

Annual
Report
of the **FEDERAL
TRADE
COMMISSION**

For the Fiscal Year Ended
June 30, 1968

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Letter of Transmittal

FEDERAL TRADE COMMISSION,
Washington, D.C.

To the Congress of the United States:

It is a pleasure to transmit herewith the fifty-fourth Annual Report of the Federal Trade Commission covering its accomplishments during the fiscal year ended June 30, 1968.

By direction of the Commission.

PAUL RAND DIXON,
Chairman,

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

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INTRODUCTION

The fiscal year 1968 found the Federal Trade Commission in a tight race to keep abreast of a mounting workload. Not only did business competition increase but the Commission's efforts to alert businessmen and consumers to the requirements of and the protection afforded by the trade laws invited ever more reliance upon the FTC to enforce them.

The better the laws were understood, the greater was the demand for action against those few who ignored them. However, in an economy the size of ours, whose Gross National Product exceeded \$850 billion during the year, even halting "those few" presented the FTC with a mammoth problem. This was true despite broad scale enforcement procedures which have enabled the Commission to strike at illegality with less delay than at any time in its 53 years of existence.

The year's work for FTC involved much more than detecting dangers to fair competition and responding to complaints from victims of illegal business practices. Undertaken on its own initiative, and spurred by encouragement from Congress and the President, was a concerted effort to attack illegalities that would victimize consumers, particularly the elderly and the poorly paid who most needed to get full value for their money. Here FTC's workload was generated less by its responsibility to maintain free and fair competition among businessmen, than by its responsibility to protect the public from unfair and deceptive acts and practices. Here, it was necessary to attack evils whose economic effect fell hardest on those least able to afford them.

To assess the Commission's accomplishments—and its problems—in fiscal 1968, requires an appreciation of how steeply its responsibilities have mounted, even when related to its greater capacity to meet them. To see the picture clearly calls for a longer perspective than a single year. For example, the Gross National Product in-

creased from \$560.3 billion in 1962 to \$789.7 billion in 1967, while in this five year period personal consumption expenditures rose from \$355.1 billion to \$492.2 billion. During this period, FTC recognized that its traditional approach of bringing individual formal corrective actions as guideposts to business had become all but inundated by the sheer volume of business activity.

The only hope of coping with the problem was to make far greater use of informal methods of law enforcement, encourage use of the much faster consent order procedure and, in appropriate instances, assurances of voluntary compliance. Also, an effort, unprecedented in scope, was made to encourage self policing by business and law enforcement by state and local authorities. Nevertheless, increase in business volume plus intensified competition tempted too many to take a chance on not being caught, and their depredations invited retaliation in kind.

True, FTC's appropriations between fiscal 1962 and 1968 were increased very substantially— from \$10,345,000 to \$15,281,000— but most of this increase was consumed by mandatory pay increases and new responsibilities placed on FTC by Congress. During these years, the number of regular employees increased only from 1,126 to 1,200.

Greater attention was paid during the year to closer screening of cases warranting FTC action. Obviously, with so small a staff the 1,200 included clerks and stenographers, it was impossible to accord each application for complaint the same weight. Keeping in mind always the degree of public interest involved, cases were handled informally and on as broad a scale as practicable. If the problem was widespread and could be alleviated by clearer understanding of the law's requirements, the Commission would issue Industry Guides; if it appeared that guidance needed firmer backstopping, FTC promulgated Trade Regulation Rules upon which it could rely in the prosecution of cases; and if the Commission had reason to believe that law violations could be halted without recourse to time consuming formal orders, it was willing to accept from individual respondents their formal assurances that the illegality would be discontinued. In addition, FTC issued Advisory Opinions on the legality or illegality of proposed courses of action by individual businessmen or business groups. By all of these means, the Commission sought either to forestall violations or to curb them with the least ex-

penditure of manpower. Even by thus lightening its case load, the Commission was confronted with more than enough hard-core violations capable of being halted only by formal orders.

Still another approach to bringing its workload down to manageable proportions was to actively encourage the States to move more effectively against business chicanery. Not only was assistance given to the States in enacting laws, like the FTC Act, to protect the public from deceptive and unfair business practices, but a closer working relationship was developed. For example, the States forwarded to FTC more than twice as many requests for advice and assistance on legislative and law enforcement matters in fiscal 1968 than during 1967, and referral of cases that each had jurisdiction to tackle continued at a brisk rate. Here the advantage is to aim the right enforcement weapon at the particular illegality. Certainly if the rackets can be stopped by State or local action, before they grow in to problems of interstate proportions, the need for Federal action will be reduced, and the FTC can devote more energy to problems of regional or national significance. Moreover, active participation by the states coupled with that of other organizations, such as the Better Business Bureau, contributes greatly to consumer awareness of law violations. The effect is twofold: consumers are better able to protect themselves, and they become more alert in spotting illegalities against which the FTC and other law enforcement agencies can move.

The commission's determination to enlist allies in the fight was carried on not merely from Washington but from its field offices. Attorneys from these offices addressed trade and consumer organizations, appeared on radio and TV programs and gave talks at schools, colleges, and to citizen groups on 238 occasions.

In short, the Commission pursued the most aggressive program in its history to spark state and local interest in halting deception and unfair competition.

CONSUMER PROTECTION

In calendar 1967, Americans spent more than 78 percent of their disposable income on consumer goods and services. Personal consumption expenditures reached an all-time high of \$491.6 billion, almost two-thirds of the Gross National Product. Obviously, with our economy relying so heavily on consumer expenditures, the consequences of business cheats became serious, indeed. Not only was the consumer victimized, but law abiding businessmen were hurt by unfair competition. Confidence in fair dealing, a vitally important lubricant to our economy, became adulterated with distrust.

This is why FTC made a strenuous effort with every tool at its command to halt deceptive practices in their incipiency if possible and with whatever sterner measures were needed to stop full blown violations with the least delay.

An obvious first step in tackling the volume of consumer protection work was to screen more than 7500 applications for complaint from the public and from business to determine how best the problems they raised could be saved. For those complaints that lent themselves to broad scale treatment, the Commission could offer industry guides, trade regulation rules, and advisory opinions. Individual offenders could be halted by appropriate action, ranging from accepting their assurances that the illegality would be stopped to the issuance of formal order whose violation could bring penalties of up to \$5,000 per day.

Grist for FTC's mill did not, however, come entirely for applications for complaint. At the behest of Congress, the Executive Branch, and upon its own motion, the Commission undertook to alleviate broader problems. Here careful planning was required so that FTC's resources would not be dissipated on individual flyswatting.

For example, in fiscal 1968, there was set up in the Bureau of Deceptive Practices, a Division of Special Projects whose purpose

was to recommend effective means of tackling industry-wide deceptive practices. One result was a comprehensive investigation of whether new car manufacturers and dealers were properly honoring the warranties given purchasers of their cars. This led to an FTC-Industry program to correct problems discovered.

Another major special project involved testing cigarettes to determine their tar and nicotine content, with test results of 127 brands published in June of 1968. This augmented an earlier FTC policy statement that cigarette advertising claims would have to be accurate as measured by the testing procedures. As a result, corrections in advertising already began to be noted, and certainly the public benefitted from dissemination of the facts.

A third important special project was the implementation of the Fair Packaging and Labeling Act. This included carrying out FTC's responsibility to publish regulations under Section 4 of the Act articulating the mandatory contents of packaging labels. In addition, efforts were joined with the Food and Drug Administration to assist state officials in bringing their packaging laws into conformity with the largely preemptory federal act, as well as to coordinate enforcement efforts.

An exploration in depth of unfair and deceptive practices inflicted upon the poor and underprivileged of the "inner city" of the District of Columbia resulted in the issuance of twelve view complaints, and eight orders to cease and desist. A significant outgrowth of this work were facts to support recommendations by FTC to Congress and the States for nationwide consumer protection.

Still another special project of great concern to most consumers was an exploration to determine whether softwood lumber was being misgraded. Results of the investigation prompted the Commission to recommend legislation requiring federal inspection of grading and grade-marking practices in the industry. This was only a first step, but a giant one, toward assuring the average consumer that when he buys his home, the largest single purchase of his life, he will not be deceived on the quality and safety of lumber used in it.

Nor was the Commission's interest in homeowners' problems confined to lumber. Home improvements on which Americans spend some \$15 billion a year is a lucrative enough market to attract those who would violate the law. As a result, FTC initiated 20 new investigations during the year. The situation warranted preparation of a

report which led to the introduction of a resolution in Congress to authorize a comprehensive program, including a structural study of the entire industry, by the Commission. Favorable Congressional action is anticipated.

A broad attack was continued against deceptive advertising of mail order insurance, particularly that being sold veterans and servicemen and their families. Here the issue was advertising which failed to disclose limitations on the protection offered.

The industry wide approach also was employed in an investigation of the \$75 million Analgesic Drug Industry. This resulted in a proposed Trade Regulation Rule which would require that advertising not exceed or contradict efficacy and safety claims permitted by the Food and Drug Administration. Another investigation was made of the advertising of economic poisons, an industry of over 2,000 members with annual sales exceeding \$250 million. Under preparation at the fiscal year's end was a Trade Regulation rule to require ad-

PICTURE - SEE IMAGE

Shown above is the cigarette-smoking machine in the FTC laboratory. This machine smokes 20 cigarettes at one time in a room at constant temperatures of 75% and 60% relative humidity. When the laboratory test procedures are completed the "tar" and nicotine content of cigarettes can be determined.

vertising claims for these poisons to abide strictly by the warnings carried on their labels.

Apart from special projects, there was more than enough regular anti-deceptive practice work to be handled. In addition to applications for complaint received by mail, 570,142 radio, television, newspaper and magazine advertisements were monitored, resulting in 566 ads being forwarded to other federal agencies and 16,491 warranting closer examination by the Commission's staff to determine how best they could be corrected. The diversity was legion but among the favorites were deceptive debt collection, stationery, tents, prefabricated homes, unordered stamps, nursing products, sewing machines, jewelry, sleep products, mortgage financing and employment counseling services. And of course, fictitious pricing of countless products.

Some types of deception work a particular hardship on consumers who are striving to better themselves and to make ends meet. For example, 10 investigations were aimed at overly broad promises made by an unscrupulous minority of correspondence schools, and 33 cases involving false claims for the profits to be made from raising chinchillas (calling for an "investment" of from \$1,600 to \$33,000!) were in various stages of investigation or prosecution. Another group of cases involving misrepresentation of profit potential were by companies offering franchises. Two such cases were being litigated, five assurances of voluntary compliance were accepted, and nine other cases were being prepared.

Augmenting the Commission's enforcement procedures are its efforts to help businessmen avoid law violations. This work is carried out by FTC's Bureau of Industry Guidance. And, during fiscal 1968, there is no question that FTC's Industry Guides, Trade Regulation Rules', and Advisory Opinions enabled the Commission to obtain compliance with the trade laws without the time and expense of bringing individual actions to halt violations. Certainly it behooved businessmen to learn exactly where they would encounter difficulty with the law and to be guided accordingly.

What was cheering was that so many availed themselves of the opportunity. A total of 536 inquiries were answered concerning how industry guides applied to their operations, both existing and proposed. The same willingness to abide by the law was evidenced by 282 separate matters in which the Commission was satisfied that

illegalities would be stopped by the respondents' assurances of voluntary compliance with the law.

Here again, FTC was alert to misrepresentations directed at consumers. For example, new Guides were adopted for the \$1½ billion watch industry, with stop signs erected for cheating on such matters as what watch cases are made of, the number of jewels in watch movements, and claims for watch durability. Another guide was directed against misuse of the word "free" in connection with the sale of photographic film and processing service. Other guides were being prepared to assure correct advertising of decorative wall panels and to put the \$700 million cat and dog food industry on notice that their products had better be truthfully advertised and labeled.

Trade Regulation Rules also were directed at dangers besetting consumers. In addition to those previously mentioned, one was promulgated for the \$60 million glass fiber and drapery fabric industry, requiring disclosure that skin irritation may result from the washing and handling of glass fiber curtain and drapery fabrics. Another concerned deceptive transistor count on radios and "walkie talkies," an industry composed of about 200 foreign and domestic manufacturers with factory sales of about \$190 million.

In addition to compliance programs inaugurated in connection with newly adopted rules, spot checks were made on Trade Regulation Rules previously adopted by the Commission. Generally, practices prohibited by the rules have been eliminated.

A proposed rule requiring disclosure of the hazards of inhaling quick-freeze aerosol spray was published. This rule is designed to prevent loss of life resulting from misuse of these products.

We also published a proposed rule intended to eliminate advertising claims on "economic poisons" which tend to mislead purchasers as to hazardous nature of these poisons.

Advisory opinions also contributed much to FTC's efforts to gain voluntary compliance with the law. A total of 173 processed requests for these opinions were forwarded to the Commission, and 136 opinions were issued, a substantial increase over the 83 in fiscal 1967.

Of special interest was the request of one group of manufacturers which was concerned whether its contemplated offer to extend credit terms to residents of ghetto areas in cities in order to help them

establish retail stores might violate the Robinson-Patman Act's prohibition of price discrimination. FTC gave this group a go-ahead, with the result that about \$20 million is now being allocated, on extended repayment terms, for some 500 new stores, owned and operated by those who dwell in ghetto areas.

PICTURE - SEE IMAGE

In fiscal 1968 the Bureau of Textiles, and Furs of the FTC made 14,326 inspections on the manufacturing, wholesaling, and retailing level. At top an FTC investigator is checking the textile products labeling requirement in a retail store. Middle photo shows and investigator checking the manufacturing operation of nylon hose to make certain the completed article is properly labeled as to the contents. Bottom photo shows an investigator checking labels on furs in a vault. It is the usual practice of furriers to keep their more valuable furs in a vault and to display only a few of them in the store at a time.

PICTURES - SEE IMAGE

TEXTILES AND FURS

A very basic service to consumers is to assure that they get the kind of textile fiber products, woolens and furs they pay for. Here protection is of special importance because to the untrained eye (even to a trained eye in some cases) many of today's fabrics cannot be surely identified; in fact, only proper tests can anticipate what Father Time will soon prove to a chagrined buyer.

In enforcing the Wool Products Labeling Act, the Textile Fiber Products Identification Act, the Fur Products Labeling Act and the Flammable Fabrics Act, FTC inspectors spot-checked mills, manufacturers, wholesalers, importers and retailers. They increased the number of inspections in fiscal 1968 by 13 percent over the previous year, and the number of offenders who agreed informally to discontinue violations of the Acts increased almost 40 percent.

Because of the increasing number of misbranded imported wool products, the Commission directed in Bureau of Textiles and Furs to increase its surveillance of wool product imports. To this end, Rule 36 under the Wool Products Labeling Act was promulgated and became effective February 12, 1968. It required all wool product imports to be cleared by the FTC before the merchandise is released from the entry bond required by the Bureau of Customs. The rule provides for the testing of questioned wool products in private laboratories approved by the Commission, at the importer's expense. Within a week after Rule 36 became effective, the U.S. District Court for the District of Columbia enjoined FTC from enforcing the regulation on the petition of a group of importers. At the year's end, the matter was pending in the courts.

A far reaching change was made in the Flammable Fabrics Act when on December 14, 1967 an amendment was passed extending coverage of the act from only wearing apparel and fabrics intended for use as wearing apparel to all fabrics, related materials and products used in homes, offices or other places of assembly or accommoda-

tion. The Secretary of Commerce is to designate, which fabrics or products are hazardous, and the Department of Commerce will establish testing procedures; however, at the fiscal year's close, no changes had been made in the Act's coverage.

Rule 6 (e) of the rules and regulations under the Act became effective January 1, 1968. This rule removed from their formerly exempt status wearing apparel capable of being worn with the surface exposed; for example, an athletic "sweat shirt."

Cooperation with the Bureau of Customs continued to be excellent during the fiscal year, and many dangerously flammable fabrics were detected at the port of entry. They were either returned to their point of departure or processed so as to be flame retarded.

Seven cases were opened against firms importing light weight scarves that proved to be dangerously flammable and presented a particular hazard because ladies use them to tie about their heads or shoulders. Most of these cases resulted in an order against the importers restraining them from importing, selling or distributing these products. Ladies also found protection when a consent order was issued against a seller of hair falls (long hair wigs) made of acetate fibers found to be dangerously flammable.

In cases involving violations of the Flammable Fabrics Act, the Commission not only obtained the usual 60-day report on compliance with orders, but requested an interim report within 10 days after service of an order, including a recital regarding the recall and disposition of the materials found to be dangerously flammable.

In policing the Wool Act, the FTC continued to investigate and stop the practices of certain manufacturers to misbrand woolen products by upgrading. Such false disclosure substitutes a less desirable product for that which the customer thinks he is buying. It also puts honest competitors of these manufacturers at a disadvantage.

The magnitude of the inspection task presents a very serious problem. The field staff has been able to inspect only about 1/20th of the mills and manufacturers of textile products, only about 1/48th of importers and wholesalers, and only about 1/80th of the retail outlets., in its adjusted universe, each year. Moreover, in retail inspections, certain types of stores need more careful supervision than others. This is particularly true of small independent stores catering to the lower income group of the community, for such stores are more prone to remove or destroy labels.

The fiscal year saw encouraging results from seminars which FTC conducted on the labeling and advertising requirements of the Textile and Fur Acts. These seminars were of considerable help to the retail stores as evidenced by a noticeable improvement in their advertising.

In policing the Fur Act, emphasis was directed at the deception in calling a dyed, tip-dyed or bleached fur "natural." Over 20 such cases were opened and 14 cease and desist agreements were submitted to the Commission. In uncovering this practice, FTC investigators called upon the processors and dyers of the skins and obtained the names of furriers to whom artificially colored or dyed skins were furnished. Subsequent calls on the furriers quickly established the upgrading of the dyed fur to "natural." During the year, the Bureau of Textiles and Furs had an active docket of 338 formal cases, including 148 new investigations. Forwarded to the Commission were 111 recommendations for complaint. Sixty-four orders were issued and 99 complaints approved for issuance. At the end of the year 207 cases were pending and are broken

PICTURE - SEE IMAGE

The FTC maintains a laboratory to test textiles, furs, wool and the flammability of products. This is a view of part of the laboratory. The employee is about to light a piece of material to test its flammability.

down as follows: 51 wool, 60 fur, 80 textile and 16 flammable fabric. (Noteworthy is the fact that the 80 cases under the Textile Act, which is the newest Act, comprise the largest percentage (38.6%), compared with 51 Wool Act cases (24.6%), 60 Fur Act cases (28.9%), and 16 Flammable Fabrics Act cases, (7.7%).)

MAINTAINING FREE AND FAIR COMPETITION IN BUSINESS

The mainspring of American business is profits. These are the reward for imagination, courage, investment, know-how, production and service. Yet, over the long run, profits are dependent on one other thing; they must rely on the continued functioning, the survival, of our free enterprise system. And while it is true that profits fuel the system, alone they are insufficient to keep it going. Profits must be restrained by fairness-not just to consumers but to business competitors.

The Commission's antimonopoly responsibilities include administration and enforcement of Section 5 of the FTC Act and Sections 2, 3, 7, and 8 of the Clayton Act.

Here numbers of unfair methods interdicted, discriminations halted, or trade restraints challenged, do not measure FTC's accomplishment. Nor do statistics disclose what the cost to our economy would have been had law violations prospered and spread. Nevertheless, here are the antimonopoly statistics for fiscal 1968:

A total of 1,372 complaints was received from the public and businessmen. 218 investigations were started and completed were 196 investigations, and at the fiscal year's end, 747 were pending. The Commission approved 30 formal complaints, issued 16 complaints, and issued 23 orders to cease and desist. It also approved disposition of 28 cases on assurances of voluntary compliance with the law. Sixty-eight matters were satisfactorily corrected under the Commission's procedures for assisting small businesses.

In addition to antimonopoly casework, the Commission undertook to encourage compliance with the law by means of guides, advisory opinions, trade regulation rules and enforcement policy statements.

