

ANNUAL REPORT
OF THE
FEDERAL
TRADE COMMISSION
FOR THE
FISCAL YEAR ENDED JUNE 30
1949

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1949

FEDERAL TRADE COMMISSION ¹

LOWELL B. MASON, *Acting Chairman*
GARLAND S. FERGUSON
EWIN L. DAVIS
WILLIAM A. AYRES
ROBERT E. FREER
D. C. DANIEL, *Secretary*

FEDERAL TRADE COMMISSIONERS--1915-49

Name	State from which appointed	Period of service
Joseph E. Davies	Wisconsin	Mar. 16, 1915-Mar. 18, 1918.
Edward N. Hurley	Illinois	Mar. 16, 1915-Jan. 31 1917
William J. Harris	Georgia	Mar. 16, 1915-May 31, 1918.
Will H. Parry	Washington	Mar. 16, 1915-Apr. 21, 1917.
George Rublee	New Hampshire	Mar. 16, 1915-May 14, 1916.
William B. Colver	Minnesota	Mar. 16, 1917-Sept. 25, 1920.
John Franklin Fort	New Jersey	Mar. 16, 1917-Nov. 30, 1919.
Victor Murdock	Kansas	Sept. 4, 1917-Jan. 31, 1924.
Huston Thompson	Colorado	Jan. 17, 1919-Sept. 25, 1926.
Nelson B. Gaskill	New Jersey	Feb. 1, 1929-Feb. 24, 1925.
John Garland Pollard	Virginia	Mar. 6, 1929-Sept. 25, 1921.
John F. Nugent	Idaho	Jan. 15, 1921-Sept. 25, 1927.
Vernon W. Van Fleet	Indiana	June 26, 1922-July 31, 1926.
Charles W. Hunt	Iowa	June 16, 1924-Sept. 25, 1932.
William E. Humphrey	Washington	Feb. 25, 1925-Oct. 7, 1933.
Abram F. Myers	Iowa	Aug. 2, 1926-Jan. 15, 1929.
Edgar A. McCulloch	Arkansas	Feb. 11, 1927-Jan. 23, 1933.
Garland S. Ferguson	North Carolina	Nov. 14, 1927.
Charles H. March	Minnesota	Feb. 1, 1929-Aug. 28, 1945.
Ewin L. Davis	Tennessee	May 26, 1933.
Raymond B. Stevens	New Hampshire	June 26, 1933-Sept. 25, 1933.
James M. Landis	Massachusetts	Oct. 10, 1933-June 30, 1934.
George C. Mathews	Wisconsin	Oct. 27, 1933-June 30, 1934.
William A. Ayres	Kansas	Aug. 23, 1934.
Robert E. Freer	Ohio	Aug. 27, 1935-Dec. 31, 1948.
Lowell B. Mason	Illinois	Oct. 15, 1945.

EXECUTIVE OFFICES OF THE COMMISSION

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

BRANCH OFFICES

Room 501, 45 Broadway, New
York 6.

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

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

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

447 Federal Office Building,
Seattle 4.

¹ As constituted during fiscal year 1949. For subsequent changes in membership, see footnote 2, p. 5

LETTER OF SUBMITTAL

To the Congress of the United States:

I have the honor to Submit herewith the Thirty-fifth Annual Report of the Federal Trade Commission, for the fiscal year ended June 30, 1949. The Federal Trade Commission is having printed a limited number of copies of the report.

By direction of the Commission:

LOWELL B. MASON,
Acting Chairman.

CONTENTS

INTRODUCTION

	Page
Purpose and historical background	1
Duties of the Commission	3
The Commissioners and their functions	4
Staff organization	5
Summary of legal activities	9
General investigations	11
Publications of the Commission	12

PART I. GENERAL INVESTIGATIONS

Concentration of productive facilities	15
Fertilizer industry	18
Industrial financial reports	21

PART II. GENERAL LEGAL WORK

Description of procedure	24
Procedure upon applications for complaint	24
Procedure upon formal complaints	25
Provisions of Wheeler-Lea amendment	27
Legal investigations	28
Survey of radio and periodical advertising	32
Disposition of cases by stipulation	36
Formal complaints	36
Orders to cease and desist	39
Cases in Federal courts	43
Tabular summary of legal and court work	47

PART III. SETTLEMENT OF CASES BY STIPULATION

Corrective action through informal conferences	48
--	----

PART IV. TRADE PRACTICE CONFERENCES

Establishment and administration of trade practice rules for industries	50
Group I and Group II rules explained	51
Conference and rule making activities during year	51
Pending conference proceedings	54

