV. P. B.), Wartime, 1943-44.—The Commission made a Nation-wide survey for the War Production Board of the operations of one of the largest manufacturers in the United States of household hot air furnaces, to determine whether its practices in selling and servicing domestic heating plants were in violation of Orders L-79 and P-84, and other applicable regulations and orders of W. P. B.

Fuse Manufacturers (W. P. B.), Wartime, 1942-43.—For the War Production Board the Commission investigated and reported on the activities of representative fuse manufacturers whose operations were subject to W. P. B. Limitation Orders L-158 and L-161, as amended.

Glycerin, Users of (W. P. B.), Wartime, 1942-43.—At the request of the War Production Board, paint and resin manufacturers, tobacco companies, and other large users of glycerin were investigated to determine whether they had improperly extended preference ratings to obtain formaldehyde, paraformaldehyde, or hexamethylenetetramine, to which they were not otherwise entitled.

Household Furniture (O. P. A.), Wartime, 1941-42.—Costs, prices, and profits of 67 representative furniture companies were studied to determine whether, and to what extent, price increases were justified. A study was also made to determine whether price-fixing agreements existed and whether wholesale price increases resulted from understandings in restraint of trade. Confidential reports were transmitted to O. P. A. in Sept. 1941.

Insignia Manufacturers (W. P. B.), Wartime, 1944-45.—Preliminary studies made by the War Production Board disclosed the probability that certain Insignia manufacturers had acquired larger quantities of foreign silver than necessary to fill legitimate orders and diverted the balance to unauthorized uses. In response to W. P. B.'s request the Commission surveyed the acquisition and use of foreign silver by such manufacturers to determine the degree of their compliance with Order M-199 and checked the receipt and use of both domestic and treasury silver, as well as the manufacture of Insignia, as controlled by Orders L-131 and M-9--c.

Jewel Bearings, Consumers of (W. P. B.), Wartime, 1942-43.—For the War Production Board, users of Jewel bearings were investigated to determine the extent to which they were complying with W. P. B. Conservation Order M-50, which had been Issued to conserve the supply and direct the distribution of Jewel bearings and Jewel-bearing material.

Metal-Working Machines, Invoicing and Distribution of (W. P. B.), Wartime, 1942-43.—For the War Production Board an inquiry was made to obtain complete data from the builders of metal-working machines (including those manufactured by their subcontractors) such as all nonportable power-driven machines that shape metal by progressively removing chips or by grinding, boning, or lopping; all nonportable power-driven shears, presses, hammers, bending ma-

chines, and other machines for cutting, trimming, bending, forging, pressing, and forming metal; and all power-driven measuring and testing machines. Each type and kind of machine was reported on separately.

Nickel Processors (W. P. B.), Wartime, 1942-43.—The Commission was designated by the War Production Board to investigate the transactions of some 600 nickel processors for the purpose of determining the extent to which they were complying with W. P. B. Preference Order No. M-6-a, issued 9/30/41, and Conservation Order M-6-b, issued 1/20/42. The investigation was conducted concurrently with a survey of chromium processors.

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

Paint, Varnish, and Lacquer Manufacturers (W. P. B.), Wartime, 1943-44.—The purpose of this survey was to determine whether the manufacturers covered were in violation of War Production Board Orders M-139, M-150, M-159, M-246, and M-327 in their acquisition and use of certain chemicals, all subject to W. P. B. allocations, used in the manufacture of Paint, varnish, and lacquer. Sales of such products to determine their end uses also were investigated.

Paperboard (O. P. A.), Wartime, 1941-42.—Costs, profits, and other financial data regarding operations of 68 paperboard mills (O. P. A. request, 11/12/41), for use in connection with price stabilization work, were transmitted to O. P. A. in a confidential report (May 1942).

Paper-Newsprint (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 1/24/38) the manner in which certain newsprint manufacturers complied with a consent decree entered against them (11/26/17) by the U. S. District Court, Southern District of New York.

Petroleum Decree (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 4/16/36) the manner in which a consent decree entered (9/15/30) against Standard Oil Co. of California, Inc., and others, restraining them from monopolistic practices, was being observed, and reported (4/2/37) to the Attorney General.