The Commission's efforts to halt restraints on trade fall into three principal areas: discriminatory practices, particularly in pricing

and services that favor big buyers over their small competitors; general trade restraints whose purpose is to deprive small competitors of equal opportunities to compete; and those corporate mergers where the effect of the acquisition may be substantially to lessen competition or tend to create a monopoly. These illegalities, of course, must be in interstate commerce and be impressed with sufficient public interest as opposed to purely private controversies. Their investigation and prosecution is performed by FTC's Bureau of Restraint of Trade.

In fiscal 1968, particular attention was given to trade restraints in broad industry areas affecting the basic economy, for example, the food distribution and the clothing industries. Here the lessening of competition by monopolistic practices involving consumer products may ultimately be reflected in higher prices to the consumer, although resellers or customers may be more directly affected initially.

Discriminatory pricing practices required 73 new investigations during the year. For example, as a result of drastic changes in marketing and distribution in the fluid milk industry, FTC continued to receive many complaints from independent dairies complaining that they were threatened with extinction because of the pricing practices of large national and regional chain dairies. The independent dairies alleged that large national dairies sold milk and dairy products to large grocery chains at prices substantially lower than those charged independent grocers.

To date, cease and desist orders enjoining price discriminations have been issued against Foremost Dairies, Inc., Dean Milk Co., and National Dairy Products Corp. The orders against Dean Milk and National Dairy were appealed to the U.S. Court of Appeals for the Seventh Circuit. (In the Dean Milk case, the Court of Appeals handed down its decision on April 1, 1968, which, among other things, upheld the Commissioners finding and decision of price discrimination in the sale of milk to certain buyers who resell to consumers. In the National Dairy Products Corp. case, the same Court of Appeals handed down its decision on May 14, 1968, which upheld the Commission's order barring National Dairy from selling milk at different net prices to competing purchasers who buy for resale to consumers.)

In other proceedings, involving discriminatory pricing, 8 consent cease and desist orders were issued in cases involving price discrimi-

nations by furniture manufacturers, illegal brokerages in purchases of food products by operators of chain food stands, and buying agencies for grocery chains and others in receiving illegal brokerages. The Commission issued cease and desist orders in 4 contested cases, involving regional price discriminations in sales of jellies by a national seller; price discriminations in sales of macaroni products; inducing and receiving discrimination advertising and promotional allowances from suppliers by a large retail apparel and speciality chain; and a manufacturer of wearing apparel in discriminating between competing retailers in the payment of promotional allowances.

In litigation are the following cases, involving price discriminatory practices:

In Beatrice Foods Co. Inc. and Kroger Co (D. 8663), the complaint charges Beatrice with selling fluid milk and dairy products to Kroger at lower discriminatory prices, and Kroger with inducing and receiving unlawful price discriminations in connection with such purchases. In Suburban Gas Co. (D. 8672), the complaint alleges that the respondent, the world's largest distributor of liquid petroleum gas, induces and receives discriminatory prices in the purchase of this product. In Connell Rice & Sugar Co., Inc. et al. (D. 8736), the complaint charges price discrimination, illegal brokerage and conspiracy in connection with the sale and purchase of sugar, corn products, rice and other products.

Practices involving general trade restraints, required initiation of 64 investigations involving about 87 different industries or product lines thereof. Industry-wide investigations, requiring substantial work during the past year, and now virtually completed, involve the newspaper industry advertising rates and television advertising rate structure.

The Commission was instrumental in insuring the competitive existence of numerous businesses, as well as allowing customers a competitive choice, in the recently issued consent agreement in the matter of National Work-Clothes Rental, et al., Docket 8742. There, it was charged that fifteen (15) companies and eight individuals conspired to fix prices and allocate customers in the industrial laundry and linen supply rental business in an area including the States of Louisiana, Texas, Arkansas and Mississippi. The typical customers

include hotels, motels, restaurants, service stations, factories and other commercial and industrial establishments.

A final order was issued by the Commission in the matter of Lenox, Inc., Docket 8718. The complaint charged Lenox with maintaining an unlawful resale price maintenance scheme in connection with the sale and distribution of its china. The Commission ordered Lenox to stop establishing and maintaining resale prices and prohibiting Lenox from obtaining express or implied resale price maintenance agreements with dealers, suggesting resale prices for a period of three years, imposing customer restrictions on dealers, and refusing to sell to dealers who failed to maintain the established price or who sold to other dealers for resale. (On June 24, 1968, Lenox petitioned the Second Circuit Court of Appeals for review of the Commission's order.)

One of the significant cases in the general trade restraint area involves a part of the clothing industry. An initial decision of April 18, 1968, in the matter of National Association of Women's and Children's Apparel Salesmen, Inc. (NAWCAS) found a foreclosure by an association of manufacturers and salesmen of competition at trade shows by means of a boycott and coercive activity. The sales from the more than 290 trade shows exceed three billion dollars annually.

The Commission's enforcement responsibilities under the Celler- Kefauver Anti-Merger Act are directed by necessity toward those areas where the preservation of competition will have the broadest effect.

Prompt employment of voluntary and compulsory investigational processes has enabled the Commission to assess probably anticompetitive effects of proposed mergers, and at the same time has afforded businessmen contemplating mergers an opportunity to evaluate the probable consequences of their proposed actions. During the year 10 mergers, 9 of them large mergers (proposed acquired firms with assets of \$10 million or more) were called off after the initiation of an expeditious Commission investigation. Subsequently, several of the firms involved in such investigations indicated in public sources that the pendency of a Commission investigation was a significant consideration in the cancellation of proposed merger plans. Thus, prompt action in investigations of proposed mergers and acquisitions is a significant factor in the overall enforcement program.

The more significant accomplishments in merger law enforcement were as follows: an order requiring divestiture of the S. K. Wellman Company, a sintered metal friction material manufacturer, was issued by the Commission in an automobile parts industry matter, American Brake Shoe Co. (D. 8622).

The Commission enforcement merger policy statement for the cement industry was implemented by the Commission's issuance of Section 6(b) Orders requiring all cement manufacturers to give 60 days advance notice of any acquisitions of ready mixed concrete producers. Litigation continues on matters which were under study when the policy statement issued in January 1967. A Commission order issued against Diamond Alkali Co. (D. 8572), which required divestiture of Bessemer Limestone and Cement Company. Diamond Alkali withdrew its petition to review to the United States Court of Appeals, Sixth Circuit, after the Commission approved the divestiture of Bessemer to Louisville Cement Company. Three initial decisions dismissing complaints challenging acquisitions of ready mixed concrete producers by cement manufacturers are pending before the Commission upon appeal. One other such case is being litigated.

The Commission enforcement merger policy statement for the food distribution industry was also implemented by Section 6(b) Orders requiring advance notification of any mergers or acquisitions by any food retailer and wholesaler with annual sales in excess of \$100 million. During the year The Grand Union Company (C-1350) agreed to a consent order which prevents it from acquiring grocery stores for 10 years without the prior approval of the Commission. A pending complaint against The Kroger Co. (D. 7464) remains to be litigated. . A third enforcement policy statement was issued by the Commission May 15, 1968, with respect to product extension mergers in grocery products manufacturing to enlighten the business community as to the criteria the Commission will take into account in evaluating acquisitions in this area. It is anticipated that the criteria contained therein will serve as guides to businessmen and deter objectionable mergers in this field.

Two consent orders were negotiated involving the plastics industry: Rexall Drug and Chemical Co. (C-1252) and Continental Oil Company and Stauffer Chemical Company (C-1270). In the former, Rexall was required to divest its interest in a joint venture in a plastics

container business with El Paso Products Company and also was enjoined from making any future acquisitions, without Commission approval, in this as well as the glass and plastic coated container fields for 10 years. The order in the latter case broke up a joint venture between Continental and Stauffer in the vinyl chloride monomer industry; required divestiture by Continental of Thompson Chemical Company and Apex Tire and Rubber Company, two manufacturers of polyvinyl chloride resins, compounds and fabricated products; required Continental and Stauffer each to assist a new firm to enter the vinyl chloride monomer industry; and prohibited future acquisitions and joint ventures by both companies in that field, without Commission approval.

It is at the compliance stage of a proceeding that the order must be applied and made to work to the benefit of com-petition and ultimately the consumer. One of the more significant aspects of compliance operations during the past year was the achievement of effective divestiture of 148 facilities under 14 orders. One of these matters effected a reconstituting of competition in various affected markets by the entry into the Midwest grocery chain market of a West Coast chain noted for its reliance upon price competition. In another case, the implementation of a stock offering arrangement was undertaken looking towards the establishment of a new and independent clorox company.

In fiscal 1968, this staff processed in excess of 50 compliance report matters; issued 40 advisory opinions pursuant to Commission rules; initiated 23 compliance investigations; and handled more than 600 legally significant matters involving formal opinions, and complaints of order violation. The Commission certified to the Department of Justice the first civil penalty matter involving a failure to divest under a Section 7 Clayton Act order.

During the year accounting services were furnished by the Bureau's Accounting Division through increased use of electronic data processing equipment in cases involving price discrimination, unfair methods of competition and merger cases. The Division also furnished accounting services in connection with the investigation of promotional allowances paid by the public utilities industry, being made by the Select Committee on Small Business of the House of Representatives.

The tabulation and computation of rates of return showing the

profitableness of identical companies in selected manufacturing industries for the calendar year 1966 was completed and published, and preparation of the rates of return report for the year 1967 was initiated. Financial data contained in this report is utilized by other government agencies and by industry in studies of various companies and industries.

The Director's Office conducts and maintains liaison for the Commission with the U.S. Department of Agriculture, Packers & Stockyards Division, which has related responsibilities with respect to packers. During the past fiscal year, the Commission, under provisions of the Packers & Stockyards Act, is amended September 2, (7 U.S.C. 226, 227), continued its liaison with the U.S. Department of Agriculture to avoid unnecessary duplication of efforts by the two agencies. Pursuant to the provision of the statute requiring the Commission to include in its Annual Report information with respect to the administration of the statute, the Commission notified the Department that the Commission intended to conduct investigations of certain practices involving meats in six separate matters; the Department notified the Commission in two separate matters.

OFFICE OF THE GENERAL COUNSEL

The General Counsel's work in fiscal 1968 evidenced some change in the patterns of Commission effort. A larger number of negotiated consent orders and review, interim report and special assignment matters were completed while reconsiderations of consent agreements dwindled again this year, this time by 15%. The same number of court cases involving the Commission were filed by respondents during this period, as during fiscal 1967, but the type of cases varied from that of last year. Collateral suits against the Commission increased by 75%.

The nature of the effort in the General Counsel's follow through in law enforcement is not entirely recognizable from yearly reports which recite details of individual cases without reference to the advancements made in the law over a more extended period of time. For example, an important antitrust case of last year was *Federal Trade Commission v. Procter & Gamble*, 386 U.S. 568, a case in which the Supreme Court upheld the theory of conglomerate mergers as proper targets for action under Section 7 of the Clayton Act. But it was surprise in light of the decision in *Consolidated Foods*, 379 U. S. 912, another Federal Trade Commission case decided April 5, 1965, which created the principles pertaining to conglomerate mergers and reciprocity. Another Commission case, *Atlantic-Goodyear*, 381 U.S. 357, pioneered the application of restraint of trade principles to purported arm-length dealings between oil companies and their retailer service outlets.

Federal Trade Commission v. Brown Shoe Company, 384 U.S. 316, delved into relations between franchiser and franchisee-retailers among other things, and, while upholding the principle that the Federal Trade Commission Act reaches violations in their incipiency, also overturned specifically the ancient barriers of *Federal Trade Commission v. Gratz*, 253 U.S. 421, which had found the Federal Trade Commission Act covered only those antitrust actions existing

at the time the act was passed by Congress. *American Cyanamid Co. v. Federal Trade Commission*, 363 F. 2d 757, upheld the right of the Commission to inquire into the means by which a patent was obtained and then subsequently used to restrain trade.

Two cases which must be classed by themselves are the *Federal Trade Commission v. Dean Foods Co.*, 384 U.S. 597, in which the Supreme Court found the Commission has authority to seek and obtain under the All Writs Act an injunction to prevent frustration of a final order by disposal of the res which constituted the basis on which the Commission action was brought. In this case, the res was the assets of a company acquired by merger and which were made subject to a contract for sale in order to frustrate an order of the Commission forbidding dissolution of the merged company. This is one of the most important procedural advances in FTC antitrust cases in recent years.

A second case of unusual import was the *Holland Furnace* case, 341 F. 2d 548, a deceptive practice case in which at the instance of the Federal Trade Commission the Seventh Circuit Court of Appeals found the company and certain named persons in contempt and imposed a fine of \$100,000 on the company, \$500 each on two company officers, and a jail sentence of six months on the president of the company.

Court proceedings which involve the Federal Trade Commission arise in a number of ways. Any individual or company against which the Commission has issued an order to cease and desist may petition a U.S. court of appeals to a subpoena, the commission may direct that an application for enforcement be filed in a U.S. district court. The Commission may also request the Attorney General to institute civil proceedings to compel the filing of a special or annual report ordered by the commission and to recover for features for failure to comply with the Commission's order. Disobedience of court's decree enforcing a Commission order or subpoena may be punished by the court as contempt. Collateral suits challenging the commission's jurisdiction or methods of procedure may be brought under certain circumstances in U.S. district courts. The Commission's interest in these collateral matters are defended by the Department of Justice with the full assistance of the General Counsel. It is the practice of the Justice Department to refer such matters to the local U.S. At-

torneys who, in turn, accept the services of the General Counsel for actual handling of the cases.

In fiscal 1968, the General Counsel, through the Division of Appeals, handled 88 cases. Litigation was completed in 27 of these, of which 13 were restraint of trade matters; 4 involved deceptive business practices; 3 were proceedings for enforcement of Commission orders or subpoenas; and 7 were extraordinary matters such as suits against the Commission for declaratory judgment and injunction.

(The more important court decisions this year, together with the status of important court cases pending at the year's end, are outlined in Appendix A to this report.)

The Division of Consent Orders, in the Office of General Counsel, advises and makes recommendations to the Commission respecting the disposition of matters under the Commission's consent order procedure. This procedure looks to obtaining compliance with the laws administered by the Commission in cases which have progressed to the point where the Commission has determined that a complaint should otherwise issue. In addition, parties to matters still in the informal or investigative stage also may be afforded opportunity to submit proposals for consent order disposition.

Thereby, the American businessman is enabled to avoid time consuming and expensive litigation of matters which can be terminated through an agreement containing a mutually acceptable order to cease and desist or order to divest stock or assets. When an agreement is accepted by the Commission, it enters its decision and order as authorized by the agreement, and such order becomes as binding upon the parties as would an order resulting from full dress adversary proceedings. The public interest is doubly served through prompt termination of the challenged practices and the saving of time and public funds which would have been spent in the trial thereof for use instead in other enforcement areas.

During the past year, the Division of Consent Orders transmitted to the Commission for its consideration 197 executed agreements containing consent orders; and 23 matters were resubmitted to the Commission for its further consideration when negotiations failed to produce orders to cease and desist or to divest which the staff was willing to recommend for the Commission's acceptance. In addition,

558 review, interim report or special assignment matters were completed.

The increasing work of the Division of Consent Orders demonstrates uniquely the management improvement accomplished by reorganization of the Commission in 1961 to create this office. Studies indicate the average cost of cases which terminate in a negotiated consent order is one-tenth that of cases which are brought to a cease and desist order by litigation, omitting expense of possible court appeals. In this fiscal year, as in last, savings from the operation of this one office extended Commission activity approximately one-third of the range otherwise made possible by the Commission's total budget.

Representative of the consent settlements were:

C-1270, Continental Oil Company and Stauffer Chemical Company, alleged to be in violation of Section 7 of the Clayton Act, as amended, because of a joint venture to produce certain plastics. Without admitting violation of law, but admitting the jurisdictional facts of the Commission's complaint, the companies agreed to a Commission order to abandon the joint venture, dispose of certain other interests, and take steps to encourage competition in the production of elements necessary to the manufacture of the plastics.

C-1252, Rexall Drug and Chemical Company, alleged to be in violation of Section 7 of the Clayton Act, as amended, because of certain acquisitions. Without admitting violation of law, but admitting jurisdictional facts, the company agreed to divest itself of certain domestic interests in plastic bottle operations, refrain from acquiring any further interest in a domestic manufacturer of glass, plastic or plastic coated containers for 10 years without prior approval by the Commission, and to take certain steps to encourage competition in the flexible plastic squeeze tube production in the ensuing five years.

C-7323, Head Ski Company, Inc., alleged to be in violation of Section 5, Federal Trade Commission Act, because of certain practices affecting resale prices of its products sold through franchised dealers. Without admitting violation of law, but admitting the jurisdictional facts of the Commission's complaint, the company agreed to discontinue practices challenged by the allegations of the complaint and to reinstate, upon their request, dealers who had been terminated for nonparticipation in the practices.

C—1269, Appliance Product Service, alleged to be in violation of Section 5 of the Federal Trade Commission Act, because of certain representations in advertising concerning the services it furnished in repairs of appliances and certain omissions to state in the same advertising limitations which affected guarantees of its services. Without admitting violation of law, but admitting the jurisdictional facts, the company agreed to a Commission order to discontinue the alleged misrepresentation of quality of services, location of its business, and certain other statements in advertising.

D—8742, National Work-Clothes Rental, and 14 others, alleged to be in violation of Section 5 of the Federal Trade Commission Act, because of agreements among themselves concerning prices and allocation of customers in connection with the renting of table linens, towels, uniforms and wiping cloths, to their customers, in four states. The matter was withdrawn from litigation, and without admitting the alleged violations of law, but admitting the jurisdictional facts, the companies agreed to a Commission order permanently prohibiting the agreements concerning prices and customer allocation and prohibiting certain provisions in customer service contracts and covenants with employees and sellers.

The General Counsel's Division of Export Trade supervises administration of the Webb-Pomerene [Export Trade] Act (15 U.S.C. §§ 61–65) for the Commission, performs necessary investigative functions in connection with the Commission's general authority under Section 6(h) of the Federal Trade Commission Act to inquire into foreign trade conditions, coordinates the Commission's jurisdiction over foreign commerce, advises other offices of the Commission on the problems of American business abroad in the field of restrictive business practices and serves as advisory liaison to other governmental departments and agencies having complementary jurisdiction over international trade.

The 1918 Export Trade Act entitled “An Act to promote export trade, and for other purposes”, qualifiedly exempts registered American associations from the provisions of the antitrust laws insofar as their activities relate to export trade. Under the provisions of this Act, associations are permitted to fix prices and quotas, pool products for shipment and establish terms and conditions of sales to foreign markets. Thirty-three associations and their membership exported approximately \$1,444,186,601.00 in American products registered

under the Act to foreign markets in calendar 1967. Of this amount an estimated \$846,049,491.00 or 58.6% was directly or indirectly assisted by the export trade associations and \$598,137,110.00 or 41.4% of products covered under the Act were shipped independently by the membership.

Further assisting businessmen and fulfilling the Commission's duty under provisions of the Lanham Trademark Act (15 U.S.C. 1064), the General Counsel participated in matters involving applications for trademark or registrations in which allegedly false, misleading or deceptive business practices were considered. All of the matters were adjusted informally through the General Counsel. Additionally he served as a consultant on trademark law for other bureaus of the Commission, congressional interests, foreign embassy officials, and American businessmen.

The General Counsel's Division of Legislation furnished advice and comment to the Commission on 72 bills which were pending in Congress, and on 17 draft bills submitted to the Bureau of the Budget by other governmental agencies, and on 5 enrolled bills pending Presidential signature or veto. Frequent conferences with members of Congress and with representatives of executive agencies were held to assist the preparation of legislation and presentation of views of Commission members or representatives before legislative committees.

The General Counsel's Office also conducted the Commission's program for encouraging the States to enact laws, like the FTC Act, to protect the public from deceptive and unfair business practices. This is discussed in the Introduction to this report.