	Page
Administration of rules	56
Types of practices covered in promulgated rules	59
Informative labeling	60
PART V. WOOL PRODUCTS LABELING ACT	
Informative labeling for protection of industry and the public	62
PART VI. MEDICAL AND SCIENTIFIC OPINIONS	
Data used in cases relating to food, drugs, devices, and cosmetics	65
PART VII. FOREIGN TRADE WORK	
Export Trade Act	66
Operation in 1948	67
Exports in 1948	68
Associations operating under the act	68
Inquiries and recommendations	70
Trust laws and trade regulations abroad	70
PART VIII. FISCAL AFFAIRS	
Appropriation acts providing funds for Commission work	76
Appropriations and expenditures for fiscal year	76
Expenditures by functions	77
Appropriations and expenditures, 1915-49	78
APPENDIXES	
Federal Trade Commission Act	79
Titles of other acts administered by the Commission	89
Types of unfair methods and practices	90
Rules of practice	96
Statement of policy	114
Investigations, 1915-49	118
Index	142

ANNUAL REPORT
OF THE
FEDERAL TRADE COMMISSION
FOR THE
FISCAL YEAR ENDED JUNE 30, 1949

INTRODUCTION

PURPOSE AND HISTORICAL BACKGROUND

The Federal Trade Commission herewith submits its report for the fiscal year July 1, 1948, to June 30, 1949.

One of the oldest administrative agencies of the Federal Government, the Federal Trade Commission was organized March 16, 1915, its organic act having been approved September 26, 1914. It consists of five members, who are appointed for 7-year terms by the President with the advice and consent of the Senate. Not more than three of its members may belong to the same political party.

The Commission devotes itself to activities designed to foster the successful operation, in the public interest, of the American economic System of free competitive enterprise. Under the provisions of the Federal Trade Commission Act it takes steps to prevent the use in interstate commerce of "unfair methods of competition" and "unfair or deceptive acts or practices." In addition, it administers four other statutes passed by the Congress to implement the antitrust laws and to provide specific protection to the consuming public.

Congress created the Commission in response to the need demonstrated in the early 1900's for an effective supplemental means of carrying out the public policy expressed in the Sherman Antitrust Act of 1890. In administering the Federal Trade Commission Act, with its general prohibition against "unfair methods of competition," and the Clayton Antitrust Act, with its specific prohibitions, the Commission was authorized and directed to stop monopolistic and other unfair practices in their incipency. It was established as an administrative body to deal with trade practices on a continuing and cor-

rective basis. Its actions against persons or corporations engaging in unfair practices were to be preventive in nature, not punitive.

The general prohibition in the Federal Trade Commission Act against “unfair methods of competition” has been applied by the Commission and the courts to a host of practices inimical to the public interest, ranging from false advertising to collusive price-fixing. The legislative standard laid down in the act was purposely broad to allow flexibility in dealing with a fluid and expanding economy. Its exact meaning and application must be arrived at by what has been described as “the gradual process of judicial inclusion and exclusion.” In this process, the Commission has acted in the public interest to outlaw practices which the Supreme Court of the United States has defined as “opposed to good morals because characterized by deception, bad faith, fraud, or oppression, or as against public policy because of their dangerous tendency unduly to hinder competition or create monopoly.”

Amendment of the act came 23 years after its passage when on March 21, 1938, the Wheeler-Lea Act was approved, making unlawful not only “unfair methods of competition” but also “unfair or deceptive acts or practices in commerce.” The principal effect of the amendment was to afford a greater measure of protection to the consuming public. It made it unnecessary for the Commission to prove injury to an actual or potential competitor in order to prohibit an unfair practice. Injury to the public was now sufficient to warrant Commission action.

Under other provisions of the Wheeler-Lea Act, the Commission’s jurisdiction over false advertising of food, drugs, cosmetics, and curative devices was strengthened and broadened. The amendment also made more effective the orders issued by the Commission.

The Commission is also empowered, under its basic statute, to make general economic investigations, to submit the resulting reports to the Congress, to the President, and to the public, and to make recommendations for remedial legislation where needed. Voluntary changes in the conduct of business in many industries have followed the publication of Commission reports spotlighting uneconomic or otherwise harmful trade practices.

Other statutes administered by the Commission, in addition to the Federal Trade Commission Act and the Clayton Act, are the Webb-Pomerene Export Trade Act, the Wool Products Labeling Act, and certain sections of the Lanham Trade-Mark Act.

DUTIES OF THE COMMISSION

In the administration of the five Statutes committed to its jurisdiction, the principal responsibilities of the Commission are:

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

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

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

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

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

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

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

The work of the Commission under these statutes falls generally into two categories: (1) Legal activities designed to bring about observance of the laws and (2) general investigations of economic conditions in interstate and foreign commerce, with publication of the resulting findings for the purpose of informing the Congress, the President, and the public of the facts concerning such matters.

The Commission's legal activities may be further subdivided according to the type of proceeding used to effectuate law observance. First is the formal trial method, in which the proceedings are similar to those used in court cases. A formal complaint is served on the person or corporation alleged to be violating one or more of the laws administered by the Commission. If, after hearings, the Commis-

sion finds the charges Supported by the greater weight of the evidence, it issues an order to cease and desist from the unlawful practices.