Priorities (W. P. B.), Wartime, 1941-45.—Pursuant to Executive orders (January 1942), W. P. B. designated the Federal Trade Commission as an agency to conduct investigations of basic industries to determine the extent and degree to which they were complying with W. P. B. orders relative to the allocation of supply and priority of delivery of war materials. F. T. C. priorities investigations are listed herein under the headings: Aluminum, Foundries Using; Antifreeze Solutions, Manufacturers of; Capital Equipment, Chromium, Processors of; Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of; Contractors, Prime, Forward Buying Practices of; Copper Base Alloy Ingot Makers; Copper, Primary Fabricators of; Costume Jewelry, Manufactures of; Electric Lamps, Manufacturers of; Fruit Growers and Shippers; Furnaces, Hot Air, Household; Fuse Manufacturers; Glycerin, Users of; Insignia Manufacturers; Jewel Bearings, Consumers of; Metal-working Machines, Invoicing and Distribution of; Nickel, Processors of; Paint, Varnish, and Lacquer, Manufacturers of; Quinine, Manufacturers and Wholesalers of; Silverware, Manufacturers of; Silverware Manufacturers and Silver Suppliers; Steel Industry; Textile Mills, Cotton; and Tin, Consumers of. The report on each of these investigations was made directly to W. P. B.

Quinine, Manufacturers and Wholesalers of (W. P. B.), Wartime, 1942-43.—At the instance of the War Production Board, investigation was made to deter-

mine whether, requirements of its Conservation Order No. M-131-a, relating to quinine and other drugs extracted from cinchona bark, were being complied with.

Silverware Manufacturers (W. P. B.), Wartime, 1942-43.—Silverware manufacturers were investigated at the request of the War Production Board to determine the extent to which they had complied with the copper orders, that is, W. P. B. General Preference Order No. M-9-a, Supplemental Order No. M-9-b, and Conservation Order m-9-c, as amended..

Silverware Manufacturers and Silver Suppliers (W. P. B.), Wartime, 1942-43.—The activities of silverware manufacturers and silver suppliers under W. P. B. Conservation and Limitation Orders m-9-a, b, and c, m-100 and L-140 were investigated and reported on at the request of the War Production Board.

Sisal Hemp (Senate).—The Commission assisted the Senate Committee on Agriculture and Forestry in an inquiry (S. Res. 170, 64th, 4/17/16) and advised how certain quantities of hemp promised by the Mexican sisal trust, might be fairly distributed among American distributors of binder twine (Mexican Sisal Hemp, S. Doc. 440, 64th, 8 p., o. p., 5/9/16). The Commission's distribution plan was adopted.

Steel Costs and Profits (O. P. A.), Wartime, 1942-43.—A report on the Commission's survey of costs, prices and profits in the steel industry, begun in April 1942 at the request of O. P. A., was made to that agency. The inquiry covered 29 Important steel-producing companies.

Steel Industry (O. P. M.), Wartime, 1941-42.—This Investigation covered practically every steel mill in the country and was conducted for the purpose of determining the manner in which the priorities and orders promulgated by the Office of Production Management were being observed. i. e., the technique used in the steel industry in meeting the requirements of O. P. M. (later the War Production Board) orders and forms controlling the distribution of pig iron, iron and steel, iron and steel alloys, and iron and steel scrap.

Textile Mills, Cotton (W. P. B.), Wartime, 1943-44.—For the War Production Board the Commission conducted a compliance investigation of manufacturers of cotton yarns, cordage, and twine to ascertain whether they were in violation of Priorities Regulation 1, as amended, by their failure to fill higher rated orders at the time they filled lower rated orders.

Tin Consumers (W. P. B.), Wartime, 1942-43.—The principal consumers of tin were investigated at the instance of the War Production Board to determine the degree of their compliance with Conservation Order m-43-a, as amended, and other orders and regulations issued by the Director of the Division of Industry Operation, controlling the inventories, distribution, and use of the tin supply in the U. S.

War Materials Contracts (House), Wartime, 1941-42.—At the request of the House Committee on Naval Affairs, the Commission assigned economic and legal examiners to assist in the Committee's inquiry into progress of the national defense program (H. Res. 162, 77th, 4/2/41). The Commission's examiners were active in field investigations covering aircraft manufacturers' cost records and operation, naval air station construction, materials purchased for use on Government contracts, and industry expansion financing programs.

Wartime Inquiries, 1941-45.—To aid in the 1941-45 war program, F. T. C. was called upon by other Government departments, particularly the war agencies, to use its investigative, legal, accounting, statistical and other services in conducting investigations. It made cost, price, and profit studies; compiled industrial corporation financial data; investigated compliance by basic industries with W. P. B. priority orders; and studied methods and costs of dis-

tributing important commodities. The 19-11-45 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.