THE ROLE OF ECONOMIC STUDIES AND EVIDENCE

Economic studies and evidence are important underpinnings of Commission programs involving maintenance of competition and protection of the consumer. As the Nation's industrial organization becomes more interrelated and the activities of business concerns expand, it is imperative that information be available which will permit an early exploration of the nature of economic performance. Also, as the products used in every day life become more complex, market imperfections may develop and questions arise as to whether the market provides the consumer with ample protection. Economic research provides a means of monitoring trends in business structure and marketing practices, delineating problem areas, assisting in the development of expeditious effective policy programs, and developing studies which will inform Congress and the public on matters relevant to the maintenance of a free competitive economy.

Maintaining Competition

Merger Trends—The principal area of research in fiscal 1968 involving the maintenance of competition centered on merger activity in the economy. For some years the Bureau of Economics has systematically analyzed patterns of merger activity. The data developed for this purpose has been designed to reveal overall trends, the size characteristics of merging firms, and the types of acquisitions, including horizontal, vertical, and conglomerate mergers. Conglomerate mergers, of increasing importance, have been analyzed in relation to three subcategories—market extension, product extension and other. Market extension mergers are those in which the two parties to a merger are engaged in the same general line of business activity, but operating in different geographical markets.. Product extension mergers represent an extension of a firm's activity into another product line, but one that may be related functionally either in produc-

tion, distribution or sale of products. The remaining category of conglomerates includes those in which there is very little discernible relationship between the acquiring and acquired firms. Since this data collection program was instituted in 1948, there has been an almost uninterrupted upward trend in firm disappearances due to mergers and acquisitions, notwithstanding vigorous enforcement of Section 7 of the Clayton Act, which prohibits mergers which may substantially lessen competition or tend to create a monopoly in any line of commerce in any section of the country.

In 1967—1968 merger activity eclipsed all previous experience and it appears that the current upward trend will continue. The 1967 increase in manufacturing and mining mergers was the sharpest in modern industrial history (Chart 1), with 170 manufacturing and mining firms with assets of \$10 million or more acquired. The combined assets of the acquired firms totaled more than \$8 billion. In terms of assets acquired, merger activity involving larger firms in 1967 constituted more than 20 percent of the total of all large acquisitions recorded for the entire period 1948 to 1967 (Table 1). Acquisitions involving the very largest firms, with assets of \$100 million or more, rose sharply. In 1967 there were 23 such acquisitions as compared to 4 in the preceding year. For the whole period 1948 to 1966, there was no year in which more than 6 firms with assets of \$100 million or more disappeared through acquisitions (Table 2).

Another striking feature of the current merger movement is the complexity of relationships among merging firms. Merger movements of the past, notably at the turn of the century and in the 1920's, characteristically involved firms with clearly definable horizontal or vertical relationships. Thus the bulk of the merger movement at the turn of the century involved the joining of many competitors. In the 1920's, not only was this type of merger common, but also so were mergers which joined customers and suppliers. Such mergers occur today, but they represent a distinct minority, particularly when measured by assets of firms acquired. Since 1948, over two-thirds (see Table 3) of all large acquisitions recorded were of the conglomerate type. Product extension mergers represented nearly 44 percent of all large mergers and approximately two-thirds of all conglomerate mergers recorded during the period. More complex, but of rapidly increasing importance, are mergers in which the firms

CHART 1
MANUFACTURING AND MINING FIRMS ACQUIRED
1948-1967

CHART - SEE IMAGE

*Firms with assets of \$10 million or more.

Source: Bureau of Economics, Federal Trade Commission.

involved have no obvious product or marketing relationships. For the period 1948 through 1967, such mergers accounted for 17 percent of the assets of acquired firms. Within the context of a rising pattern of merger activity, the upward trend of this type of acquisition appears to be strongest at the present time.

In-Depth Investigation of Conglomerate Merger Movement.—In summary, the Bureau's statistical research in the past year revealed an exceptionally rapid increase in overall merger activity, involving increasingly larger firms. These developments led the Commission to announce a special in-depth investigation of the conglomerate merger movement. This investigation is currently under way and results should be available in the next fiscal year. It will review recent merger developments in the light of the basic policy objectives

TABLE 1.— Acquisition of manufacturing and mining firms with assets of \$10 million or more, 1948–1967

Year	Number of Acquisition	Assets (millions)
1948	4	\$66
1949	5	67
1950	4	173
1951	9	201
1952	13	327
1953	23	679
1954	35	1,425
1955	68	2,129
1956	58	2,037
1957	50	1,469
1958	38	1,107
1959	64	1,960
1960	62	1,710
1961	59	2,129
1962	72	2,194
1963	68	2,889
1964	91	2,798
1965	93	3,900
1966	101	4,078
1967	170	8,246
Total	1,087	\$39,584

Source: Bureau of Economics, Federal Trade Commission.

of the Celler-Kefauver Act (1) to prevent increases in the concentration of economic power, (2) to encourage internal growth as a competition-promoting process, (3) to preserve the competitive opportunities of medium-size and small businesses, and (4) to eliminate monopolistic tendencies in their incipient stages. The study will explore the causes, effects and implications of the conglomerate merger movement. To be examined will be the relationship between conglomerate mergers and technical or business efficiencies, the economic performance of conglomerate firms in the market place, the

TABLE 2.—Acquisitions of manufacturing and mining companies with assets of \$100 million or more, 1948–1967¹

Year	Number of acquisitions	Assets (millions)
1948		
1949		
1950		
1951		
1952	1	\$106.8
1953	1	101.6
1954	4	618.5
1955	3	541.6
1956	2	298.8
1957	1	168.9
1958	3	361.7
1959	1	264.9
1960	2	203.0
1961	3	620.4
1962	2	297.7
1963	5	800.2
1964	5	670.3
1965	6	1,436.0
1966	4	1,111.0
1967	23	4,512.6
Total	66	\$12,114.0

¹ No acquisitions of firms with assets of \$100 million or more took place in the period 1948 through 1951. Excluded from this series are acquisitions of privately-held companies.

Source: Bureau of Economics, Federal Trade Commission.

effect of conglomerate mergers on the competitive vigor of enterprises by their change in status from independent firms to subsidiaries or division of conglomerates, and the impact of such structural changes on long run competitive activity. The study will also explore whether new legislation may be necessary to bring the conglomerate merger movement under control. After the completion of the staff investigation, the Commission plans to hold a public hearing on this matter.

Merger Enforcement Policy Statements.—Commencing in 1966, the Commission undertook to complement its program of merger litigation by developing industry-wide merger guidelines in certain areas. Enforcement policy statements were designed to provide the business community with information as to the kinds of mergers which, based upon Commission experience, are most likely to raise concern as to their possible anticompetitive effects under Section 7 of the Clayton Act as amended by the Celler-Kefauver Act. The initial guides were applied to particular types of mergers in two fields; (1) Vertical Mergers in the Cement Industry, and (2) Mergers in the Food Distribution Industry. The latter guides were issued in January 1967.

An Enforcement Policy Statement with respect to Product Extension Mergers in Grocery Manufacturing, issued in May 1968, represents a further step on the part of the Commission in its program

TABLE 3.— Acquisitions of manufacturing and mining firms with assets of \$10 million or more, by type of acquisition, 1948–1967

Type	Number	Percent	Assets (Millions)	Percent
Horizontal	193	17.8	\$7,099	17.9
Vertical	156	14.4	5,782	14.6
Conglomerate:	738	67.9	26,703	67.5
Product Extension	535	49.2	17,277	43.6
Market extension	52	4.8	2,812	7.1
Other	151	13/9	6,615	16.7
Total	1087	100.0	\$39,584	100.0

Note: Detail may not add to 100.0 percent due to rounding.

Source: Bureau of Economics, Federal Trade Commission.

to delineate its merger enforcement criteria. In that statement the Commission pointed out:

A product extension merger is one that unites two corporations whose activities are functionally related at the production or marketing levels, but whose products are not close substitutes. Thus, in grocery products manufacturing the term describes any nonvertical, nonhorizontal merger that combines two firms engaged in the manufacture of household consumer products marketed through retail grocery stores.

The Commission stated further:

Product extension mergers may adversely affect competition in several ways. One is by raising the barriers to entry of new firms, and thus preventing the creation of new capacity in the markets of the acquired firm. Among the factors affecting entry barriers are the relative size and market power of the acquiring firm, the degree to which it operates across many markets, the magnitude of its promotional activity and advertising expenditures, and whether or not it is a potential competitor of the acquired firm.

Additionally, the relative size and market position of the acquired firm, the extent of oligopoly of the markets in which it operates, its growth potential, and the extent of abnormal profits it and others in such markets may enjoy, bear on the question of the need for the constraints of potential competition. The potential entrant, by providing the threat of entry, may restrain oligopolists in the market from securing monopoly profits, forcing them as a minimum to charge entry forestalling prices. Or by actually entering the market, the potential entrant would add capacity to the industry, become an active competitor and erode the non-competitive profits of the oligopolists.

Merging in, rather than building in, would remove both of these constraints on the potential entrants and might simultaneously raise the barriers to additional entrants.

The Commission's announcement contains an extensive description of the changing structure of grocery manufacturing, as well as the nature of the product extension mergers in food manufacturing, and the implications of recent structural changes. On the basis of such studies, the Commission set forth the following major criteria

for assessing product extension mergers in grocery products manufacturing under Section 7 of the Clayton Act:

(1) Both the acquiring and acquired companies engage in the manufacture of grocery products. Grocery products include food and other consumer products customarily sold in food and grocery stores.

(2) The combined company has assets in excess of \$250 million.

(3) The acquiring company engages in extensive promotional efforts, sells highly differentiated consumer products, and produces a number of products, in some of which it holds a strong market position. A strong market position is defined as being one of the top four producers of a product in which the top four companies hold 40 percent or more of the value of shipments.

(4) The acquired company is either among the top eight producers of any one important grocery product, or has more than a 5 percent share of a relevant market.

Economic Evidence.—In 1968 the economic evidence work of the Bureau was primarily devoted to merger enforcement matters. The economic staff engaged in a wide range of activities in the merger field, including (1) recording of major announcements appearing daily in the financial papers, (2) preliminary screening of such mergers, (3) clearing through liaison with the Antitrust Division of the Department of Justice to determine whether that agency or the Commission will process particular mergers, (4) present preliminary analyses to the Merger Screening Committee (consisting of economists of the Division of Economic Evidence and lawyers from the Division of Mergers), (5) assisting in the preparation of letters of inquiry, (6) preparing in-depth economic studies of more important mergers, and (7) assisting lawyers in the drafting of merger analyses, proposed complaints and orders, and memoranda to the Commission on recommended complaints.

Quarterly Financial Reports.—For the 22nd consecutive year, the Federal Trade Commission's Bureau of Economics in collaboration with the Securities and Exchange Commission, has produced the Quarterly Financial Report for Manufacturing Corporations. This report is most useful in studying concentration and economic performance of the manufacturing segment of our economy.

In fiscal year 1968, the published summaries of the report included data for each of 34 industry groups and 10 asset sizes of corporate manufacturers. For each industry group and asset size, estimates were published for 13 items of income and retained earnings, 14 asset items, 16 items of liabilities and stockholders' equity, and 43 financial and operating ratios, including profit rates on sales and equity. These quarterly estimates accounted for more than 97 percent of all manufacturing activity in the United States, more than half of all corporate profits, and nearly one-third of the national income. Each published summary was based on uniform, confidential, quarterly financial statements collected from a probability sample of some 10,000 out of an estimated total of more than 200,000 active manufacturing corporations in the United States. The following are some of the highlights of the four quarterly summaries published in fiscal 1968.

The number of manufacturing corporations with assets of \$1 billion and over increased from 24 in 1959 to 63 in 1967 and 78 in 1968. These 78 firms accounted for \$195 billion or 43 percent of the total assets of all manufacturing corporations, except newspapers, in the United States in 1968. An additional 194 firms, each with assets in excess of \$250 million, accounted for another 21 percent. A total of 529 enterprises, each with assets in excess of \$100 million, accounted for 73 percent of the total assets of all manufacturing corporations. Table 4 gives the relative importance of various asset classes of corporate manufacturers and the number in each size class in the first quarter of calendar year 1968.

From the end of the first quarter of calendar year 1967 to the end of the first quarter of calendar year 1968, net working capital of all corporate manufacturers (except newspapers) rose from \$115 billion to \$126 billion, reflecting the difference between an increase of \$17 billion in current assets and a rise of \$6 billion in current liabilities. In the same 12-month period, total assets increased from \$409 billion to \$449 billion; property, plant, and equipment (net), from \$162 billion to \$180 billion; inventories, from \$102 billion to \$107 billion. Similarly, stockholders' equity rose from \$241 billion to \$259 billion; of the latter figure, \$169 billion were retained earnings.

Sales of all corporate manufacturers (excluding newspapers) in 1967 totaled \$575 billion, or 4 percent above 1966. After tax profits

for the year amounted to \$29 billion, compared with \$31 billion in 1966 and \$28 billion in 1965. For the four quarters of calendar year 1967, the average annual rate of profit on stockholders' equity, after taxes, was 11.7 percent, compared with 13.4 percent for 1966 and 13.0 percent for 1965.

Highest average annual rates of return on stockholders' equity, after taxes, in 1967 were recorded by the producers of drugs (18.7 percent), instruments and related products (17.9 percent), tobacco manufactures (14.4 percent), and metalworking machinery (14.0 percent); lowest rates of return were recorded by the makers of textile mill products (7.6 percent), primary iron and steel (7.7 percent), stone clay, and glass products (8.2 percent), and lumber and wood products (8.6 percent).

Chart 2 shows the annual rates of profit, after taxes, on stockholders' equity and the profits, after taxes, per dollar of sales in each quarter from the first quarter of 1958 to the first quarter of 1968, inclusive, for all manufacturing corporations, except newspapers.

Economic Report on the Baking Industry.--As part of its research program dealing with problems of maintaining competition the Bureau has studied both structural aspects of various industries and

TABLE 4.-Relative importance of the largest manufacturing corporations, first quarter 1968

Asset size	Total assets		Number of manufacturing corporations
	Million dollars	Percent	
\$1,000 million and over	194,560	43	78
\$250 million to \$1,000 million	92,842	21	194
\$100 million to \$250 million	39,404	9	257
\$100 million and over	326,806	73	529
\$50 million to \$100 million	20,817	5	284
\$25 million to \$50 million	18,299	4	507
\$10 million to \$25 million	17,965	4	1,117
\$10 million and over	383,887	86	2,437
Under \$10 million	65,010	14	(¹)
All asset sizes	448,897	100	(²)

¹Not available

²Approximately 200,000

Source: FTC-SEC Quarterly Financial Report for Manufacturing Corporations, First Quarter 1968, p. 61.

Chart 2

PROFIT RATES OF ALL MANUFACTURING CORPORATIONS, EXCEPT NEWSPAPERS
1958-1968

CHART – SEE IMAGE

SOURCE: FTC-SEC Quarterly Financial Report for Manufacturing Corporations.

business behavior. In 1966, at the request of the Secretary of Agriculture, the Bureau of Economics prepared an "Economic Report on Bread and Milk Prices" (issued October 25, 1966). This was followed by an in-depth study of the baking industry. Early in 1968 a report on the latter industry, entitled, "Economic Report on the Baking Industry" was issued. The latter study analyzed price behavior in the baking industry in six major metropolitan areas and examined the relationship between price changes and various elements of cost and profit. Among the subjects covered in the study were the following: (1) national price, cost and profit trends, (2) the structure and nature of price competition in the bread baking industry, and (3) changes in prices and costs in six cities.

Consumer Protection

A major research effort during the period was directed at problems of consumer protection. Four significant topics were studied in fiscal 1968 in this area. One was an Economic Report on Installment Credit and Retail Sales Practices of District of Columbia Retailers. This study was completed and published in fiscal 1968. The other three studies, Automobile Warranties, Use of Games of Chance in Food Retailing, and a Study of Pricing Policies Used by Food Retailers, were in the final stages of completion at the end of the fiscal year.

Economic Report on Installment Credit and Retail Sales Practices of District of Columbia Retailers.—The objective of this study was to determine whether, in fact, the poor consumers in the community paid more for appliances and home furnishings than consumers of greater affluence. It sought further to determine the role of installment credit in the marketing of such goods. The specific objective of the report was to present a factual picture of the finance charges, prices, gross margins and profits, legal actions taken in collecting delinquent accounts, and the assignment relationships between retailers and finance companies. Some of the highlights of the report are given below.

The study was based on a survey of D.C. retailers of furniture and appliances having estimated sales of at least \$100,000 for the year 1966. The 96 retailers providing data had combined sales of \$226 million, which represented about 85 percent of the sales of furniture, appliance, and department store retailers in the District of Columbia.

Study of Automobile Warranties.—Another subject studied which is of great interest and importance to the consumer was automobile warranties. This study was a joint product of attorneys and economists within the Commission. An investigation of automobile warranties was authorized by the Commission in July 1965 as an attempt to find the cause and solution to the many complaints the Commission was receiving from automobile owners regarding service under the warranty. Subsequently, late in 1967 the Commission requested the staff to present a report on the subject, which report was released on November 18, 1968.

Some of the principal objectives of the study were to determine the procedures for handling consumer complaints and adjustments, the performance record of the manufacturers and dealers under the warranty, the consumers' reaction to warranty services, the costs of the warranty to the manufacturer and the extent to which the dealer is reimbursed, the reasons for consumers' complaints concerning services under warranty, and the possibility of reducing the volume of these complaints and improving customer-dealer relations. The study also discusses (1) development of the warranty and its use as a sale weapon, (2) problems related to the preparation of new cars for delivery, (3) servicing of cars under the warranty, (4) factors affecting predelivery inspection, and (5) factors affecting repair service under the warranty.

Economic Report on the Use of Games of Chance in Food and Gasoline Retailing.—At the direction of the Commission the Bureau conducted a study of the use of so-called games of chance in supermarkets. The initial phase of the study relating to the use of games in food retailing, was completed and forwarded to the Commission in May 1968. It dealt with the nature and objectives of games, trends in game use, the structure of the game promotion industry, the effects of game use on retail cost and the extent of deception in the games. The Commission then directed the Bureau to expand its study of "games" to include those used by gasoline companies. The expansion of the study is to be made using only data which is already available, thus facilitating an early completion of this project.

Study of Pricing Policies Used by Food Retailers.—In connection with the Bureau's Study of Pricing Policies Used by Food Retailers, a preliminary draft of the grocery pricing practices in the District of Columbia and in San Francisco was completed in fiscal 1968.

Price checks were made of stores located in the low-income areas of the above cities in order to determine if there were substantial differences in the pricing in the stores serving low and high income sections of these cities. Substantial data have been collected regarding pricing and merchandising practices and a final report on this study is expected to be completed in fiscal 1969.

Bureau of Field Operations

The Commission maintains 11 field offices and 2 field units in strategically located metropolitan areas. These field offices and a small headquarters group constitute the Bureau of Field Operations. This Bureau is the Investigative arm of the Commission and its enforcement bureaus.

In connection with their investigative activities, the field offices have concentrated on advancing the policy of the Commission to obtain voluntary compliances with the statutes administered by the Commission rather than compliance through means of long and costly adversary proceedings.

In connection with its investigations, the field offices conducted 39 investigational hearings, negotiated affidavits of discontinuance in 128 matters and prepared complaints and consent orders in 58 cases. Consent settlements were negotiated with respondents in 45 of the 58 cases, as well as in 117 others which were prepared by the headquarters staffs of the enforcement bureaus.

Investigations made by the field offices are the more formal aspect of the work of the Bureau of Field Operations. The field offices and their staffs serve as the principal point of contact with the business community and other members of the public. In fact, it is from the field office staff that businessmen and the public generally form their impressions of the Commission and its activities since their contacts with the Commission are limited largely to visits from and communications with staff members of the field offices.

The field offices received 1703 written complaints and 3483 oral complaints of alleged violations of the statutes the Commission administers from businessmen, trade associations, consumers and others. 579 of the written and 3116 of the oral complaints were disposed of by the field offices on an informal basis. The remainder were referred to the enforcement bureaus at headquarters for attention and consideration.