At the same time, the Commission continues to encourage voluntary compliance with the laws under its jurisdiction. Its legal activities in so doing represent a second subdivision which may be termed voluntary or cooperative, in contrast to the complaint and trial classification. For many years the Commission has utilized individual stipulation-agreements and industry conferences and has otherwise cooperated with businessmen to inform and guide them with respect to the scope and meaning of the laws it administers. A cooperative procedure similar to trade practice conferences was first used by the Commission as early as 1919, and a Trade Practice Conference Division was established in 1926.

Under the stipulation procedure, certain types of cases are settled by agreement without the necessity of formal adversary proceedings. Trade practice conferences provide a means Whereby members of an industry may cooperate with the Commission in the establishment of rules for the prevention of unfair practices on an industry-wide basis.

In recent years, these cooperative phases of the Commission's work have been expanded as part of a program to encourage more general observance of the law. Cases are not disposed of by voluntary agreement, however--either through trade practice conference proceedings or through stipulation-agreements--where there are involved violations of the Clayton Act, combination or collective action in restraint of trade, or practices which are fraudulent or inherently dangerous to health. (The Commission's policy in such matters is set forth at p.114.)

Under both the formal complaint and trial method and the cooperative procedures, emphasis has been increasingly placed on industry-wide elimination of unlawful practices.

THE COMMISSIONERS AND THEIR FUNCTIONS

The five members of the Federal Trade Commission are appointed by the President with the advice and consent of the Senate. Not more than three of them may be members of the same political party.

The term of a Commissioner is 7 years dating from the 26th of September ¹ last preceding his appointment, except when he succeeds a Commissioner who relinquishes office prior to the expiration of his term. In such a case, the law provides that the new member shall be appointed only for the unexpired term of the Commissioner he succeeds. Upon the expiration of his term of office, a Commissioner con

¹ September 26 marks the anniversary of the approval of the Federal Trade Commission Act in 1914.

tinues to serve until the appointment and qualification of his successor. The chairman of the Commission is chosen by the Commissioners from among their membership.

Members of the Commission as of June 30, 1949, 2 were Lowell B. Mason, Republican, of Illinois, Acting Chairman; Garland S. Ferguson, Democrat, of North Carolina; Ewin L. Davis, Democrat, of Tennessee; and William A. Ayres, Democrat, of Kansas.

In addition to the general duties of administering the statutes committed to the agency for enforcement, each Commissioner has supervisory charge of the work of one or more of the bureaus of the Commission. This Supervision is rotated among the Commissioners on an annual basis.

Each case coming before the Commission for consideration is assigned to a Commissioner for examination and report before it is acted upon by the Commission. The Commissioners meet each working day for the transaction of business, including the hearing of oral argument in formal cases. They usually preside individually at industry trade practice conferences.

The Commissioners are directly responsible for the policies and general management of the Commission. They pass on management matters of major significance to the Commission, such as the appointment of bureau and division chiefs, approval of reorganizations of the staff, and other basic administrative matters.

The Commission has a staff of some 600 employees, including attorneys, economists, accountants, statisticians, and administrative personnel stationed in Washington and in branch offices in New York, Chicago, San Francisco, Seattle, and New Orleans.

STAFF ORGANIZATION

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

Office of the Secretary and Executive Director.--The Office of the Secretary and Executive Director is the central office of the Commission through which most of the work flows to and from the Commission. The duties of the office are of a dual nature.

In his capacity as Secretary to the Commission, the Secretary and Executive Director receives and handles mail on all phases of the Commission'S work, either distributing it to the appropriate officials

² There were three changes in the membership after the close of the fiscal year. Commissioner Robert E. Freer, Republican, of Ohio, resigned December 31, 1948. He was succeeded on September 28, 1949, by John Carson, Independent, of Michigan. Commissioner Ferguson resigned November 15, 1949, and was succeeded on November 16, 1949, by James M. Mead, Democrat, of New York. Commissioner Davis died October 23, 1949. His successor had not been named when this report went to press.

for attention or preparing and dispatching replies for or at the direction of the Commission. He Signs all orders and certain other official documents and papers of the Commission. He keeps the minutes of the Commission and the calendar of pending matters for the Commissioners. He arranges for oral arguments before the Commission and issues the directives of the Commission. He is the legal custodian of the seal, papers, records, and property of the Commission.

In his capacity as Executive Director, the Secretary and Executive Director assists the Commission, through the Chairman, in the general management of the Commission. He examines and surveys the operations of the Commission and makes recommendations for organizational and procedural improvements. He also directly manages the Bureau of Administration, composed of the staff units engaged in administrative functions. These units are the Division of Budget and Planning, Division of Personnel, Division of Research, Com-piling and Publications, Division of Legal Records, Division of Economic and Administrative Records, Division of Services and Supplies, and the Library.

Office of the General Counsel.--The General Counsel is the principal legal officer of the Commission, advising the Commission on questions of law, policy, and procedure arising in connection with litigation before the agency or in the Federal courts, or in connection with legislative and other matters. Grouped under the General Counsel are the Division of Appellate Proceedings, the Division of Compliance, and the Division of Trade-Marks and Insurance. These divisions, in the order named, (1) represent the Commission in appellate proceedings in the Federal courts, (2) process matters involving enforcement of orders to cease and desist, and (3) prepare applications for cancellation of registered trade-marks that are in violation of the Lanham Trade-Mark Act of 1943, and advise the Commission on jurisdictional and other problems involved in applying the provisions of the Federal Trade Commission Act and the Clayton Antitrust Act to the interstate insurance business.

Bureau of Litigation.--The function of preparing, trying, briefing, and arguing complaints in litigated cases is a prosecuting function which is performed by a staff of attorneys who work under the supervision of the Chief Trial Counsel and five Assistant Chief Trial Counsel. Neither they nor any of the attorneys performing this function in a particular case or in a factually related one participate or advise in the decision of such a case except under the same conditions that are applicable to attorneys representing the respondent, which conditions are set forth in the Commission's published rules of practice. (See pp. 105, 107.)

The Division of Antimonopoly Trials tries Clayton Antitrust Act and other restraint-of-trade cases. The Division of Deceptive Practices Trials tries other formal cases, including those *involving* false and misleading advertising, improper labeling of wool products, and other unfair and deceptive practices. The Division of Export Trade administers the provisions of the Export Trade Act. It conducts investigational hearings under this statute and submits to the Commission the resulting reports, together with recommendations, concerning the operations of export associations.

Bureau of Legal Investigation.--Investigations of practices violative of the laws administered by the Commission are conducted by its Bureau of Legal Investigation. The Bureau's active operating units are the Division of Radio and Periodical Advertising and the Division of Field Investigation. Their activities are coordinated under the general supervision of the Director. The Director also is responsible for the initiation, through the Commission, of industry-wide investigations whenever simultaneous action against all members of an industry appears warranted in the public interest.

Bureau of Stipulations.--All matters considered appropriate for settlement by the Commission's stipulation procedure are referred to the Bureau of Stipulations for the negotiation of agreements to cease and desist from unlawful practices. The bureau takes no part in the investigation or prosecution of any matter. It consists of a Director, an Assistant Director, and a staff of attorney-conferees.

Bureau of Trial Examiners.--This bureau includes a staff of attorneys designated Trial Examiners who conduct proceedings in the trial of formal complaints issued by the Commission. In such cases the Trial Examiner takes testimony and receives evidence submitted in support of and in opposition to the allegations of the complaint. He rules upon the admissibility of testimony and exhibits, as well as upon motions submitted by the parties, and conducts the proceeding in accordance with the Administrative Procedure Act and the Commission's Rules of Practice. At the conclusion of the reception of evidence and after the parties have been duly heard and their contentions considered, the Trial Examiner makes and serves on the parties a recommended decision. This document includes a statement of his findings and conclusions upon all the material issues of fact, law, or discretion presented on the record, together with the reasons supporting them, and an appropriate recommended order. The Commission's Rules of Practice provide that "all findings, conclusions and orders recommended by the Trial Examiner shall be based upon the whole record and supported by reliable, probative and

substantial evidence," and that the recommended findings shall be supported by the greater weight of the evidence.

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

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

The Division of Economics conducts general economic surveys and investigations for the purpose of ascertaining the competitive practices, the nature and significance of monopolistic arrangements, and the degree of concentration in a given industry, and for the purpose of reporting on general economic conditions within the field of the Commission's jurisdiction. It assembles and analyzes economic information needed in the development of an antimonopoly program. In addition it provides economic assistance at all stages in the preparation and conduct of legal cases, including the evaluation, from an economic viewpoint, of pricing policies and distribution practices in relation to the legal issues of collusive price-fixing and monopoly controls. Economic information in connection with trade practice conference proceedings is likewise furnished by this division.

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

Act. It also prepares the financial and cost data in general economic investigations.

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

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

Planning Council.--In October 1947, the Commission created the Planning Council, with its membership comprising the heads of its principal operating bureaus and divisions. The Associate Director of the Bureau of Legal Investigation was designated Chairman; the Director of the Bureau of Trade Practice Conferences and Wool Act Administration, Vice Chairman; and the Chief of the Division of Budget and Planning, Secretary.