There were 11,979 inquiries and contacts from the public concerning the work of the Commission. The field staffs have striven to help various classes of consumer citizens to protect themselves from being exploited by fraudulent and unethical practices of some businessmen through knowledge of their methods of operations. In pursuance of the objective of acquainting the public, including educational, trade and consumer groups, with the scope of the Commission activities and the kinds of unethical business practices that are violative of the statutes it administers, the field offices furnished speakers to interested groups on 238 occasions during the fiscal year. Staff members of the field offices prepared and conducted seminars and conferences and appeared on TV and radio programs, as well as addressed meetings of senior citizens, high school and college classes, and ghetto workers and residents. The field offices maintained a continuing liaison with Better Business Bureaus, Chambers of Commerce and attorney generals and other officials of various States and their agencies. Particular attention was given to contacts with the various offices of the Office of Economic Opportunity and other legal aid agencies dealing with the ghetto and poverty problems of the economic disadvantaged who are easily duped by deceptive practices and unfair methods of competition engaged in by some members of the business community.

The Bureau of Field Operations started the fiscal year 1968 with 160 field attorneys. During the year it lost the services of 40 attorneys or 25% of its investigative staff and hired 34 or 21% for a net loss of 3 3/4%. The number of investigating attorneys on the field payroll at the end of the fiscal year (June 30, 1968) was 154.

HEARING EXAMINERS

The Commission's emphasis on the achievement of law observance by means other than formal litigation is reflected in the number of cases handled by hearing examiners during the fiscal year 1968.

There were 61 cases on the hearing examiners' docket during fiscal 1968, compared to 96 during fiscal 1967. With 37 cases on hand at the beginning of the year, 23 new cases were added, 1 case was remanded, and 35 cases were disposed of-26 by litigation and 9 through other procedures. During the preceding year, 59 cases were disposed of-39 through adjudication and 20 through other procedures. Cases remaining for disposition as of June 30, 1968, totaled 26.

The number of days devoted to evidentiary hearings and prehearing conferences totaled 345, compared to 459 days in fiscal 1967.

As the adjudicative caseload declined, the services of the hearing examiners were utilized in a variety of ways by the Commission and by other government entities. In addition to adjudicating Commission cases, examiners undertook various special assignments for the Commission, sat as Special Masters for United States Courts of Appeals, and heard cases for several other federal agencies.

APPROPRIATIONS AND FINANCIAL OBLIGATIONS

FUNDS AVAILABLE FOR THE COMMISSION FOR THE FISCAL YEAR 1968

Funds available to the Commission for the fiscal year 1968 amounted to \$15,281,000. Public Law 90—121 approved November 3, 1967, provided \$15,150,000 and Public Law 90—392 approved July 9, 1968 provided \$131,000.

Obligations by activities, fiscal year 1968

1. Antimonopoly:	
Investigation and litigation	5,922,000
Economic and financial reports	1,057,000
Trade practice conferences, industry guides, and small business	312,000
2. Deceptive practices:	
Investigation and litigation	4,631,000
Trade practice conferences, industry guides, and small business	626,000
Textile and fur enforcement	1,508,000
3. Executive direction and management	353,000
4. Administration	871,000
Totals	<u>15,280,000</u>

Settlements Made Under Federal Tort Claims Act

During the fiscal year 1968 the Commission paid claims under this Act in the amount of \$205.01. No other claims are pending for the same period.

Federal Trade Commission Proposed Legislative Program for the First Session of the 91st Congress

The following represents the legislative proposals in which the Commission is most interested.

1. Amend the Federal Cigarette Labeling and Advertising Act (P.L. 89-92).

(1) Section 4 of the Act should be amended by changing the required warning statement to read:
"Warning: Cigarette Smoking is Dangerous to Health And May Cause Death From Cancer
And Other Diseases."

(2) The warning statement should be required to appear in all advertisements as well as on all cigarette packages.

(3) A statement setting forth the tar and nicotine content of each cigarette should be required to appear on the package and in all cigarette advertising.¹

(4) Cigarette advertising on television and radio should be banned entirely. Alternatively, cigarette advertising on television and radio should be limited as to the hours at which it may appear; the extent to which it may appear; and the types of programs on which it may appear.

(5) Increased appropriations should be made to the Department of Health, Education, and Welfare for education of the public (especially young people) as to the health hazards of smoking.

(6) Appropriations should be made for research under the direction of the National Institutes of Health on the development of less hazardous cigarettes.

The aforementioned amendments embody the recommendations which the Commission made in its report to Congress on June 30, 1968, pursuant to the directions contained in section 5(d) (2) of the Federal Cigarette Labeling and Advertising Act. The grounds for these recommendations are set out at length in the report of the Commission of June 30, 1968.

In connection with these recommendations, Chairman Dixon issued the following statement which is to be considered as part of this recommendation for legislation:

"... I agree with all of these recommendations with the exception of the first alternative of recommendation number (4), which is 'cigarette advertising on television and radio should be banned entirely.'

"Recommendation number (1) with which I concur suggests the amendment of Section 4 of the Federal Cigarette Labeling and Advertising Act so that the required warning statement should be changed to read:

'Warning: Cigarette Smoking is Dangerous to Health And May Cause Death From Cancer
And Other Diseases.'

¹The Commission is of the belief that further scientific study may warrant extension of this requirement to include a statement listing the results of quantitative and qualitative analyses of hazardous components in a cigarette's smoke.

"Recommendation number (2) recommends that this warning statement should be required to appear in all advertisements, as well as on all cigarette packages.

"Because of these recommendations with which I concur, I see no need for the suggestion that cigarette advertising on television and radio should be banned entirely. I am of the opinion that, if a realistically adequate warning should be required in all television and radio advertising, the public interest would be sufficiently protected."

Commissioner MacIntyre joins in recommendations 1 and 3. With respect to recommendation 2, he believes this is a subject which should receive the further consideration of the Congress similar to that given the labeling of cigarettes when Congress passed the Federal Cigarette Labeling and Advertising Act.

Commissioner MacIntyre joins and associates himself with Chairman Dixon's statement and position regarding alternative recommendation No. 4.

In addition, Commissioner MacIntyre does not concur with respect to the other part of recommendation No. 4 and with recommendations 5 and 6, for the following reasons:

"Specifically, I have not concurred in the decision of the Commission to include its recommendations numbered (4), (5) and (6). Plans and needs of other agencies for appropriations, additional authority or other facilities for use in the discharge of their duties are matters for those agencies to report. I seriously question the advisability of the F.T.C. undertaking to unilaterally inject itself into the affairs of other agencies in these respects. Recommendation number (6) deals with matters under the jurisdiction and direction of the National Institutes of Health. Therefore, it seems it would be more appropriate for that agency to make a recommendation to Congress regarding its plans and needs. Recommendation number (5) deals with matters under the jurisdiction and direction of the Department of Health, Education, and Welfare, and I believe that the Federal Trade Commission should have deferred to that department to advise Congress concerning its plans and needs. With respect to recommendation number (4), it not only concerns matters which are subject to the jurisdiction and direction of the Federal Communications Commission, but also incorporates provisions involved in proposed legislation (S. 2395 of the 90th Congress) which would vitally affect future operations of the F.C.C. As far as it could be determined, the F.T.C. has not ascertained the position of the F.C.C. on these proposals."

2. Amend section 2(b) of the McCarran-Ferguson Act (15 U.S.C. 1012(b)).

We believe this particular section should be amended by repealing that part of the proviso which provides that the Federal Trade Commission Act, as amended, "shall be applicable to the business of insurance to the extent that such business is not regulated by State law," and by vesting jurisdiction in the Commission over said business of insurance under section 5 of the Federal Trade Commission Act. This we think, could, and should, be done without preempting State legislation on the same subject unless, of course, such legislation conflicts with section 5 of the Federal Trade Commission Act. See *Head v. New Mexico Board* 374 U.S. 424 (1963); *Pennsylvania v. Nelson*, 350 U.S. 497 (1956); and *Kelly v. Washington*, 302 U.S. 1 (1937).

The McCarran-Ferguson Act (15 U.S.C. 1011-1015) provides in part that subsequent to June 30, 1948, the Sherman Act, the Clayton Act and the Federal Trade Commission Act, as amended, shall be applicable to the business of insurance to the extent that such business is not regulated by State law. In the cases of *Federal Trade Commission v. National Casualty Co.*, 357 U.S. 560 (1958), and *Federal Trade Commission v. Travelers Health Association*, 362 U.S. 293 (1960), the Supreme Court spelled out the Commission's jurisdiction in matters involving insurance.

As we interpret these cases, even though a State does not actually enforce its laws regulating mail-order insurance companies which it has licensed, nevertheless, if it does have such laws, should these companies engage in unfair or deceptive acts or practices in commerce, the Federal Trade Commission is powerless to act. On the other hand, the

Federal Trade Commission does have jurisdiction over companies engaged in the sale, or offering for sale of any type of insurance, in commerce by means of the United States mails in any State in which they are not licensed to conduct the business of insurance, or in which if licensed, they do not have agents.

The experience of the Commission in administering its "Guides for the Mail Order Insurance Industry" indicates that Commission action under section 5 of the Federal Trade Commission Act is needed in order to prevent consumer deception. Although all of the States regulate insurance matters, regulation of the advertising and promotional activities of insurance companies appears to be lax in many of these states. (See 50 Marq. L. Rev. 178-345 (1966)) Also, even with reference to advertising which previously had been approved by States, investigation by the Commission has found in many instances that the advertising was grossly deceptive, with much of such deception being directed to elderly persons, dependents of members of the Armed Forces and the poor.

In approximately 82 percent of the informal complaints against mail-order insurance companies, which the Commission has investigated, the Commission was unable to act because the accused company made its sales through resident agents licensed in the States in which the insurance company operated.

In our opinion, if the Commission had the required jurisdiction, it would be in a position to stop a continuation of unfair or deceptive acts or practices in commerce by mail-order insurance companies in the advertising and sale of their policies.

The problem of protecting the public, particularly the poor, the elderly, and those who are dependent on members of the Armed Forces from the deception practiced by some mail-order insurance companies is national in scope.

The adoption of the suggested repeal of the proviso in section 2(b) would extend the Commission's present jurisdiction over insurance companies to include any unfair methods of competition in commerce and any false and deceptive acts or practices in commerce by such companies even though such methods, acts or practices are committed in a State in which the insurance company is licensed to conduct the business of insurance.

This dual authority of the Commission and the States, we believe, would give greater protection to the public against deception now practiced by some insurance companies who operate nationally.

3. Legislation for Allocation of Consumer Protection Responsibilities.

The Federal Trade Commission recognizes that in the consumer protection efforts of the Federal Government, there appear to exist gaps in legislation, overlappings, and duplications of responsibility which require legislative attention.

The Commission, as such, has no specific recommendation concerning the type of legislation which should be enacted to afford proper consumer protection; however, there is appended hereto the views of individual Commissioners relative to such action.

4. Legislation designed to give consumer protection by requiring proper warranties and guarantees for consumer products.

The Commission feels that there is a problem with respect to such warranties and guarantees. The President in his "Consumer Message" of February 6, 1968, with respect to the subject of "Repairs, Warranties and Guarantees" directed that:

"The Special Assistant to the President for Consumer Affairs, the Chairman of the Federal Trade Commission, the Secretary of Commerce and the Secretary of Labor will begin work immediately with the industry to:

- Encourage improvements in the quality of service and repairs.
- Assure that warranties and guarantees say what they mean and mean what they say.
- Let the consumer know how long he may expect a product to last if properly used.
- Determine whether federal legislation is needed."

The Federal Trade Commission has taken, and is taking, a continuing interest in the problem.

During the 90th Congress, there were introduced S. 2726 and S. 2727 by Senators Magnuson and Hayden, respectively, which had as their purpose the protection of the consumer with reference to guarantees and warranties, including warranties for new motor vehicles.

The Federal Trade Commission is not prepared at this time to offer specific legislative proposals, but is contemplating hearings on the issue of warranties and guarantees for consumer products. At that time, the Commission will consider whether the problem can be dealt with under present laws or whether specific legislation should be offered.

5. Legislation providing that all contracts made in interstate commerce for an amount of over \$100 and pertaining to consumer goods are subject to cancellation within a certain specified period of time if the consumer is over 60 years of age or has an annual income (from whatever source) under \$5,000 and no other assets in excess of \$20,000 or is a member of a household, no one of whose members has such income or assets.

This proposed legislation is designed to offer protection to those consumers who are most apt to be defrauded by unscrupulous sellers. It would furnish to the aged the same advantages accorded to minors under the common law and thereby, we believe, should reduce the number of schemes to defraud consumers who fall into the category delineated in the proposed legislation. Furthermore, it would offer protection to those who are least able to avail themselves of the present legal processes which seek to prevent a continuation of such activities and practices by sellers and to recompense victims for the losses or damages resulting from their perpetration.

6. To amend the Federal Trade Commission Act by providing for temporary injunctions or restraining orders against the dissemination or the causing of dissemination of any act or practice in commerce within the meaning of section 5 which is unfair or deceptive to the consumer pending the issuance of complaint by the Commission under said section.

This is the "Deceptive Sales Act of 1968" which passed the Senate as S. 3065, with amendments, on July 11, 1968, 90th Congress, 2d Session, but which was never passed by the House of Representatives.

Should S. 3065 fail to become enacted into law during the 90th Congress, the Federal Trade Commission recommends that a similar bill be reintroduced and passed during the 91st Congress.

The Commission now has authority under section 13(a) of the Federal Trade Commission Act (15 U.S.C. 53 (a)), under the conditions set forth therein, to bring suit in a United States district court to enjoin the dissemination or the causing of the dissemination in commerce, as "commerce" is defined by the Federal Trade Commission Act, of a false advertisement, as it is defined in said Act, of food, drugs, devices or cosmetics, as unfair or deceptive acts or practices under section 5 of the Act (15 U.S.C. 45). S. 3065 would grant the Commission the same authority to seek an injunction or restraining order, in the manner described in S. 3065, of any act or practice in commerce, within the meaning of the aforesaid section 5 of the Act, which is unfair or deceptive to the consumer.

The Commission makes every effort to expedite its proceedings. However, our experience has been that frequently, because of various reasons including full compliance with the requirements of the Administrative Procedure Act, considerable time may elapse between when the Commission institutes its proceedings directed at unfair or deceptive acts or practices to a consumer, and when they can legally be enjoined by a cease-and-desist order which has been approved by the courts. During this interim, under existing law, it is possible for an unscrupulous perpetrator to continue such illegal acts or practices.

There are various types of so-called "sales rackets," including those involving home improvements and, as the law now stands, there is no effective way to stop such rackets at the time they are first discovered. It is possible that the legal machinery may drag on

for two or three years before the violator can be ordered to cease and desist. In the meantime, countless Americans may be defrauded.

We believe enactment of a Deceptive Sales Act, such as S. 3065, or one similar thereto, would grant the consumer and honest businessman greater and speedier protection than is now afforded. In our opinion, such enactment would offer the Commission a means in a proper case, under the conditions set forth in the bill, of protecting the rights of the consumers against unfair and deceptive acts or practices pending the issuance of the Commission's final order to cease and desist.

Separate Statement of Commissioners Jones and Nicholson With Respect to Legislative Proposal 3

The language in this proposal is necessarily very general because five members of the Commission are not in agreement as to the form which the recommended legislative attention should take. We do not agree with the recommendation of Chairman Dixon that the transformation of the position of Special Assistant to the President for Consumer Affairs into a statutory office with similar authority is adequate. On the other hand we feel the creation of a Department of Consumer Affairs, as proposed in H.R. 7174, is equally undesirable at this time.

Experience and observation demonstrate that distribution of consumer protection responsibilities among many agencies and departments has sometimes resulted in ineffectual performance to the detriment of the consumer and the confusion of the businessman. Similar observations have apparently made the same impact on the Senate." The fault lies neither with the Congress nor the Executive, both of which are anxious to meaningfully assist the consumer. The real fault lies in past failures to act, which have led to the necessity of a great deal of legislation in a relatively short period.

Now is time for evaluation. Where are we in protecting the consumer? Where should we be? What are the relative strengths and weaknesses of the various government consumer protection and education programs and their implementation? Is there unnecessary overlapping and waste? Is there a method by which greater clarification of consumer rights can be made? Is a Department of Consumer Affairs a desirable goal? These and many other questions cry out for an answer.

For these reasons we believe that legislation should be recommended to Congress for the creation of a statutory agency which would:

1. Be independent of any department or other agency of Government.
2. Be responsible for reporting to the President.
3. Assume the responsibilities presently performed by the Office of Special Assistant to the President for Consumer Affairs.
4. Be charged with responsibility for reviewing the present consumer protection efforts of all departments and agencies of government and the statutory and legislative authority under which they act.
5. Develop any additional proposals for legislation for consumer protection which appear to be necessary or appropriate.
6. Plan for the consolidation of legislative or executive responsibilities where necessary or appropriate.

¹ The Senate, on July 27, passed S. 3640, a bill for the "establishment of a Commission on organization, operation and management of the executive branch of the government." This bill was supported by 61 Senators, including 33 Democrats and 28 Republicans, in a truly bipartisan effort. As one of the reasons for this legislation, it was pointed out in the Congressional Record (S9562) : "There is little doubt that duplication, waste and overlapping have reached enormous proportions. For example, at present there are approximately 33 Federal agencies engaged in 296 consumer protection activities." Although Commissioners Jones and Nicholson believe this bill, which passed without administrative support, has desirable goals, it is not the most effective method by which to obtain prompt evaluation and correlation of consumer protection efforts.

7. Propose programs for the effective implementation by the Federal Government of cooperative efforts with state governments in the area of consumer protection.
8. Provide for an advisory council to be established within the agency composed of:
 - (a) Representatives of Federal Departments and Agencies presently involved in consumer protection efforts.
 - (b) Representatives of state and local governments.
 - (c) Private institutions and agencies involved in consumer protection efforts.
 - (d) Representatives of other segments of the economy and society concerned with consumer protection.
9. Consumer protection as used here means not only enforcement of directive or prohibitive law, but also education and representation of consumer interest before government bodies and such affirmative powers as this proposed agency might consider necessary or appropriate to represent the interest of the consumer more effectively.

Separate Statement of Commissioner Elman

In addition to the Commission's legislative proposals, I recommend the following program for consumer protection:

I. Consumer Frauds

Congress should enact legislation empowering any court of competent jurisdiction, federal or state, to award money judgments redressing consumers injured by fraudulent trade practices.

In addition to this private remedy, other avenues for providing relief to aggrieved consumers should be explored. Too often, as the Federal Trade Commission found in its report on the District of Columbia poverty project, the victims of fraudulent practices are unaware of their rights or cannot afford to hire a lawyer to protect them. For such consumers, creation of a private right of action is an empty gesture. Congress should therefore empower the Consumer Counsel in the Department of Justice to obtain an injunction against fraudulent practices and to recover damages and civil penalties.

This would be an important first step in the process of centralizing and strengthening federal power to deal with consumer frauds which is now fragmented among various agencies. A particular fraud might, for example, subject the perpetrator to administrative proceedings before the Commission culminating in a cease and desist order, criminal prosecution by the Department of Justice, and action by the Postmaster General preventing delivery of his mail pursuant to 39 U.S.C. § 4005. Enforcement of existing prohibitions against fraudulent practices is haphazard and the selection of remedies somewhat arbitrary. No one agency is equipped with the full panoply of powers necessary to protect the consumer, prevent future violations, and prosecute criminally where necessary.

It is logical that the powers of the Consumer Counsel in the Department of Justice be expanded to include the authority to investigate consumer frauds, to seek injunctive or other appropriate relief in the courts (for example, an order cutting off delivery of a respondent's mail sent in reply to a fraudulent offer), and to prosecute criminally when the circumstances require. The investigative and prosecutorial functions would thus be divorced from the adjudicative, eliminating the almost impossible burden imposed on the judge when these functions are combined in a single agency, and permitting vigorous prosecution to be undertaken without the appearance of unfairness.

Acting under his broad mandate to request whatever relief he considers appropriate, the Consumer Counsel could contribute significantly to the development of an orderly, rational and effective system of remedies to redress consumer frauds. In particular, in addition to being authorized to sue to secure injunctive relief and civil penalties, he should be permitted both to ask the court to impose a receivership and to obtain a judgment holding the defendant liable to particular persons or classes of persons. Consent settle-

ments or assurances of voluntary compliance would be acceptable only if they made adequate provision for the rights of all aggrieved consumers.

In addition, the statute should provide that a decision against a defendant may be used as prima facie evidence of violation in subsequent damage actions by aggrieved consumers. (Cf. Section 5 of the Clayton Act, containing such a provision as to antitrust violations.) This provision would supplement, and not replace, ordinary rules of res judicata and collateral estoppel. It may also be desirable to provide a federal rule of collateral estoppel in the statute, barring the defendant from relitigating with a consumer any issues determined adversely to him in the action by the government.

Besides placing the enforcement function where it belongs, in a prosecutive agency, this proposal would offer genuine hope of financial redress for the poor and other victims of fraudulent practices. The Federal Trade Commission would then be able to emphasize its primary role of analyzing and defining fraudulent practices, thus simultaneously laying the basis for effective action in the courts against all kinds of fraud and providing guidelines for legitimate businessmen. Moreover, by continuing and expanding its program of aid to state and local anti-fraud agencies, by stressing the need for the establishment and improvement of such agencies—as it did in the report on the District of Columbia poverty program—the Commission will help provide relief against sharp practices at the local level, on "Main Street", where enforcement is most effective and most important. While the Commission cannot hope to police all fraudulent practices itself, it can, by supporting "little FTC acts" and similar legislation empowering the state attorneys general to obtain injunctive relief and damages, help drive the huckster from the marketplace and afford a remedy for his victims.

The Administration-supported Deceptive Sales Act (S. 3065), passed by the Senate on July 11, 1968, is inadequate. That bill would amend the Federal Trade Commission Act to authorize the Commission to seek temporary injunctions or restraining orders in cases involving fraudulent practices. The Senate debate on the bill was most illuminating. Both Senator Magnuson, the floor manager, and Senator Cotton, the ranking minority member of the Commerce Committee, took great pains to make clear that a temporary injunction could be obtained only in cases of "obvious, patent, and flagrant fraud". As I pointed out in my separate statement on S. 3065, a federal court has as much expertise in recognizing and dealing with "hard core frauds" as the Federal Trade Commission; and it would promote expedition as well as fairness for a court, in a case where a temporary injunction has been sought and granted, to proceed immediately to trial and decision of the case, rather than remanding it to the Commission for that purpose. This is clearly a more efficient and more desirable way of handling cases involving "obvious, patent, and flagrant fraud".

Indeed, as Commissioner Nicholson observed in his August 5, 1968, speech before the American Bar Association, the Federal Trade Commission "has failed, and failed miserably in my opinion, in protecting the consumer from what has lately been known as the 'hard core frauds'." I do not see how any of us can disagree With Commissioner Nicholson. I think it is a great mistake for the Commission to create the impression in Congress or the public that we are the best agency for dealing effectively with "hard core" frauds—the only kinds of cases covered by the Deceptive Sales Act. For that reason, I again recommend adoption of the amendment of the Deceptive Sales Act which I have proposed centralizing the prosecution and trial of "hard core frauds" in the Department of Justice and the courts.

II. Department of Consumer Affairs

Despite the utility of the above proposal in providing a rational system of remedies for consumer fraud, it only scratches the surface of the larger problem created by the existing fragmentation of federal consumer protection efforts. Some 33 separate departments and agencies are charged with protecting the consumer in various matters. Coordination of their efforts is impossible, and fragmentation is, in this instance, hardly

synergistic; it breeds disorganization, diffusion of effort, and disregard for priorities. It is time for the Commission to take the lead in urging legislation, such as H.R. 7114, 90th Cong., 1st Sess. (1967), establishing a Department of Consumer Affairs which would:

"protect and promote the interests of the people of the United States as consumers of goods and services; present the consumer viewpoint before Federal departments and agencies in the formulation of policies of the Federal Government; represent the interests of consumers of the United States in proceedings before courts and regulatory agencies; and assemble, evaluate and disseminate information helpful to consumers."

The case for such legislation has been made in hearings on a similar bill, H.R. 7179, 89th Cong., 2d Sess. (1966).

While further study is needed for developing a precise blueprint for reallocation of consumer protection functions and transfer of activities from existing agencies to the new Department, Congressional hearings provide an ideal mechanism for ascertaining and dealing with these problems. Establishment of a new statutory agency to study the need for a Department of Consumer Affairs would be duplicative, unnecessary, and productive of delay. The administrative housekeeping details of legislation authorizing a Department of Consumer Affairs should be worked out by Congress; they should not be permitted to obscure the pressing need for consolidation and strengthening of all the consumer-oriented activities of the federal government in a single department or agency.

III. Product Warranties

Repeated below is a proposal I made last year:

"Statutory Warranties.—Legislation should be enacted providing that when a manufacturer sells a product, for a purchase price in excess of \$100, in interstate commerce, he thereby automatically warrants that the product is neither defective nor unsafe, and, in the event he makes representations as to the product's performance, he warrants that the product will perform as represented. A consumer receiving a defective product would have the right to tender it back promptly to the manufacturer, receiving a full refund of the purchase price, or to demand that the manufacturer promptly repair or replace the product. Such tender would give rise to a rebuttable presumption of breach of warranty.

"If a satisfactory adjustment of the dispute were not reached within a reasonably short time, a judicial remedy, preferably in small claims court where costs are minimal, would be provided and would include a possible award of treble damages."

Also, in view of the pendency of the automobile warranty report and the findings there made by the Commission's staff and in view of the decision of the car manufacturers to cut back on their warranty coverage, the Commission should request legislation making it clear that attempts by manufacturers to disclaim liability for defects in materials or workmanship are nugatory and unfair. The courts have held that since an automobile purchase contract is an adhesion contract and is not the product of arm's-length bargaining, disclaimers of liability by the manufacturer will not be honored. See, e.g., *Henningsen v. Bloomfield Motors, Inc.*, 161 A.2d 69 (1960). Few consumers, however, are sophisticated or knowledgeable enough to know that their rights extend beyond the four corners of the purchase contract. It is at least arguable that any purported disclaimer of liability for defects in material or workmanship is unfair and should be deemed a violation of Section 5. The Commission ought to consider recommending legislation or issuing a trade regulation rule to make this liability explicit.

IV. Hazardous Household Products

Many home and household products if defectively designed or improperly manufactured create an unreasonable and often undiscoverable risk of personal injury to the user. For example, a defectively wired toaster or television set can cause severe electrical shock;

a poorly designed lawnmower or washing machine may maim an unsuspecting user; a sunlamp mounted on an inadequate base may topple, burning the victim or starting a fire. Even a cursory reading of the newspapers will multiply these examples ad infinitum.

Existing regulation is haphazard and inadequate. Numerous pitfalls beset the private litigant—for example, the requirement of privity, eroded but still a barrier in many states, the defenses of contributory negligence or assumption of the risk, often irrelevant to the question of a product's safety but obstacles to recovery nonetheless, other problems of proof,¹ and the expense and delay of a trial. More fundamentally, private civil remedies are invoked only after persons are injured or property destroyed. Applicable legal standards vary from forum to forum and are sometimes directly contradictory with one another; the problem of lack of uniformity and possibly discriminatory enforcement is compounded since (1) not all manufacturers making similarly dangerous products will be proceeded against by aggrieved consumers, and (2) juries are not composed of experts and may not be able to comprehend technical questions of product design. It is equally clear that voluntary action by industry has proven inadequate to protect the public from hazardous products. There is, in short, a need for preventive rather than compensatory remedies, for uniform national standards of safety, established by experts, which will provide guidelines for businessmen, freeing them from varying or conflicting safety regulations, and which will protect consumers from dangerous products. It is time that federal legislation in this area be made coherent, cohesive and comprehensive.

I would recommend enactment of a Federal Hazardous Household Products Act, modeled on the Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301–2, and the Hazardous Substances Labeling Act, 15 U.S.C. §§ 1261–73. Extending to all products used in and around the home the same kind of regulatory controls now contained in the various specific hazardous products laws, the statute would authorize the Secretary of Health, Education, and Welfare, or some other designated government agency,² after appropriate notice and hearing, to find a product to be "unsafe," i.e., unduly hazardous under intended or reasonably foreseeable conditions of use, if it failed to meet prescribed minimum standards of safety. In reaching its determination the agency would take into account both the likelihood of injury to users and the cost involved in eliminating the danger.

Even when a product is properly designed and assembly lines are adequately supervised, defects in manufacture, some of which may endanger safety—making the product "unsafe" within the meaning of the statute—are inevitable. A recent example is the recall by several manufacturers of color television sets because they emitted x-rays that might endanger viewers. Provision should be made for prompt notification of the agency when such defects are discovered and for expeditious agency action to publish the facts, to facilitate recall and, where necessary, to have the defective product condemned.

Finally, the statute would define a household product (not otherwise "unsafe") as misbranded" if its labeling is found to be inadequate in failing to give clear and conspicuous warning of latent dangers under intended or reasonably foreseeable conditions of use. (Products having obvious dangers, such as a scissors, would of course require no warning.) If a product is such that some hazards in its use are inherent or inevitable and cannot feasibly be reduced or eliminated, consumers would at least be clearly alerted to those dangers before buying or using the product. Moreover, they should be told not only how to avoid injury but what to do in case they are injured. It is not enough, for example, for the label of a hair spray to tell a woman that she should be careful not to get it into her eyes; the label should also tell her what to do if her aim is poor, as is often the case.

¹For example, in any case where evidence is introduced showing similar designs by other manufacturers, it is difficult for an injured consumer to prove the unreasonableness of the defendant manufacturer's design. Yet, as to some products designs of questionable safety may be used by an entire industry.

²Ideally, this function, like many of the other consumer protection activities of the federal government, should be centralized in a Department of Consumer Affairs. See item II, *supra*.

Introduction, transportation, or sale of "unsafe" or "misbranded" products in interstate commerce would be unlawful. Since swift and effective remedies are needed to prevent widespread dissemination of dangerous products before large numbers of people are injured, enforcement should not be vested in a tripartite administrative agency. An enforcement system requiring administrative proceedings followed by judicial review, with appeals possible both within the agency and in the courts, is suitable when, for example, the agency is charged with the responsibility for formulating and articulating antitrust policy; it is not a desirable mechanism, however, for effective enforcement of legislation designed to protect the public from hazardous products—a fact which Congress recognized when it provided for enforcement of both the Food, Drug and Cosmetic and the Hazardous Substances Labeling Acts in the courts. See, e.g., 15 U.S.C. §§ 1265, 1267; 21 U.S.C. §§ 332, 334. It is therefore recommended that provision be made for injunction and condemnation proceedings in the federal courts and for criminal penalties for willful violations. Suit could be brought either by the agency designated to establish safety standards or by the Consumer Counsel in the Department of Justice, acting at the agency's request. In either case the task of policing the statute and regulations would be left to a skilled investigative and prosecutorial staff set up to perform this enforcement function. Finally, enforcement efforts would be enhanced if the statute included a provision giving the agency's determination, that a product is "unsafe" or "misbranded" prima facie effect in an action brought by an injured consumer.

Such a statute would have several advantages. It would provide a means for raising safety standards in an entire industry, permitting the establishment of reasonable, uniform standards to be determined by competent experts. Enforcement would be evenhanded and a manufacturer would be able to obtain advance assurance, before full production is undertaken, that a new product fulfills federal safety requirements.³ Most important, product safety standards could be put into effect before, and not after, large numbers of people are needlessly injured.

V. Consumer Bill of Rights

I think the time has come for Congress to wrap up all the bits and pieces of existing and proposed consumer protection legislation into a single, comprehensive Consumer Bill of Rights. Each of the consumer laws now on the books reflected an ad hoc response to an immediate problem, whether it was unsafe patent medicines, flammable "torch sweaters," unsafe cars and tires, contaminated meat or fish, misbranded clothing, dangerous toys, exorbitant and undisclosed credit charges, deceptive packaging or labeling, etc.

Implicit in the whole panoply of Congressional and Executive actions in this area has been a recognition of certain basic rights of consumers, and of the obligation of government to declare and secure those rights. Without having said so explicitly in legislation, Congress has junked the old concept of caveat emptor. In its stead has come gradual and increasing acceptance of the fundamental rights of a consumer buying products in today's markets: the right to receive a product which is safe, which will perform as represented, and is free from defects in materials or manufacture; the right to be sufficiently informed of the material characteristics of a product, so that he will have a basis for making a choice among competing products offered for sale; and the right to be free from unfair, unconscionable, or dishonest sales practices.

A Consumer Bill of Rights would provide explicit statutory recognition of these rights, and affirm their application to all, not merely some, products. It would have the legal effect of making these rights derive from Act of Congress, and thus not depend on the action of sellers. In effect, all sellers of all products would be furnishing a statutory warranty to their customers that the product is safe, free from defects of manufacture or

³Perhaps advance clearance of new products to eliminate unnecessary dangers should be required.

materials, and will perform as represented. The protections to the consumer afforded by such a statutory warranty could not be reduced by an "express warranty," such as is now commonly used by manufacturers of automobiles and household appliances, containing conditions and restrictions which have the practical effect of cutting down the consumer's rights.

The law should also make a new allocation of the responsibilities of government, federal and state, in carrying out effective vindication of those rights. The role of the federal government, though of central importance, is limited; the principal policing burden of day-to-day enforcement of governmental consumer protections must be borne by state and local agencies. Defining the respective areas of responsibility, the law would include provision for federal assistance of and cooperation with state actions in this area. As recommended above, it should provide for centralization of the federal government's activities in a single Department of Consumer Affairs. As a first step in the direction of improving and augmenting state and local consumer protection programs, that Department should be authorized to make matching grants to the states to encourage the establishment of, and strengthen existing, state and local offices of consumer protection. The other legislative proposals I have suggested could also be incorporated in a single, comprehensive Consumer Bill of Rights.

APPENDIX (A)

FTC Cases in the Courts

Following is a summary of the principal Federal Trade Commission cases before the courts during fiscal 1968 together with a brief discussion of what is involved in each case or group of cases.

RESTRAINT OF TRADE CASES

There were two Supreme Court decisions this fiscal year in Robinson-Patman Act price discrimination cases, *Flotill Products, Inc.* (D. 7226) and *Fred Meyer, Inc.* (D. 7492). The *Flotill* decision resolved the important procedural question of whether the lawful issuance of a cease-and-desist order requires the concurrence of a majority of the full five-member Federal Trade Commission, or only of a majority of a quorum of Commissioners participating in a decision. In passing on this point, the Ninth Circuit, although affirming the Commission's section 2(d) finding, set aside the section 2(c) provision in the Commission's order, reasoning that "[t]wo of five is too few" and that only two members of the three-member Commissioner quorum which heard the case had joined in the 2(c) finding. In reversing the Ninth Circuit, the Supreme Court upheld the procedure utilized by the Commission, ruling that where an agency's enabling statute is silent on the question, and where there is no later abrogating statute, an agency is justified in adhering to the common-law rule that a majority of a quorum constituted of a simple majority of a collective body is empowered to act for the body.

The *Fred Meyer* decision involved an important interpretation of section 2(d). In reversing the Ninth Circuit, the Supreme Court held that a supplier who grants promotional allowances to direct-buying retailers has an obligation to make such payments available on proportionally equal terms to competing retailers who purchase the supplier's products through intermediary wholesale sources. The basis of the Court's ruling was that the term "cus-

tomers" in section 2(d) "includes retailers who buy through wholesalers and compete with a direct buyer in the resale of the supplier's products."

The Supreme Court denied the pending petition for certiorari filed in Purolator Products, Inc. (D. 7850). On the Solicitor General's authorization, the Commission had filed a brief on its own behalf in opposition to Purolator's attempt to have the Court review the question of the Seventh Circuit's affirmance of an order prohibiting various price discriminations in the marketing of automotive replacement filters. The Solicitor General, in turn, had ' filed an amicus curiae memorandum contending that the Commission erred in its disposition of part of the case, and suggesting that certiorari be granted to resolve these issues.

There were several decisions in courts of appeals in price discrimination cases in fiscal 1968. In National Dairy Products Corp. (D. 7018), the Seventh Circuit upheld the Commission's finding that the company, through its Sealtest Division, granted unlawful discriminatory discounts in various localities to large food store chains on purchases of packaged ice cream and dairy products. In so doing, the court sustained the Commission's holding that where reliance is placed upon alleged savings in delivering to individual stores in asserting a cost justification defense, the cost justification itself must also be on an individual store basis, rather than upon the generalized cost of serving a chain store customer as a whole. As for National's section 2 (b) defense, the court held that while there was evidence that the company had in some instances met competitors' lower prices in good faith, sufficient contrary instances were shown in the record to sustain the Commission's rejection of the defense. In Rabiner & Jontow, Inc. (D. 8629), the Second Circuit affirmed and enforced the Commission's section 2(d) order, rejecting the company's contention that the Commission abused its discretion in issuing the order in question while other industry members were allegedly engaged in similar practices. The Supreme Court denied certiorari.

There were some adverse decisions by courts of appeals in discriminatory pricing cases last year. In Borderz Co. (D. 7129), the Fifth Circuit, on remand from the Supreme Court "like, grade and quality" decision, again overturned the Commission's finding of section 2 (a) violation, this time on the grounds that the record lacked substantial evidence to support a finding of reasonable likelihood of competitive injury at either the primary or secondary level. The gist of the court's ruling was that where a price differential between a premium and a non-premium brand reflects no more than a consumer preference for the premium brand, such price difference creates no competitive advantage to the recipient of the cheaper private brand product on which to predicate a finding of competitive injury within the meaning of

the statute. In *Universal–Rundle Corp.* (D. 8070), also on remand from the Supreme Court, the Seventh Circuit held that the Commission's findings as regards interstate commerce and competitive injury were not supported by substantial evidence, and set aside the Commission's section 2(a) order. In *American Motors Corp.* (D. 7357), the Sixth Circuit, while agreeing that the company's discriminatory pricing practices would likely be injurious, nevertheless disagreed with the Commission's rejection of American's cost justification defense. It reversed the Commission's decision, vacated the order and directed dismissal of the complaint. Moreover, the court further held that the order's requirement of advance clearance of future purportedly cost-justified price differentials was unwarranted and beyond the Commission's enforcement power under the statute. The Supreme Court denied petition for certiorari filed on the Commission's behalf.

In a case partially won and partially lost, *Dean Milk Co.* (D. 8032), the Seventh Circuit overturned the Commission's findings of unlawful price discriminations on the primary-line level in the Evansville, Indiana-Henderson, Kentucky area and in the Falls Cities (Louisville) area, on the grounds of lack of substantial evidence. However, the court upheld the Commission's findings of unlawful discriminations on the secondary-line level in Terre Haute, Indiana and in Louisville, although it remanded the case to the Commission for issuance of a modified order limited to those specific market areas.

In a price discrimination case which turned on a Constitutional question, *Knoll Associates, Inc.* (D. 8549), the Seventh Circuit—set aside the Commission's order and remanded the case for reconsideration, instructing the Commission to disregard all documentary evidence purloined from the files of a Knoll sales representative by a former employee, together with all testimony given by that employee.