The primary purpose of the Planning Council is to formulate and recommend to the Commission prior to the beginning of each fiscal year a program of work to be undertaken during that year. The Chairman and the Secretary of the Council also assist the Chairman of the Commission in presenting the Commission's program to the Bureau of the Budget and the appropriation committees of the Congress. When the appropriation is made, it is the duty of the Council to reappraise the work program and to make such supplemental report and recommendation to the Commission as may be warranted in the light of the actual appropriation. After a work program has been put into effect, it is the duty of the Planning Council to check on its operation and to advise the Commission with regard to progress being made.

SUMMARY OF LEGAL ACTIVITIES DURING FISCAL YEAR

The Commission issued 96 formal complaints alleging violations of the laws it administers. entered 47 orders directing respondents to cease and desist from such violations; and accepted 139 voluntary stipulations to discontinue unlawful practices.

Cases in the Supreme Court of the United States and in courts of appeals in which the Commission was a party totaled 18. Rulings favorable to the Commission were obtained in two cases in the Supreme Court and in six cases in courts of appeals. There was one court of appeals decision adverse to the Commission, and, by agreement of the parties, another case was remanded to the Commission for rescission of the cease-and-desist order. As the fiscal year closed, there were eight cases pending in courts of appeals, one in the Supreme Court.

Judgments for the Government were obtained in three suits for civil penalties for violation of Commission orders to cease and desist, while two such cases were pending in the courts at the end of the fiscal year. In two cases in which the Government sought mandatory injunctions and recovery of forfeitures in connection with the failure of two corporations to the special reports demanded by the Commission, the complaints were dismissed in a district court, and these decisions were affirmed on appeal.³

Trade-practice rules were promulgated for these industries: Handkerchief, yeast, oil heating (New England), trade pamphlet binding (New York), and rayon, nylon, and silk converting. Existing rules for the cotton-converting industry and the baby-chick industry were revised and extended. Conferences were held for 12 industries, while public hearings on proposed rules involved 11 industries.

Administration of the Wool Products Labeling Act included field inspections of more than 26,000,000 articles subject to the provisions of the act. These activities concerned the labeling practices of 9,781 manufacturers, distributors, and other dealers in wool products.

The Commission conducted several investigations into the operations of export associations organized under the Export Trade Act. Investigation of the Pipe-Fittings and Valve Export Association was completed, and recommendations for the adjustment of its business were issued. There were 45 export associations registered with the Commission at the close of the fiscal year.

Two petitions for cancellation of trade-marks were filed with the Commissioner of Patents by the Commission in the discharge of its duties under the Trade-Mark Act of 1946, which became effective July 5, 1947. Recognizing the need for curtailing a trade-mark monopoly under certain conditions, the 1946 statute designated the Federal Trade Commission as the agency to petition for relief in the public interest.

Under the Trade-Mark Act, the Commission is authorized to petition the Commissioner of Patents for the cancellation, upon specified grounds, of the registration of trade-marks registered in the Patent

³ The Supreme Court subsequently agreed to review these decisions oil writs of certiorari.

Office. Grounds upon which such action may be taken include circumstances constituting fraudulent procurement, illegal use of the mark after registration, and circumstances where the mark has become the common descriptive name for an article or process on which the patent has expired.

Attention was devoted during the year to another new field of activity--the application of the Federal Trade Commission Act and the Clayton Act to the interstate insurance business. Effective on the first day of the fiscal year, these statutes became applicable to the interstate insurance business to the extent that it is not regulated by State law. The Commission continued its study of State legislation to determine the impact of the limitation respecting State regulation.

Meanwhile, the Commission received a number of complaints and inquiries regarding possible violations of both the Federal Trade Commission Act and the Clayton Act in connection with insurance, and initiated several investigations which had not been completed at the close of the year. The charges range from misrepresentation to combination in restraint of trade. Practices in the mail-order insurance field were the subject of trade-practice conference proceedings. An industry conference was held, and the proposed rules were under consideration as the year closed.

GENERAL INVESTIGATIONS

The Commission completed two general investigations during the fiscal year and transmitted the resulting reports to Congress. They are entitled "The Concentration of Productive Facilities" and "The Fertilizer Industry."⁴

In addition, the Commission, in conjunction with the Securities and Exchange Commission, issued a series of industrial financial reports, based on the financial operating statements of approximately 8,500 manufacturing corporations. Reports were issued for each quarter of 1948, and the reports for the first two quarters of 1949 were in preparation as the fiscal year closed.

During its existence the Commission has conducted nearly 150 general investigations and 370 cost studies.⁵ A majority of these general investigations were authorized by congressional resolutions, some were conducted pursuant to Presidential orders, a number were made at the request of other branches of the Government, and others on the

⁴ The *Fertilizer Industry* report was in the hands of the printer when this report went to press.

⁵ An alphabetical list and brief description of the investigations conducted by the Commission appear in the appendix, beginning at p. 118.

initiative of the Commission. Many of these inquiries have supplied valuable information bearing on competitive conditions and trends in interstate trade and industrial development and have shown the need for, and wisdom of, legislative or other corrective action.