Several Robinson-Patman cases were pending in the courts of appeals at the close of fiscal 1968. Included among these was *National Biscuit Co.* (D.5013), in the Fifth Circuit, in which the propriety of the Commission's 1954 modification of its 1944 section 2 (a) order has been challenged. Other pending section 2 (a) cases included *National Dairy Products Corp. (Kraft Division)* (D. 8548), in the Seventh Circuit, and *Vivano Macaroni Co.* (D. 8666), in the Third Circuit, which also presents section 2(d) and (e) questions. Pending section 2(d) cases included *Surprise Brassiere Co.* (D. 8584), in the Fifth Circuit, and *Gladstone-Arcuni, Inc.* (D. 8664), in the Second Circuit. In addition, now that the Supreme Court has reached decision in *Fred Meyer, Clairol, Inc.* (D. 8647), a section 2(d) case, and *Tri-Valley Packing Ass'n* (Ds. 7225 and 7496), a section 2 (d) and (e) case, which

have been held in abeyance in the Ninth Circuit pending that decision, can now proceed toward disposition this year.

In the illegal merger field, the Third Circuit, in furtherance of the Supreme Court's landmark Procter & Gamble decision last year, upheld the Commission's finding in General Foods Corp. (D. 8600) that a conglomerate merger between the nation's largest producer and distributor of packaged food products and The S.O.S. Company, a dominant producer and marketer of household steel wool pads, violated Section 7. In other merger case activity, the Supreme Court in Martin-Marietta Corp. (D. 8280) declined to grant certiorari to review a decision of the Seventh Circuit that it lacked statutory power to review a Commission order denying in part the company's application for modification of an order of divestiture entered by consent. In Diamond Alkali Co. (D. 8572), the Sixth Circuit entered an order granting the parties' joint motion to withdraw petition for review and to dismiss the action.

In matters involving general trade restraints, the Third Circuit, in Luria Brothers & Co. (D. 6156), sustained the Commission's findings and order in their entirety in a case involving various restrictive arrangements in the American and European steel scrap market. The Commission held that section 5 of the Federal Trade Commission Act had been violated by (1) separate agreements whereby certain steel mills made Luria their exclusive or substantially exclusive broker; and by (2) Luria's participation in the sale of scrap to the purchasing agent for the Coal and Iron Community of Western Europe. The Commission also held that Luria's acquisition of the stock of a competing scrap broker violated Section 7. The case was pending before the Supreme Court on petition for certiorari at the close of the fiscal year. In Texaco, Inc.-B. F. Goodrich Co. (D. 6485), the District of Columbia Circuit set aside the Commission's order for the second time and remanded the case to the Commission with directions to dismiss the complaint. The Court's previous decision was set aside by the Supreme Court in fiscal 1965. In its present decision, the court of appeals held that while Texaco's dominant economic power over its dealers was established in the record, there was insufficient evidence regarding the use of that power to coerce dealers into purchasing "sponsored" Goodrich TBA products, and regarding the anticompetitive effects resulting from such use. The Supreme Court has again granted certiorari in the Commission's behalf.

General trade restraint cases pending in courts of appeals at the close of the fiscal year included such important ones as American Cyanamid Co. (D. 7211), again before the Sixth Circuit following that court's remand

to the Commission for a de novo determination without the participation of Chairman Dixon; Community Blood Bank of the Kansas City Area, Inc. (D. 8519), also before the Sixth Circuit, which involves a conspiracy to boycott the services of a community blood bank; Columbia Broadcasting System, Inc. (D. 8512), in the Seventh Circuit, in which the Commission has found an unlawful lessening of competition in the mail-order record club market by virtue of restrictive licensing agreements with competitors; and Lenox, Inc. (D. 8718), in the Second Circuit, involving the establishment of a system of resale price maintenance in the distribution of the company's fine china dinnerware, giftware and artware.

DECEPTIVE PRACTICE CASES

There were two important courts of appeals decisions in "drug" cases in fiscal 1968, both in the Sixth Circuit. In *J. B. Williams Co.* (D. 8547), the court upheld the Commission's finding that the company had falsely represented the efficacy of its tonic "Geritol." In so doing, the court expressly approved the requirements in the Commission's order that not only must future claims of effectiveness for "Geritol" be expressly limited to those persons whose symptoms (tiredness, irritability, etc.) are due to an existing deficiency of one or more vitamins contained in the preparation, or to an existing deficiency of iron, but also that "Geritol" advertisements must affirmatively disclose the negative facts that a great majority of persons who experience such symptoms do not experience them because of a vitamin or iron deficiency, and that in such cases "Geritol" will be of no benefit; and further, that "Geritol" advertisements refrain from representing that such symptoms are generally reliable indications of iron deficiency. In *Aferck & Co.* (D. 8635), the Sixth Circuit upheld the Commission's finding that the company falsely represented the therapeutic value of its "Sucrets" throat lozenges. The court also held that the Commission properly included Merck's advertising agency in the cease-and-desist order.

Pending in courts of appeals at the close of the fiscal year were a group of five "drug" cases involving deceptive claims for hemorrhoid preparations: *American Home Products Corp.* (D. 864-1), which has been argued in the Sixth Circuit; *Grove Laboratories* (D. 8643), in the Fifth Circuit; and *Humphreys Medicine Co.* (D. 8640), *Mentholatum Co.* (D. 8644) and *E. C. DeWitt Co.* (D. 8642), in the Second Circuit.

In other deceptive practice cases, the Fifth Circuit in *S. Dean Slough* (D. 8661), affirmed and enforced a Commission order prohibiting the further

dissemination of deceptive "debt collection" forms. In *The Elmo Company, Inc.* (D. 5959), the District of Columbia Circuit affirmed the Commission's reopening of its 1952 consent order, overruling the company's contention that the Commission was required to make a greater showing of "public interest" than that necessary for the issuance of a de novo complaint. The Supreme Court denied certiorari. In *David Rettinger* (D. 6534), the Second Circuit refused on jurisdictional grounds to review the Commission's denial of petitioner's motion to reopen the proceedings and to modify a 1956 consent order restricting the use of the name "Goodyear" on rainwear.

A number of deceptive practice matters were pending in courts of appeals at the close of the fiscal year. These included *Rodale Press, Inc.* (D. 8619), in the District of Columbia Circuit, deceptive advertising statements regarding the contents of and the therapeutic value obtainable from certain "health" publications; *Federated Nationwide wholesalers Service* (D. 8649), in the Second Circuit, deceptive claims as to "wholesale" prices in advertising items of general merchandise for sale to consumers; *Consumers Products of America, Inc.* (D. 8679) in the Third Circuit, false representations in connection with the sale of encyclopedias; *Sydney N. Floersheim* (D. 8721), in the Ninth Circuit, deceptive "debt collection" and "skip tracer" forms; *General Transmissions Corp.* (D. 8713), in the Third Circuit, various misrepresentations and malpractices in the sale and repair of automotive transmissions; and two cases involving unfair or deceptive acts and practices in attempting to sell "unordered merchandise," *Joseph L. Portwood* (D. 8681), in the Tenth Circuit, and *S. & S. Pharmaceutical Co.* (D. 8696), in the Fifth Circuit.

SUITS FOR ENFORCEMENT OF COMMISSION ORDERS OR SUBPOENAS

In *Jantzen, Inc.* (D. 7247), the Ninth Circuit granted the Commission's application to affirm and enforce its pre-1959 Clayton Act section 2(d) order. Last year, the Supreme Court reversed the Ninth Circuit's holding that Congress, in enacting the "finality" amendment to the Clayton Act in 1959, repealed the old procedures of section 11 for affirming and enforcing previously issued orders, and remanded the case to the court of appeals for action upon the Commission's application. In *Paul C. Guignon and John H. Pahlman*, officials of *Anheuser-Busch, Inc.* (File 611 0155), the Eighth Circuit upheld the ruling of the U.S. District Court for the Eastern District of Missouri that the Commission has no standing under section 9 of the Federal Trade Commission Act to seek court enforcement of its subpoenas without the aid or consent of the Attorney General.

COLLATERAL SUITS AGAINST THE COMMISSION FOR INJUNCTIVE AND OTHER RELIEF

In *Bristol-Myers Co.* (Trade Reg. Rule 215—14), the U.S. District Court for the District of Columbia granted the Commission's motion to dismiss a complaint seeking, inter alia, to prevent the Commission from proceeding

with its pending analgesic rule-making proceeding and to compel the Commission to produce documentary records from its files under the provisions of the Public Information Act. In the Tobacco Institute case (File 682 3042), the U.S. District Court for the District of Columbia entered an agreed-upon order granting in part and denying in part the cross-motions of the parties for summary judgment. This order required the Commission to make available to the plaintiffs, pursuant to the Public Information Act, the names and responses of all individuals who responded to the Commission's April 1967 survey questionnaire directed under the Cigarette Labeling and Advertising Act, excepting those as to which confidential treatment was expressly requested when the responses were initially submitted. In Cinderella Career & Finishing School, Inc. (D. 8729), the District of Columbia Circuit, overruling the decision of the U.S. District Court for the District of Columbia, held that the Commission is authorized under section 6(f) of the Federal Trade Commission Act to issue factual news releases concerning adjudicatory proceedings pending before it. Following remand, the District Court entered an order vacating its outstanding preliminary injunction against the Commission and dismissing the company's complaint for declaratory and injunctive relief. The District Court also vacated the preliminary injunction against the Commission in Marlo Furniture Co. (File 662 3186), a case involving the same issue as in Cinderella. In Wolmart Discount Corp. (D. 8725), the U.S. District Court for the District of Columbia granted the Commission's motion to dismiss for failure to exhaust administrative remedies in an action seeking to prevent the Commission from prosecuting its deceptive practice complaint against the company. In National Dairy Products Corp. (D. 6651), an action for declaratory judgment and injunction against the Commission was instituted in the U.S. District Court for the District of Columbia challenging the Commission's 1968 interpretation of a provision of a 1963 section 7 consent order. Following the entry of a preliminary injunction against it, the Commission rescinded its notification of the disputed interpretation without prejudice to a future reopening of the proceeding and modification of the order under, the applicable statute and rules.

There were several collateral matters pending at various stages in the courts at the close of the fiscal year. A complaint for declaratory judgment and injunction filed by Puritan Fashions Co. and Reliance Mfg. Co. (Files 621 0552 and 621 0517), remained pending throughout the year in the U.S. District Court for the District of Columbia on the Commission's motion to dismiss or in the alternative for summary judgment. This action seeks to nullify section 6(b) orders of the Commission directing the filing of special reports on the grounds that such reports were not "cleared" with the Bureau of the Budget under the Federal Reports Act. (The delay in court disposition of this case is occasioned by the efforts of the Department of Justice to resolve the conflicting views of the Bureau of the Budget and other government agencies regarding the scope of the Federal Reports Act and the exemptions from the Bureau's "clearance" procedures under the Act when agency

investigations concern law enforcement matters.) Pending in the U.S. District Court for the Eastern District of Virginia is a complaint for declaratory judgment and injunction brought by Lehigh Portland Cement Co. (D. 8680), alleging that the Commission's section 7 proceeding against it was prejudiced by press releases and by the Commission's industrywide investigation concerning vertical integration in the cement and ready-mixed concrete industries. The Commission has filed a motion to dismiss or, in the alternative, for summary judgment, and Lehigh has filed a cross-motion for summary judgment. The motions have been heard and the court's ruling are awaited. In *The Seeburg Corporation* (D. 8692), the judgment of the District Court dismissing Seeburg's complaint against the Commission for declaratory judgment and injunctive relief remained pending on appeal throughout the year in the Sixth Circuit. Seeburg is contending, in connection with the Commission's rejection of a proposed consent settlement prior to the initiation of formal proceedings in a merger case, that the Commission wrongfully refused to divulge the basis for its approval in another case of an allegedly similar acquisition of competitor. Seeburg is further complaining that it was unlawfully deprived of the right to confront agency counsel, to be furnished with copies of staff memoranda, and to make oral presentation before the Commission at the pre-complaint stage. Pending in the U.S. District Court for the District of Delaware is a complaint for declaratory judgment and injunction filed in *Continental Baking Co.* (D. 8309). This suit involves problems connected with the Commission's efforts to determine whether the company is complying with the order issued against it in the *Bakers of Washington* case. In ruling upon Continental's petition for relief *pendente lite*, the court held (erroneously, we believe), *inter alia*, that under section 5 of the Federal Trade Commission Act and the Commission's Rules, civil penalties for violating the order in question may not be assessed until the Commission determines whether the conduct outlined in Continental's compliance reports violates the order, and informs the company of this. The court also denied Continental's request that the Commission's section 6(b) order to file a special report be quashed, but stayed the penalties for the company's failure to file such report pending a resolution of its challenge to the legality of the section 6(b) order. Following the denial of its petition for reconsideration, the Commission filed an answer to the complaint.

APPENDIX (B)

Textile and Fur Court Cases

On February 12, 1968, Rule 36 under the Wool Products Labeling Act became effective. This regulation required wool products imported into the United States to be cleared by the Commission through the Bureau of Textiles and Furs before being released from the entry bond required by the Bureau of Customs. Those entries whose fiber content disclosure was questioned by the Commission would be required to be tested for fiber content, at the importer's expense, in a private testing laboratory approved by the Commission.

Before the effective date of Rule 36 the Textile and Apparel Group, American Importers Association and 34 other petitioners filed a Complaint for Declaratory Judgment and Injunctive Relief, naming the Federal Trade Commission and the Commissioners individually as defendants. Arguments for injunctive relief were held in the United States District Court for the District of Columbia and on February 16, 1968, the Court restrained the Commission from further enforcement of this regulation until the arguments for a declaratory judgment could be heard.

An interlocutory appeal was pending from the granting of injunction and this matter at the end of FY 1968 was pending in the U.S. Court of Appeals for the District of Columbia Circuit. At the end of FY 1968 a motion to discuss or, in the alternative, for summary judgment by the government, as well as a motion to dismiss by certain domestic interveners and a cross-motion for summary judgment by the plaintiff importers was pending in the U.S. District Court for the District of Columbia.

APPENDIX (C)

Bureau of Textiles and Furs Civil Penalty and Criminal Cases

During fiscal 1968 a judgment in the amount of \$15,000 was entered in a civil penalty case.
Penalty Cases Statistics

Pending July 1, 19675	5
Filed during year	1
Total for disposition	<u>6</u>
Disposed of during year	2
Pending June 30, 1968	<u>4</u>

Criminal Cases Statistics

Pending July 1, 1967	1
Filed during year	0
Total for disposition	1
Disposed of during year	0
Pending June 30, 1968	<u>1</u>

Civil Penalty Cases Concluded

Asheville Textiles Corp., (S.D.N.Y.). Misbranding of imported woolen fabrics. Judgment for \$15,000.

Stone & Stone, Inc., (S.D.N.Y.). Misbranding and false invoicing of fur products. Dismissed.

Civil Penalty Cases Pending

Woody Fashions, Inc., (S.D.N.Y.). Misbranding wool products, coats.

Elliot Knitwear, Inc., (S.D.N.Y.). Importation and sale of misbranded wool products, sweaters,

Marks Furs, Inc., (E.D. Mich.). Making pricing claims as to fur products without maintaining records showing the basis for such claims.
Irving Rifkin, (S.D.N.Y.). Misbranding imported woolen fabrics.

Criminal Cases Pending

Stone & Stone, Inc., (S.D.N.Y.). Misbranding and false invoicing of fur products.

General Investigations by the Commission Since 1975

Since its establishment in 1915, the Federal Trade Commission has conducted numerous general inquiries which are alphabetically listed and briefly described in the following pages.¹ They were made at the request of the President, the Congress, the Attorney General, Government agencies, or on motion of the Commission pursuant to the Federal Trade Commission Act.

Reports on these inquiries in many instances have been published as Senate or House documents or as Commission publications. Printed documents, unless indicated as being out of print,² may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. Processed publications are available without charge from the Federal Trade Commission while the supply lasts.

Agencies initiating or requesting investigations are indicated in parentheses in the headings. Investigations, the results of which have been published, are listed below. Following this listing are unpublished investigations conducted by the Commission.

Accounting Systems (F.T.C.).—Pointing the way to a general improvement in accounting practices, the Commission, published *Fundamentals of a Cost System for Manufacturers* (H. Doe. 1356, 64th, 31 p., o.p., 7/1/16) and *4 System of Accounts for Retail Merchants* (19 p., o.p., 7/15/16).

Accounting Systems.—See *Distribution Cost Accounting*.

Advertising and Output.—See *Cigarette Advertising and Output*.

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 pur-

¹The wartime cost-finding inquiries, 1917–8 (p. 122), include approximately 370 separate investigations.

²Documents out of print (designated "o.p.") are available in depository libraries.

³Inquiries desired by either House of Congress are now undertaken by the Commission as a result of concurrent resolutions of both Houses.

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

Agricultural Income (Congress).—Investigating a decline in agricultural income and increases or decreases in the income of corporations manufacturing and distributing wheat, cotton, tobacco, livestock, milk, and potato products (Public Res. 61, 74th, 8/27/35), and table and juice grapes, fresh fruits and vegetables (Public Res. 112, 74th, 6/20/36), the Commission made 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., o.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.

Automotive Tires.—See Tires, Manufacture and Distribution of

Bakeries and Bread.—See under Food.

Baking Industry.—See under Food.

Beet Sugar.—See under Food—Sugar.

Bread Prices—See Milk and Bread Prices.

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).

Canned Fruit, Juice and Vegetable Industry.—See Food Marketing, Part III.

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.

⁴ F.T.C. recommendations that section 7 of the Clayton Act be amended to declare unlawful the acquisition of corporate assets under the same conditions that acquisition of corporate stock has been unlawful since 1914, are discussed in Chain Stores—Final Report on the Chain Store Investigation (S. Doc. 4, 74th, 12/14/34), p. 96; Summary Report on Conditions With Respect to the Sale and Distribution of Milk and Dairy Products (H. Doc. 94, 75th, 1/4/37), p. 38; Report of the F.T.C. on Agricultural Income Inquiry, Part I (3/2/37), p. 26; Agricultural Implement and Machinery Industry (H. Doc. 702, 75th, 6/6/39), p. 1038; The Present Trend of Corporate Mergers and Acquisitions (3/7/47); The Merger Movement: A Summary Report (1948); and F.T.C. Annual Reports: 1938, pp. 19 and 29; 1939, p. 14; 1940, 1). 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.

⁵See footnote 4 above.

Cement (F.T.C.).—In its Economic Report on Mergers and Vertical Integration in the Cement Industry, the Commission reviews recent developments in the cement and ready mixed concrete industries in the United States with particular reference to the merger movement which has brought about a large degree of vertical integration between two industries. The report develops data on trends in the structure and performance of cement manufacturing and processing industries. It examines the possible competitive consequences of market extension and vertical mergers. (123 p., April 1966.)

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).

Cents-Off.—See Coffee Industry.

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.⁷ The Commission's recommendations pointed the way to subsequent enactment of the Robinson-Patman Act (1936) prohibiting price and other discriminations, and the Wheeler-Lea Act (1938) which amended the Federal Trade Commission Act so as to broaden the prohibition of unfair methods of competition in section 5 to include unfair or deceptive acts or practices in interstate commerce.

Cigarette Advertising and Output (F.T.C.).—This report was prepared in conjunction with the Commission's Rule Making proceedings regarding cigarette advertising. It reviewed the content of cigarette advertising together with related data on advertising expenditures and output. Particular emphasis was given to advertising patterns and practices from 1950 through 1964. Data from public sources were used. (Report on Cigarette Advertising and Output, 56 p., January 1964.)

Cigarette Labeling and Advertising (F.T.C.).—A report to the Congress of the United States concerning the effectiveness of cigarette labeling, current practices and methods of cigarette advertising and promotion, and recommendations for legislation which are deemed appropriate. (Report to Congress Pursuant to the Federal Cigarette Labeling and Advertising Act, 39 p. plus appendices, 6/30/68.)

Cigarette Shortage (F.T.C. and Senate Interstate Commerce Committee Chairman), Wartime, 1944–45.—In response to complaints from the public and a request from the Chairman of the Senate Interstate Commerce Committee (letter dated 12/1/44), the Commission investigated the cigarette shortage and reported, among other things, that the scarcity was directly traceable to the large volume of cigarettes moving to the armed forces and the Allies; that it was not attributable to violations of laws administered by the Commission; but that certain undesirable practices such as hoarding and tie-in sales had developed. (Report of the F.T.C. on the Cigarette Shortage, 33 pages, processed, o.p., 2/13/45.)