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

PUBLICATIONS OF THE COMMISSION

The Federal Trade Commission Act, section 6 (f), provides that the Commission shall have power "to make public from time to time such portions of the information obtained by it hereunder, except trade secrets and names of customers, as it shall deem expedient in the public interest; and to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation; and to provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use."

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

The 43 volumes of Federal Trade Commission Decisions contain (1) the findings of fact, orders to cease and desist, and orders of dismissal issued by the Commission; (2) the stipulations accepted by the Commission wherein respondents agree to cease and desist from un

lawful practices; (3) the reports, conclusions, and recommendations of the Commission in Export Trade Act cases; and (4) the decisions of the courts in Commission cases. They constitute a permanent and authoritative record of the remedial measures taken by the Commission to stop violations of the laws it administers. The decisions establish for industry, business, and the individual the guideposts of fair competitive dealing. They also tell, case by case, the story of the multiplicity of unlawful practices which have been found to be detrimental to the public interest and of the accomplishments of the Commission in the prevention of such practices.

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

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

The following publications were issued during the fiscal year:

Annual Report of the Federal Trade Commission for the Fiscal Year Ended June 30, 1948. House Document No. 7, Eighty-first Congress, first session, January 18, 1949, 141 pages. Available only from the Superintendent of Documents, Government Printing Office, Washington 25, D. C., at 30 cents a copy while the supply lasts.

Trade Practice Rules for the following industries: *Baby Chick Industry (revised and extended)*, September 15, 1948, 21 pages; *Trade Pamphlet Binding Industry of the New York City Trade Area*, December 31, 1948, 5 pages; *Rayon, Nylon, and Silk Converting Industry*, February 11, 1949, 11 pages; *Handkerchief Industry*, February 18, 1949, 10 pages; *Cotton Converting industry (revised and extended)*, May 17, 1949, 8 pages; *Oil Heating Industry of the New England States*, June 30, 1949, 9 pages; *Yeast Industry*, June 30, 1949, 8 pages. All rules available from the Federal Trade Commission without charge while the supply lasts.

The Concentration of Productive Facilities, 1947-Total Manufacturing and 26 Selected Industries, June 30, 1949, 96 pages. Available only from the Superintendent of Documents, Government Printing Office, Washington 25, D. C., at 25 cents a copy while the supply lasts.

The Fertilizer Industry, June 30, 1949, 100 pages (estimated). Now in the hands of the printer. Copies will be available only from the Superintendent of Documents, Government Printing Office, Washington 25, D. C., at a price to be determined by that official.

Quarterly Industrial Financial Report Series for all United States Manufacturing Corporations, second, third, and fourth quarters of 1948. Copies are available from the Federal Trade Commission and the Securities and Exchange Commission without charge while the supply lasts.

Rates of Return (after Taxes) in Selected Industries for the years 1940 and 1947, August 16, 1948. Copies are available without charge from the Federal Trade Commission while the supply lasts.

Rules, Policy, Organization and Acts, May 11, 1949, 223 pages. Copies are available from the Federal Trade Commission, Washington .25, D. C., without charge.

PART I. GENERAL INVESTIGATIONS

During the fiscal year 1949 the Commission completed the following reports presenting the results of general investigations:

The Concentration of Productive Facilities.

The Fertilizer Industry. ¹

In addition the Commission, in a joint project with the Securities and Exchange Commission, issued quarterly financial reports based on the operating statements of approximately 8,500 manufacturing corporations.

The Commission also presented data about concentration in manufacturing industries before a subcommittee of the House Judiciary Committee which is considering legislation to amend the antimonopoly laws.

During the fiscal year the Commission continued to emphasize the integration of economic analysis with the legal work of the Commission. Exploratory economic investigations in one major field of industry were completed as a basis for development of a program of antimonopoly cases. The Commission has adopted part of this program and has initiated field investigations to determine the facts. Other phases are still under consideration, and similar exploratory investigation is under way as to other segments of the economy. The Commission's economic personnel devoted more than half their time during the fiscal year to economic analyses designed to develop antimonopoly cases or to assist in their investigation and trial.

CONCENTRATION OF PRODUCTIVE FACILITIES

The report on the *Concentration of Productive Facilities* analyzes the degree of concentration in the ownership of net capital assets for 113 companies in 26 manufacturing industries. The corporations selected were those having assets in excess of \$100,000,000 in 1947. The degree of concentration is measured in terms of the ownership of net capital assets--land, plant and equipment--and, where data is available, in terms of the proportion of the output of each principal product accounted for by the four leading producers. An analysis of each industry identifies the leading corporations, usually eight in

¹ See footnote 4, p.11.

number, and their percentage ownership of the aggregate net capital assets of the industry. Each corporation is classified by industries according to its principal product, and no attempt is made to separate the assets employed in other industries; however, it is not believed that this treatment results in any significant overstatement of the degree of concentration for those industries included in the report.