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

⁷See footnote 4.

Coal (Congress and F.T.C., Wartime, 1917–18, Etc.—From 1916 through the first World War period and afterward, the Commission at different times investigated anthracite and bituminous coal prices and the coal industry's financial condition. Resulting cost and price reports are believed to have substantially benefited the consumer. Among the published reports were: Anthracite Coal Prices, preliminary (S. Doc. 19, 65th, 4 p., o.p., 5/4/17) ; Preliminary Report by the F.T.C. on the Production and Distribution of Bituminous Coal (H. Doc. 152, 65th, 8 p., o.p., 5/19/17) ; Anthracite and Bituminous Coal Situation, summary (H. Doc. 193, 65th, 29 p., o.p., 6/19/17) ; and Anthracite and Bituminous Coal (S. Doc. 50, 65th, 420 p., o.p., 6/19/17)—pursuant to S. Res. 217, 64th 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, 222 p., o.p., S. Doc. 207, 65th)—pursuant to F.T.C. motion; and Report of the F.T.C. on Premium Prices of Anthracite (97 p., o.p., 7/6/25)—pursuant to F.T.C. motion.

Coal, Cost of Production (F.T.C.), Wartime, 1917–18.—President Wilson fixed coal prices by Executive order under the Lever Act (1917) on the basis of information furnished by the Commission. For use of the U.S. Fuel Administration in continuing price control, the Commission compiled monthly cost production reports, collecting cost records for 1917–18 for about 99 percent of the anthracite and 95 percent of the bituminous coal production (Cost Reports of the F.T.C.—Coal, 6/30/19, summarized for principal coal-producing States or regions: (1) Pennsylvania, bituminous, 103 p., o.p.; (2) Pennsylvania, anthracite, 145 p., o.p.; (3) Illinois, bituminous, 127 p., o.p.; (4) Alabama, Tennessee, and Kentucky, bituminous, 210 p., o.p.; (5) Ohio, Indiana, and Michigan, bituminous, 288 p., o.p.; (6) Maryland, West Virginia, and Virginia, bituminous, 286 p., o.p.; and (7) trans-Mississippi States, bituminous, 459 p., o.p.).

Coal, Current Monthly Reports (F.T.C.).—The Commission (December 1919) initiated a system of current monthly returns from the soft coal industry similar to those compiled during the World War, 1917–18 (Coal–Monthly Reports on Cost of Production, 4/20/20 to 10/30/20, Nos. I 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.)

Coffee Industry (F.T.C.).—The coffee industry is characterized by widespread advertising and promotional activity. In 1963, coffee ranked as the third most heavily advertised food product, exceeded only by cereals and soft drinks. Coffee advertising expenditures have risen sharply in recent years, increasing 26 percent from 1958 to 1963.

Trade publications indicate that cents-off promotions were first used widely in the coffee industry about 1958 or 1959 by large nationwide sellers as a means of achieving a larger share of those local markets which were dominated by local firms.

In order to gain information concerning "cents-off" promotion practices during 1964 and 1965, the Commission staff conducted a limited survey of a group of the large-and medium-size coffee companies. (Cents–Off Promotions in the Coffee Industry, 65 p., April 26, 1966.)

Combed Cotton Yarns.—See Textiles.

Commercial Bribery (F.T.C.).—Investigating the prevalence of bribery of customers' employees as a means of obtaining trade, the Commission published A Special Report on Commercial Bribery (H. Doc. 1107, 65th, 3 p., o.p., 5/15/18), recommending

legislation striking at this practice; Commercial Bribery (S. Doc. unnumbered, 65th, 36 p., o.p., 8/22/18); and Commercial Bribery (S. Doc. 258, 66th, 7 P., o.p., 3/18/20).

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

Concentration of Productive Facilities (F.T.C.).—In a study of the extent of concentration of economic power, the Commission reported that 46 percent of the total net capital assets of all manufacturing corporations in the United States in 1947 was concentrated in the 113 largest manufacturers. The report is entitled *The Concentration of Productive Facilities, 1947—Total Manufacturing and 26 Selected Industries* (96 p.). See also *Divergence between Plant and Company Concentration*.

Control of Iron Ore (F.T.C.).—A study of the concentration of iron ore supplies covers the sources and consumption of iron ore in 1948, an estimate of reserves available to major companies and an analysis of effect of possible shortage on big and small companies. *The Control of Iron Ore*, 157 p., o.p. (1952).

Cooperation in American Export Trade.—See *Foreign Trade*.

Cooperation in Foreign Countries (F.T.C.).—Inquiries made by the Commission regarding the cooperative movement in 15 European countries resulted in a report, *Cooperation in Foreign Countries* (S. Doc. 171, 68th, 202 p., o.p., 11/29/24), recommending further development of cooperation in the United States.

Cooperative Marketing (Senate).—This inquiry (S. Res. 34, 69th 3/17/25) covered the development of the cooperative movement in the U.S. and illegal interferences with the formation and operation of cooperatives; and a comparative study of costs, prices, and marketing methods (*Cooperative Marketing*, S. Doc. 95, 70th, 721 p., o.p., 4/30/28).

Copper.—See *Wartime Cost Finding, 1917-18*.

Copper Industry (F.T.C.).—The Commission's report on *The Copper Industry*, transmitted to Congress (3/11/47), was in two parts: Part I—*The Copper Industry of the United States and International Copper Cartels*, and Part II—*Concentration and Control by the Three Dominant Companies*, 420 p., 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 Summary Report* (134 p., o.p., also 7 p. processed summary). In this report the legal history of the antimerger provisions of the Clayton Act is reviewed. Significant individual mergers are examined

in detail. Maps, diagrams, charts and tabular statistical materials are used to illustrate the economic effects of the then in force antimerger legislation.

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

Cost Accounting.—See Accounting Systems.

Cost of Living (President), Wartime, 1917–18.—Delegates from the various States met in Washington, April 30 and May 1, 1917, at the request of the Federal Trade Commission, and considered the rapid rise of wartime prices and the plans then being made for the Commission's general investigation of foodstuffs. [See Foods (President), Wartime, 1917–18, herein.] Proceedings of the conference were published (High Cost of Living, 119 p., o.p.).

Cotton Industry.—See Textiles.

Cottonseed Industry (House).—Investigating alleged price fixing (H. Res. 439, 69th, 3/2/27), the Commission reported evidence of cooperation among State associations but no indication that cottonseed crushers or refineries had fixed prices in violation of the antitrust laws (Cottonseed Industry, H. Doc. 193, 70th, 37 p., o.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., 228/30, 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 (1949–50). The results of the study were transmitted to the Subcommittee on Monopoly of the Senate Select Committee on Small Business and published as a committee print. (20p) o.p., 3/31/52.

Distribution Methods and Costs (F.T.C.).—This inquiry into methods and costs of distributing important consumer commodities (F.T.C. Res., 6/27/40) was undertaken by the Commission pursuant to authority conferred upon it by section 6 of the F.T.C. Act. Eight parts of the F.T.C. Report on Distribution Methods and Costs were transmitted to Congress and published under the subtitles: Part I, Important Food Products (11/11/43, 223 p., o.p.) ; Part III, Building Materials—Lumber, Paints and Varnishes, and Portland Cement (2/19/44, 50 p., o.p.) ; Part IV, Petroleum Products, Automobiles, Rubber Tires and Tubes, Electrical Household Appliances, and Agricultural Implements (3/2/44, 189 p., o.p.) ; Part V, Advertising as a Factor in Distribution (10/30/44, 50 p., o.p.) ; Part VI, Milk Distribution, Prices, Spreads and Profits (6/18/45, 58 p.) Part VII, Cost of Production and Distribution of Fish in the Great Lakes Area (6/.30/45, 59 p.) ; Part VIII, Cost of Production and Distribution of Fish in New England

(6/30/45, 118 P.) ; and Part IX, Cost of Production and Distribution of Fish on the Pacific Coast (7/25/46, 82 p.). The inquiries relating to fish were conducted in cooperation with the Coordinator of Fisheries, Interior Department. During World War II special reports on the distribution of some 20 commodity groups were made for confidential use of the Office of Price Administration and other war agencies.

Divergence Between Plant and Company Concentration (F.T.C.).—In this 1950 report, the Commission measured the divergence between plant and company concentration for each of 340 manufacturing industries. The Divergence between Plant and Company Concentration, 1947 (162 p., o.p.). See also Concentration of Productive Facilities.

Du Pont Investments (F.T.C.).—The Report of the F.T.C. on Du Pont Investments (F.T.C. motion 7/29/27; report, 46 p., o.p. processed, 2/1/29) discussed reported acquisition by E. I. du Pont de Nemours & Co. of U.S. Steel Corp. stock, together with previously reported holdings in General Motors Corp.

Electric and Gas Utilities, and Electric Power.—See Power.

Farm Implements (Senate), Wartime, 1917–18.—The Report of the F.T.C. on the Causes of High Prices of Farm Implements (inquiry under S. Res. 223, 65th, 5/13/18; report, 713 p., o.p., 5/4/20) disclosed numerous trade combinations for advancing prices and declared the consent decree for dissolution of International Harvester Co. to be inadequate. The Commission recommended revision of the decree and the Department of Justice proceeded to that end.

Farm Implements (F.T.C.).—A 1948 report on the Manufacture and Distribution of Farm Implements (160 p., also 8 p. processed summary) concerns the production and distribution policies of large manufacturers of farm machinery. The report includes information respecting important developments and trends in the industry.

Feeds, Commercial (Senate).—Seeking to determine whether purported combinations in restraint of trade existed (S. Res. 140, 66th, 7/31/19), the Commission found that although some association activities were in restraint of trade, there were no substantial antitrust violations (Report of the F.T.C. on Commercial Feeds, 206 p., o.p., 3/29/21).

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.

⁸ The Commission was created Sept. 26, 1914, upon passage of the Federal Trade Commission Act, sec. 3 of which provided that "all pending investigations and proceedings of the Bureau of Corporations (of the Department of Commerce) shall be continued by the Commission."

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)—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—Baking Industry (F.T.C.).—This is an in depth study of the Baking industry following the Commission's Economic Report on Bread and Milk Prices prepared at the request of the Secretary of Agriculture (see Food-Milk and Bread Prices, below). The former report analyzed price behavior in the Baking industry in six major metropolitan areas and examined the relationship between price changes and various elements of cost and profit. Among the subjects covered in the study were the following: (1) national price, cost and profit trends, (2) the structure and nature of price competition in the bread Baking industry, and (3) changes in prices and costs in six cities. (Economic Report on the Baking Industry, 120 P., November 1967.)

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., o.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 (President) Continued—Canned Foods,⁹ 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, 103 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—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 flourmill 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—Frozen Concentrated Orange Juice Processing (F.T.C.).—This report evaluates the post-freeze industry pricing in light of the structure setting and performance history of the industry as well as against an analysis of the demand and supply conditions

⁹In connection with its wartime cost finding inquiries, 1917-18, p. 124 herein, the Commission published Report of the F.T.C. on Canned Goods 1918-Corn, Peas, String Beans, Tomatoes, and Salmon (86 p., 11/21/21).

faced by the industry. It is divided into four parts: (1) The origin, development and organization of the Florida citrus industry; (2) the competitive structure of the frozen concentrated orange juice processing industry; (3) the price and profit behavior of the processing industry; and (4) the pattern of retail margins. This report was originally prepared at request of the Special Assistant to President on Consumer Affairs. (Economic Report on the Frozen Concentrated Orange Juice Industry, 78 p., August 1964.)

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 (President) Continued—Grain Trade.—Covering the industry from country elevator to central market, the Report of the F.T.C. on the Grain Trade was published in seven parts: I. Country Grain Marketing (9/15/20, 350 p., o.p.) ; II. Terminal Grain Markets and Exchanges (9/15/20, 333 p., o.p.) ; III. Terminal Grain Marketing (12/21/21, 332 p., o.p.) ; IV. Middlemen's Profits and Margins (9/26/23, 215 p., o.p.) ; V. Future Trading Operations in Grain (9/15/20 347 p., o.p.) ; VI. Prices of Grain and Grain Futures (9/10/24, 374 p., o.p.) ; and VII. Effects of Future Trading (6/25/26, 419 p., o.p.). The investigation as reported in vol. V, and testimony by members of the Commission's staff (U.S. Congress House Committee on Agriculture, Future Trading, hearings, 67th, April 25–May 2, 1921) was an important factor in enactment of the Grain Futures Act (1921). (Further reference to the grain trade is made under Grain Elevators, Grain Exporters, and Grain Wheat Prices, 1). 149.)

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—Manufacturing (F.T.C.).—Examines trends in key structural and behavioral variables affecting the competitive performance of major food manufacturing industries. Included for analysis are: patterns of concentration, integration, diversification and product differentiation, as well as profit behavior, conditions of entry, merger trends and antitrust enforcement. This report was originally prepared for and published by the National Commission on Food Marketing as Technical Study No. 8, June 1966. (Economic Report on the Structure of Food Manufacturing, Technical Study No. 8, 292 p., June 1966.)

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—Marketing (F.T.C.).—The second phase of the F.T.C. study of the food industry was begun on August 25, 1960. Through surveys and other data the Bureau of Economics undertook to identify and analyze major structural and behavioral aspects of the group of firms producing and marketing frozen fruit, juices and vegetables. Included in the study are chapters reviewing: production and consumption patterns; concentration, diversification and integration; marketing patterns; production, promotion and profits; and patterns of merger activity. (Economic Inquiry into Food Marketing, Part II, The Frozen Fruit, Juice and Vegetable Industry, 145 p., December 1962.)

Food—Marketing (F.T.C.).—This is the third in a series of staff reports concerning various segments of the food industry undertaken pursuant to a Federal Trade Commission resolution adopted October 9, 1958. Part III represents an extensive inquiry into the industrial organization of the canned fruit, juices, and vegetable industry. Various aspects of market structure including patterns of concentration, integration and diversification are examined in detail. Data on marketing patterns, costs, product promotion and profits are also presented. The impact of merger activity on industry structure and performance is considered along with a discussion of competitive trends. (Economic Inquiry into Food Marketing, Part III, The Canned Fruit, Juice and Vegetable Industry, 207 p., June 1965.)

Food (President) Continued—Meat Packing.—Food Investigation-Report of the F.T.C. on the Meat-Packing Industry was published in six parts: 1. Extent and Growth of Power of the Five Packers in Meat and Other Industries (6/24/19, 574, p., o.p.) ; If Evidence of Combination Among Packers (11/25/18, 294, p., o.p.), III. Methods of the Five Packers in Controlling the Meat-packing Industry (6/28/19, 325 p., o.p.) ; IV. The Five Large Packers in Produce and Grocery Foods (6/30/19, 390 p., o.p.) ; V. Profits of the Packers (6/28/19, 110 p., o.p.) ; VI. Cost of Growing Beef Animals, Cost of Fattening Cattle, and Cost of Marketing Livestock (6/30/19, 183 p., o.p.) ; and summary (H. Doc. 1297, 65th, 51 p., o.p., 7/3/18).

The reports first led to antitrust proceedings against the Big Five Packers, resulting in a consent decree (Supreme Court of the District of Columbia, 2/27/20¹⁰ which had substantially the effect of Federal legislation in restricting their future operations to certain lines of activity. As a further result of the investigation, Congress enacted the Packers and Stockyards Act (1921), adopting the Commission's recommendation that the packers be divorced from control of the stockyards. (The meat-packing industry is further referred to under Meat Packing Profit Limitation, below.)

Food—Meat Packing Profit Limitation (Senate), Wartime, 1917–18.—Following an inquiry (S. Res. 177, 66th, 9/3/19) involving wartime control of this business as established by the U.S. Food Administration in 1917-18, the Commission recommended greater control and lower maximum profits (Maximum Profit Limitation on Meat Packing Industry, S. Doc. 110, 66th, 179 p., o.p. 9/25/19).

Food—Milk.—See Distribution Methods and Costs.

Food—Milk and Bread Prices (Secretary of Agriculture).—This is a preliminary report prepared in response to a request by the Secretary of Agriculture to review the pricing policies and actions for bread and milk including the price changes that occurred during the period July-September 1966. This is the first or preliminary step of a two-phase investigation of bread and milk prices and is based on a limited amount of information, but does provide insights into how widespread the price increases were for bread and fluid milk in various parts of the country. (Economic Report on Bread and Milk Prices, 86 p. plus appendices, October 1966; also published as a Committee, print by Committee on Government Operations, 82d Cong., 2d Sess., 56 p., 11/4/66.)

¹⁰The 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.

Food—Milk and Dairy Products (House).—Competitive conditions in different milk-producing areas were investigated (H. Con. Res. 32, 73d, 6/15/34). Results of the inquiry were published in seven volumes: Report of the F.T.C. on the Sale and Distribution of Milk Products, Connecticut and Philadelphia Milksheds (H. Doc. 152, 74th, 901 p., o.p., 4/5/35); Report of the F.T.C. on the Sale and Distribution of Milk and Milk Products (Connecticut and Philadelphia milksheds, interim report, H. Doc. 387, 74th, 125 p., o.p., 12/31/35); Chicago Sales Area (H. Doc. 451, 74th, 103 p., o.p., 4/15/36); Boston, Baltimore, Cincinnati, St. Louis (H. Doc. 501, 74th, 243 p., o.p., 6/4/36); Twin City Sales Area (H. Doc. 506, 74th, 71 p., o.p., 6/13/36); and New York Milk Sales Area (H. Doc. 95, 75th, 138 p., o.p., 9/30/36). The Commission reported that many of the industry's problems could be dealt with only by the States and recommended certain legislation and procedure, both State and Federal (Summary Report on Conditions)With Respect to the Sale and Distribution of Milk and Dairy Products. H. Doc. 94, 75th, 39 p., o.p., 1/4/37). Legislation has been enacted in a number of States carrying into effect all or a portion of the Commission's recommendations.

Food—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 Prices.—See Milk and Bread Prices.

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, 72(f, 78 1), 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., 5/24/27).

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."

¹¹See footnote 8.

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—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, 25 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. I which prohibited these practices was only partially observed, in 1945 as compared with 1942, the quantity of bread saved was sufficient to supply the population of England, Scotland, and Wales with a daily ration of one-third of a loaf for 30 days, the population of France for 36 days, or the population of Finland for nearly 1 year. The Commission suggested that "a careful examination of present laws be made by the legislative and executive branches of the Government to determine what legislation, if any, is needed to permanently eliminate wasteful trade practices and predatory competition which threaten the existence of many small bakers, foredoom new ventures to failure and promote regional monopolistic control of the wholesale bread baking industry."

Part II presents information concerning prices and pricing practices in the industry, profits earned, and unit costs of production and distribution. It compares the details of production and distribution costs for bread and rolls, other bakery products, and for all bakery products for two operating periods in 1945, March and September. Comparisons of costs are also made for these two periods for plants arranged by geographical areas. Comparisons of the costs of production and distribution are made by size groups of wholesale bakeries.

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.

Foreign Trade—Webb-Pomerene Associations (F.T.C.)—A factual presentation of the nature and scope of Webb-Pomerene Association activity in international trade, including information on the number and activities of associations, the type of association activity, the extent of exports receiving Webb-Pomerene assistance, and the types of firms and products receiving such assistance. (Economic Report, Webb-Pomerene Associations: A 50-Year Review, 113 p., June 1967.)

Frozen Fruit, Juice and Vegetable Industry.—See Food Marketing, Part II.

Gasoline (F.T.C.) .—This is a statement of the guidelines and enforcement policy designed to prevent anticompetitive practices in the marketing of gasoline. (The Federal Trade Commission's Report on Anticompetitive Practices in the Marketing of Gasoline, 67 p. plus separate opinions, 6/30/67.)

Gasoline.—See Petroleum.

Grain.—See Food.