The report is based upon published figures. It does not include a number of the less concentrated industries in which the principal firms do not publish financial statements. A few highly concentrated industries are also excluded where the diversification in operations would not give a meaningful figure or where the failure of certain leading producers to publish financial reports would result in an inaccurate picture of the extent of concentration.

In some industries a single company overshadows all others. In other industries, several large companies play a secondary role behind an even larger company. In still other industries, two, three, or four concerns of comparable size occupy most of the field. Because of these differences, when industries are classified by degree of concentration, their relative position may vary according to the number of concerns or the proportion of the industry that is selected as a basis for measurement. For example, if the measure of concentration is the proportion of the net capital assets held by three companies, the drug and medicine industry ranks lowest among those covered by this report, whereas, if the measure is the fewness of the concerns whose assets must be added together to equal 60 percent of the industry's total net capital assets, then four other industries rank below drugs and medicines.

Nevertheless, there is a significant relation between the proportion of total net capital assets held by the largest company and any other measure of concentration. The aluminum industry, for example, ranks third in the proportion of total net capital assets held by a single company, and first in the proportion held by three companies. The tin-can industry ranks second according to either method of measurement. The glass and glassware industry, sixteenth in rank according to the relative importance of the largest company, is fourteenth in the relative importance of the largest three companies.

Several levels of concentration appear in the report. If 60 percent control of assets be used as a bench mark, the industries covered in this report can be placed in four separate groups of concentration: extreme, high (though not extreme), moderate, and low. Thirteen industries

fall in the extreme concentration group, in which 60 percent control is reached by three or fewer companies :

	<i>Percent of control by 3 companies</i>
Aluminum	100.0
Tin cans and other tinware	95.3
Linoleum	92.1
Copper smelting and refining	88.5
Cigarettes	77.6
Distilled liquors	72.4
Plumbing equipment and supplies	71.3
Rubber tires and tubes	70.3
Office and store machines and devices	69.5
Motor vehicles	68.7
Biscuits, crackers, and pretzels	67.7
Agricultural machinery	66.6
Meat products	64.0

Six industries are in the high (though not extreme) concentration group, in which 60 percent control is attained by five or six companies. The report lists the following :

	<i>Percent of control by 6 companies</i>
Glass and glassware	69.9
Carpets and rugs	66.3
Dairy products	66.3
Primary steel	63.4
Industrial chemicals	62.7
Aircraft and parts	60.4

Five industries are classified in the “moderate” concentration group, in which approximately 60 percent control is held by from 11 to 15 corporations :

	<i>Number of companies</i>	<i>Percent of control</i>
Electrical machinery	14	60.1
Grain mill products	14	50.6
Drugs and medicines	14	53.8
Canning and preserving	15	59.2
Footwear (except rubber)	15	57.5

Two industries fall within the low-concentration classification, bread and other products and woolen and worsted goods. In bread baking, eight firms account for 38.3 percent of the net capital assets; in the woolen and worsted goods industry, eight firms account for 36.4 percent of the net capital assets.

The degree of concentration measured in terms of the percentage of output of particular products is generally higher than that shown in terms of the ownership of net capital assets. Generally the data concerning particular products relate to the year 1937 and are available

only for the four leading producers. The higher level of concentration results from the tendency of manufacturers to specialize in the production of a list of products which is not inclusive of the entire range of products produced by the industry.

THE FERTILIZER INDUSTRY ²

The Commission's report on the fertilizer industry 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 in some detail, and the corporate and business relations of producers of these materials to each other, as well as to fertilizer mixers, are reviewed.

The costs of distributing fertilizer are high largely because mixers adhere to long standing formulas that provide for the addition of inert substances to specified percentages of the three important plant foods. Where the mixed product is subject to a long freight haul, the buyer must pay unnecessary charges for transportation of inert materials. For years, farm organizations, State agricultural colleges, and other public agencies have urged that costs of distribution be reduced, but little progress has been made toward increasing the plant food content of commercial fertilizers. Proposals for a national fertilizer program designed to make materials with high plant food content available to independent mixers in remote regions have frequently been made. The report points to the need of additional information relevant to any such plans that may be undertaken.

The report also describes restrictions imposed upon independent mixers by large integrated mixers upon whom the former are dependent for material, especially phosphates. The non-integrated mixers, including farmers' cooperatives, often find that they must refrain from competing in price in the sale of mixed fertilizer if they are to continue to receive needed materials.

The report summarizes available information about cartel controls in nitrogen, phosphates, and potash.