Grain Exchange Actions (F.T.C. and Chairman of Senate Committee on Agriculture and Forestry).—The Commission's report on Economic Effects of Grain Exchange Actions Affecting Futures Trading During the First Six Months of 1946 (85 p., o.p., 2/4/47) presents results of a special study made at the request of the then Chairman of the Senate Committee on Agriculture and Forestry. The report reviews the factors which made it impossible, during the first half of 1946, for futures trading to be conducted in the usual manner on the Chicago, Kansas City and Minneapolis grain exchanges under existing conditions of Government price control and severe restrictions on the movement of short supplies of free grain in the cash market. The report also discusses the economic effects of emergency actions taken by the exchanges on the interests trading in futures, and suggests, among other things, that both the Commodity Exchange Act and the U.S. Warehouse Act "should be so amplified and coordinated, or even combined, as to make effective the type and scope of regulation over futures trading contemplated by the Congress in enacting the Commodity Exchange Act."

Guarantee Against Price Decline (F.T.C.).—Answers to a circular letter (12/26/19) calling for information and opinions on this subject were published in Digest of Replies in Response to an Inquiry of the F.T.C. Relative to the Practice of Giving Guarantee Against Price Decline (68 p., o.p., 5/27/20).

Housefurnishings (Senate).—This inquiry (S. Res. 127, 67th, 1/4/22) resulted in three volumes showing concerted efforts to effect uniformity of prices in some lines (Report of the F.T.C. on Housefurnishing Industries, 3 vols., 1018 p., o.p., 1/7/23, 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.

Industry Classification and Concentration (F.T.C.).—Comparable concentration ratios for 21 manufacturing industries classified by producer and consumer goods and degree of product differentiation, 1947, 1954, 1958, and 1963. (Statistical Report, Industry Classification and Concentration, 18 p. plus technical notes, March 1967.)

Installment Credit and Retail Sales Practices (F.T.C.).—A study to determine whether, in fact, the poor consumers in the community paid more for appliances and home furnishings than consumers of greater affluence, and to determine the role of installment credit in the marketing of such goods. (Economic Report on Installment Credit and Retail Sales Practices of District of Columbia Retailers, 52 p., March 1968.)

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, 96 p., 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 (106 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., 1952.

International Phosphate Cartels (F.T.C.).—The F.T.C. Report on International Phosphate Cartels (F.T.C. Res. 9/19/44) developed facts with respect to the practices, arrangements and agreements between domestic phosphate companies and foreign competitors through international cartels, through which minimum export prices were fixed. These prices varied from market to market, depending upon competition, ocean freight rates, and other factors. The agreements established fixed quotas in each grade, and sales were allocated among members of the Phosphate Export Association according to their quotas and the grade involved. The report (processed, 60 p.) was transmitted to Congress 5/1/46.

International Steel Cartels (F.T.C.).—A report to Congress concerning numerous cartel agreements relating to steel which were adopted between World War I and World War II. Certain American companies participated in these agreements, which were both national and international in scope. The international agreements allotted quotas to the different national groups, fixed prices in the export trade, and established reserved and unreserved areas. (International Steel Cartels (1948), 115 p., o.p.)

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. 887, 65th, 5 p., o.p., 1/23/18), and Report on Leather and Shoe Industries (180 p., o.p., 8/21/19). A further study (H. Res. 217, 66th, 8/19/19) resulted in the Report of the F.T.C. on Shoe and Leather Costs and Prices (212 p., o.p., 6/10/21).

Lumber—Costs.—See Wartime Cost Finding, 1917–18.

Lumber Trade Associations (Attorney General).—The Commission's extensive survey of lumber manufacturers' associations (referred to F.T.C., 9/4/19) resulted in Department of Justice proceedings against certain associations for alleged antitrust law violations. Documents published were: Report of the F.T.C. on Lumber Manufacturers'

Trade Associations, incorporating regional reports of 1/10/21, 2/18/21, 6/9/21, and 15/22 (150 p., o.p.) ; Report of the F.T.C. on)Western Red Cedar Association, Lifetime Post Association, and Western Red Cedarmen's Information Bureau (22 p., o.p., 1/24/23), also known as Activities of Trade Associations and Manufacturers of Posts and Poles in the Rocky Mountain and Mississippi Valley Territory (S. Doc. 293, 67th, o.p.) ; and Report of the F.T.C. on Northern Hemlock and Hardwood Manufacturers Association (52 p., o.p., 5/7/23).

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

Meat-Packing Profit Limitations.—See Food.

Merger Summary (F.T.C.).—The Commission maintains an annual series on firm disappearances via merger for manufacturing and mining, which covers merger trends back to 1940. Merger activity in 1967 experienced the sharpest increase in modern industrial history, with manufacturing and mining mergers registering a 50 percent gain from 995 to 1,496—over the year. New highs were established not only in total merger activity, but in the number of "large" mergers of mining and manufacturing concerns with assets of \$10 million or more.

Mergers (F.T.C.).—See Corporate Mergers.

Mergers and Vertical Integration.—See Cement.

Mergers in Manufacturing and Mining (F.T.C.).—A special statistical report on large mergers, 1948-1967, provides comprehensive data on numbers of mergers, identities of merging firms, industry classifications, and types of mergers for the 20-year period. (Statistical Report, Large Mergers in Manufacturing and Mining, 1948-1967, 43 p., May 1968.)

Milk.—See Food.

Milk and Bread Prices.—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).—Investigation (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).

Orange Juice—See Food under Frozen Concentrated Orange Juice Processing.

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

Paper—Book (Senate), Wartime, 1917–18.—This inquiry (S. Res. 269, 64th, 9/7/16) resulted in proceedings by the Commission against certain manufacturers to prevent price enhancement and the Commission recommended legislation to repress trade restraints (Book Paper Industry—A Preliminary Report (S. Doc. 45, 65th, 11 p., o.p., 6/13/17), and Book Paper Industry—Final Report (S. Doc. 79, 65th, 125 p., o.p., 8/21/17)).

Paper—Newsprint (Senate), Wartime, 1917–18.—High prices of newsprint (S. Res. 177, 64th, 4/24/16) were shown to have been partly a result of certain newsprint association activities in restraint of trade. Department of Justice proceedings resulted in abolishment of the association and indictment of certain manufacturers. The Commission for several years conducted monthly reporting of production and sales statistics, and helped provide some substantial relief for smaller publishers in various parts of the country. [Newsprint Paper Industry, preliminary (S. Doc. 3, 65th, 12 p., o.p., 3/3/17; Report of the F.T.C. on the Newsprint Paper Industry (S. Doc. 49, 65th) 162 p., o.p., 6/13/17); and Newsprint Paper Investigation (in response to S. Res. 95, 65th, 6/27/17; S. Doc. 61, 65th, 8 p., o.p., 7/10/17)].

Paper—Newsprint (Senate).—The question investigated (S. Res. 337, 70th, 2/27/29) was whether a monopoly existed among newsprint manufacturers and distributors in supplying paper to publishers of small dailies and weeklies (Newsprint Paper Industry, S. Doc. 214, 71st, 116 p., o.p., 6/30/30).

Petroleum.—See International Petroleum Cartel.

Petroleum Products.—See Distribution Methods and Costs.

Petroleum and Petroleum Products, Prices (President and Congress).—At different times the Commission has studied prices of petroleum and petroleum products and issued reports thereon as follows: Investigation of the Price of Gasoline, preliminary (S. Doc. 403, 64th, 15 p., o.p., 4/10/16) and Report on the Price of Gasoline in 1915 (H. Doc. 74, 65th, 224 p., o.p., 4/11/17—both pursuant to S. Res. 109, 63d, 6/18/13 and S. Res. 457, 63d, 9/28/14, which reports discussed high prices and the Standard Oil Companies' division of marketing territory among themselves, the Commission suggesting several plans for restoring effective competition; Advance in the Prices of Petroleum Products (H. Doc. 801, 66th, 57 p., o.p., 6/1/20).—pursuant to H. Res. 501, 66th, 4/5/20, in which report the Commission made constructive proposals to conserve the oil supply; Letter of Submittal and Summary of Report on Gasoline Prices in 1924 (Cong. Rec., 2/28/25, p. 4941)—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).

¹²See footnote 8.

Petroleum Pipe Lines (Senate).—Begun by the Bureau of Corporations,¹³ this inquiry (S. Res. 109, 63d, 6/18/13) showed the dominating importance of the pipe lines of the great midcontinent oil fields and reported practices of the pipeline companies which were unfair to small producers (Report on Pipeline 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,

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).

accountants, and other experts, based on examination of 29 holding companies having \$6,108,128,713 total assets; 70 subholding companies with \$5,685,463,201 total assets; and 278 operating companies with \$7,245,106,464 total assets. The testimony, exhibits, and final reports (Utility Corporations, S. Doc. 92, 70th, o.p.) comprised 95 volumes.¹⁴

Price Bases (F.T.C.).—More than 3,500 manufacturers representing practically every industrial segment furnished data for this study (F.T.C. motion, 7/27/27) of methods used for computing delivered prices on industrial products and of the actual and potential influence of such methods on competitive markets and price levels. In the cement industry the basingnpoint method¹⁵ was found to have a tendency to establish unhealthy uniformity of delivered prices and crossnhauling or crossnfreighting to be an economic evil (Report of the F.T.C. on Price Bases Inquiry, BasingnPoint Formula, and Cement Prices, 218 p., o.p., 3/26/32). Illustrating the use in a heavy commodity industry of both a modified zone nprice system and a uniform delivered nprice system, the Commission examined price schedules of the more important manufacturers of range boilers, 1932–36, disclosing that the industry operated under a zone nprice formula, both before and after adoption of its N.R.A. code (Study of ZonenPrice 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.).

Prices.—See Milk and Bread Prices under Food.

Profit Rates (F.T.C.).—A special report was published in 1963 showing profits per dollar sales and rates of profit on equity for 63 industry and size groups of manufacturing corporations in each calendar quarter 1947n62. (Report on Profit Rates of Manufacturing Corporations 1947–1962, 70 p., 1963.)

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

¹⁴ Final reports were published in 1935; a general index in 1937. Some of the volumes are out of print. For report titles, see F.T.C. Annual Report, 1941, p. 221; and for lists of companies investigated, see F.T.C. Annual Reports, 1935 p. 21, and 1936 p. 36.

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

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 for Identical Companies in Selected Manufacturing Industries (F.T.C.).—This report is a continuation of a series of reports, begun in 1948, comparing rates of return for identical companies in 25 selected manufacturing industries. The 1961 report compares 1940 with 1947 through 1961. Previous yearly reports compared rates of return in 1940 with rates of return in each of the years 1947-1960 on an accumulative basis.

Beginning with the 1962 report the comparison with 1940 as a base year was eliminated and the comparison limited to a 10-year period. For example, the 1964 report includes rates of return data for each of 23 selected industries for the period, 1955—64. This series is now reported as Part A of the report.

The Commission expanded coverage of the report in 1955 in order to provide data for more specific industries and, in 1957, published for the first time as Part B of the report comparative rates of return for the 12 largest companies in 39 selected industries for the years 1954 and 1955. Where possible, comparisons are presented for the 4 largest, the second 4, and the third 4 largest companies in each of the 39 industries. Part B of the report continues this series by comparing rates of return in the current year with that of the previous year. (Processed publications are available without charge from F.T.C. while the supply lasts. Copies prior to 1963 are o.p.)

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 1, H. Doc. 546, 70th, 141 p., o.p., 1/30/29, and Part 11, 215 p., o.p., 6/22/31). The Report of the F.T.C. on Resale Price Maintenance, 872 p., 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.—See Tires.

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." The facts developed focused the attention of Congress on the necessity of requiring listed corporations to report their salaries.

Southern Livestock Prices.—See Food.

¹⁶The Salary lists do not appear in the report but are available for inspection.

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., 6522 and 9/7/22).

Steel Costs and Profits.—See Wartime Cost Findings, 1917n18.

Steel Sheet Piling—Collusive Bidding (President).—Steel sheet piling prices on certain Government contracts in New York, North Carolina, and Florida were investigated (inquiry referred to F.T.C. 11/20/35). The F.T.C. Report to the President on Steel Sheet Piling (42 p., processed, 6/10/36 o.p.) demonstrated the existence of collusive bidding because of a continued adherence to the basing-point system¹⁸ and provisions of the steel industry's code.

Stock Dividends (Senate).—The Senate requested (S. Res. 304, 69th, 12/22/26) the names and capitalizations of corporations which had issued stock dividends, and the amounts thereof, since the Supreme Court decision (3/8/20) holding that such dividends were not taxable. The same information for an equal period prior to the decision was also requested. The Commission submitted a list of 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), 105 p., 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

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. The basing-point system is also discussed in published reports listed under "Cement" and "Price Bases" herein.

¹⁸ See footnote 15.

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, 6th, 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.

Tires (F.T.C.).—This report analyzes structural and behavioral aspects of the automotive tire industry, with emphasis on recent mergers and acquisitions. Since 1961, a series of acquisitions of retail and wholesale tire distributors by leading tire manufacturers has taken place. In addition, three medium-sized tire producers have themselves been acquired in recent years by their larger competitors. The report examines these mergers and their possible effects on future competition in the industry. It also reviews trends in overall concentration and patterns of distribution, pricing and profit behavior, and conditions of entry. (Economic Report on the Manufacture and Distribution of Automotive Tires, 117 p., March 1966.)

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), 1917–18.—President Wilson directed the Commission (7/25/17) to find the costs of production of numerous raw materials and manufactured products. The inquiry resulted in approximately 370 wartime cost investigations. At later dates reports on a few of them were published,¹⁹ including: Cost Reports of the F.T.C.—Copper (26 p., o.p., 6/30/19) ; Report of the F.T.C. on Wartime Costs and Profits of Southern Pine Lumber Companies (94 p., o.p., 5/1/22) ; and Report of the F.T.C. on Wartime Profits and Costs of the Steel Industry (138 p., o.p., 2/18/25). The unpublished reports²⁰ cover a wide variety of subjects. On the basis of the costs as found, prices were fixed, or controlled in various degrees, by Government agencies such as the War and Navy Departments, War Industries Board, Price Fixing Committee, Fuel and Administration, Food Administration, and Department of Agriculture. The Commission also conducted cost inquiries for the Interior Department, Tariff Commission, Post Office Department, Railroad Administration, and other Government departments or agencies. It is estimated that the inquiries helped to save the country many billions of dollars by checking unjustifiable price advances.

Wartime Costs and Profits (F.T.C.).—Cost and profit information for 4,107 identical companies for the period 1941–45 is contained in a Commission report on Wartime Costs and Profits for Manufacturing Corporations, 1941 to 1945 (30 p. processed, with 106 p. appendix). Compilation of the information contained in the report was begun by the Office of Price Administration prior to the transfer of the financial reporting function of that agency to the Federal Trade Commission in December 1946.

Webb-Pomerene.—See Foreign Trade.

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 United States covering their operations for May 1942 and their compliance with W.P.B. Supplementary Orders m1nd, M1nc, and M1n1.

Antifreeze Solutions, Manufacturers of (W.P.B.), Wartime, 1943–4.—War Production Board Order L–258 of 1/20/43 prohibited production of salt and petroleum-

¹⁹See footnote 9.

²⁰Approximately 260 of the wartime cost inquiries are listed in the F.T.C. Annual Reports, 1918, pp. 29–30, and 1919, pp. 38–42, and in World War Activities of the F.T.C., 1917–18.

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. Mn18a, 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 Mn126 and Mn9nc, 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 Mn9na and b, and Mn9nc.

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 manufacturer 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 Mn9n, Mn9nb, Mn9nc, Mn9ncn2, Mn43, Mn38, Mn11, Mn11nb, MnM, Ln81, Ln131, and Ln131na, 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 Ln33 and Mn9nc.

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 inquiries 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 popularly 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 breadbaking 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 profit of 60 representative breadbaking 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 flourmilling industry, its purpose being to provide the Director with facts to determine what economies could be effected in the industry so as to eliminate the need for a wheat subsidy, without reducing farmers' returns, or to reduce bread prices. The report was made to O.E.S. and a more detailed report was prepared for O.P.A.

Food—Retailing (National Commission on Food Marketing).—The report is based on information contained in the Commission's files, in public sources, and in special tabulations prepared by the Bureau of the Census.

Chapters II, III, IV, and V deal primarily with various aspects of industry structure: concentration, vertical integration and conglomeration. These chapters also provide information on various factors affecting the condition of new entry in retailing. Chapters VI, VII, VIII, and IX deal with various aspects of market conduct; competitive tactics of conglomerate firms, merger activity, discriminatory pricing, and the use of trading stamps in food retailing. Chapter X deals with industrial performance as measured by economic efficiency, marketing costs and margins, and profits. Chapter XI discusses the future structure of food retailing, particularly as influenced by factors affecting the survival of existing firms and the ease with which new retailers may enter food retailing. (Report on Food Retailing: Market Structure and Competitive Behavior, 516 p., 1966; for the National Commission on Food Marketing.)

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 L232 with respect to quotas affecting the use of lugs (wooden shipping containers).

Furnaces, Hot Air, Household (W.P.B.), Wartime, 1943–44.—The Commission made a Nationwide 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 Ln79 and Pn4, and other applicable regulations and orders of W.P.B.

Fuse Manufacturers (W.P.13.), 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 Ln58 and Ln161, 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 pricefixing 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 Mn199 and checked the receipt and use of both domestic and treasury silver, as well as the manufacture of insignia, as controlled by Orders Ln131 and Mn9nc.

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 Mn50, which had been issued to conserve the supply and direct the distribution of jewel bearings and jewel bearing material.

MetalnWorking 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 metalnworking 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 powerndriven shears, presses, hammers, bending machines, and other machines for cutting, trimming, bending, forging, pressing, and forming metal; and all powerndriven 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. Mn6na, issued 9/30/41, and Conservation Order Mn6nb, 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, Manufacturers of; Electric Lamps, Manufacturers of; Fruit Growers and Shippers; Furnaces, Hot Air, Household; Fuse Manufacturers; Glycerin, Users of; Insignia Manufacturers; Jewel Bearings, Consumers of; Metalworking Machines, Invoicing and Distribution of; Nickel, Processors of; Paint, Varnish, and Lacquer, Manufacturers of; Quinine, Manufacturers and Wholesalers of; Silverware, Manufacturers of; Silverware Manufacturers and Silver Suppliers; Steel Industry; Textile Mills, Cotton; and Tin, Consumers of. The report on each of these investigations was made directly to W.P.B.

Quinine, Manufacturers and Wholesalers of (W.P.B.), Wartime, 1942–43.—At the instance of the War Production Board, investigation was made to determine whether requirements of its Conservation Order No. Mn131na, 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. Mn9na, Supplemental Order No. Mn9nb, and Conservation Order mn9nc, 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 mn9na, b, and c, mn100 and Ln140 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 m43na, as amended, and other orders and regulations issued by the Director of the Division of Industry Operation, controlling the inventories, distribution, and use of the tin supply in the United States.

War Materials Contracts (House), Wartime, 1941–42.—At the request of the House Committee on Naval Affairs, the Commission assigned economic and legal examiners to assist in the Committee's inquiry into progress of the national defense program (H. Res. 162, 77th, 4/2/41). The Commission's examiners were active in field investigations covering aircraft manufacturers' cost records and operation, naval air station construction, materials purchased for use on Government contracts, and industry expansion financing programs.

Wartime Inquiries, 1941–45.—To aid in the 1941–45 war program, F.T.C. was called upon by other Government departments, particularly the war agencies, to use its investigative, legal, accounting statistical and other services in conducting investigations. It made cost, price, and profit studies; compiled industrial corporation financial data; investigated compliance by basic industries with W.P.B. priority orders; and studied methods and costs of distributing important commodities. The 1941–45 wartime investigations are herein listed under the headings: Advertising as a Factor in Distribution; Cigarette Shortage; Distribution Methods and Costs; Fertilizer and Related Products; Food–Biscuits and Crackers; Food–Bread Baking; Food–Fish; Food–Flour Milling; Household Furniture; Industrial Financial Reports; Metal–Working Machines; Paperboard; Priorities; Steel Costs and Profits; and War Material Contracts.