CARTELS IN NITROGEN

Until just before World War I the natural nitrates of Chile were the world's principal source of nitrogenous materials for industrial uses and for agricultural purposes. As a result of the war, various countries developed capacity to produce synthetic nitrogen in excess of domestic consumption at prevailing price levels. This condition led to the formation of organizations of producers to prevent competition from lowering prices. Exportation of synthetic nitrogen, especially by Germany and other European nations, first produced collisions of

² see footnote 4, p.11.

conflicting interests in foreign trade, not only among Europeans but also between the European and Chilean producers. Then international agreements followed among producers to divide world markets and to prevent world prices from falling.

The report reviews the cartel agreements and objectives, first involving only Chilean producers from the 1880's to about 1925; and next involving Chilean and European producers, among whom German producers took the lead, from 1925 to the outbreak of World War II. Although antitrust laws in the United States served to prevent American producers of fertilizer nitrogen and other nitrogen chemicals from making explicit agreements to cooperate, either among themselves or with foreign producers, to set production quotas, divide markets, and fix prices, other forms of cooperation were developed and put into effect from 1929 onward.

From the charges of complaints, from injunctions consented to by the defendants in cases instituted by the Department of Justice, and from other sources, it appears that through patent and other agreements, both domestic and foreign, the following conditions developed :

1. The base price of each nitrogen-bearing material, both domestic and imported, was fixed at a uniform level by agreement among all or a substantial proportion of both domestic and foreign sellers in the United States.

2. A basing point system of pricing was set up under which basing points, base prices, and uniform charges and allowances for transportation, bagging, storage, and reconditioning were agreed upon and observed. By this means price competition among the leaders of the industry was eliminated, and identical prices were quoted by all sellers at each destination regardless of where the shipment originated.

3. By informal reciprocal understandings or agreements on the part of American producers, the cartel's price structure in other countries was protected against American competition.

Since the war there has been no formal international cartel which might take the lead in similar market controls, either with or without the cooperation of American producers.

PHOSPHATE ROCK CARTELS

Florida phosphate rock producers were among the first industries to form export associations to operate under the Webb-Pomerene Export Trade Act. They organized two associations in 1919 to represent the diverse interests of pebble rock and hard rock miners, both of which groups exported mainly to Europe.

Development of new production abroad sharpened competition both in Europe and in the Far East about 1930. The outcome was a series of six interrelated cartel agreements. One between the French North African producers and Phosphate Export Association (representing

pebble rock producers), as the principal suppliers of Europe, was the principal agreement, to which the other five were subsidiary. One of the subsidiary agreements gave the hard rock association a participation in Europe. The other subsidiary agreements similarly tied other national producing groups into the structure of cooperating interests.

Under these agreements prices in foreign markets were fixed and maintained. Although it was not specifically stipulated that foreign interests would not ship to the United States, imports of foreign rock were negligible. To safeguard itself against nonmember shipments, Phosphate Export Association sought and obtained the membership of all pebble rock producers and required each member to agree that if he resigned, any exports made as a nonmember would be made through the Association. Control of nonmember shipments of hard rock was effectively established by refusing to permit nonmembers to use the only water terminal facilities suitable for drying, storing, and loading hard rock for export.

Following investigation and hearings, the Commission made numerous recommendations to both Phosphate Export Association and Florida Hard Rock Phosphate Export Association for readjustment of their operations to make them conform with law. The Florida association accepted the recommendations and filed a report of compliance. Phosphate Export Association abrogated its cartel agreements and in October 1945 publicly announced its voluntary dissolution.

CARTEL AGREEMENTS IN POTASH

Prior to World War I Germany was practically the world's only source of commercial potash, and sales were made under cartel control. Significant American production developed gradually during the 1930's, with three companies producing most of the domestic supply.

Cartel-like relationships between American producers and the German-French cartel's exclusive American import agency, N. V. Potash (Kali) Export My., were first established in the formulation of the N. R. A. code for potash. Following the invalidation of the National Industrial Recovery Act in 1935, the American producers followed N. V.'s price leadership for 2 years. In 1938 American producers incorporated Potash Export Association. Even before the export association was formed, negotiations were opened leading to association participation in an agreement with the European cartel. In exchange for a relatively small participation in the European market, and recognition of the position of American producers as exporters to the Far Eastern market, the three principal American producers, then controlling about 99 percent of domestic production, placed distinct limitations on their own freedom to export to any foreign markets except Canada, Mexico, and Cuba. The price leadership of the cartel

in Europe and other foreign markets remained unchallenged, while that of Amen can producers in the United States, Canada, Mexico, and Cuba was undisturbed by European competition. The association obtained strong control over independent export merchants, who virtually became the association's sub-agents for export to territory reserved to the association. The association agreed to sell in the European market exclusively through the cartel's London subsidiary, United Potash Co., Ltd. Steps were taken by the association to prevent domestic users from exporting on their own account or selling to independent merchants, the means being restrictive language in sales contracts which required customers to agree not to resell in carload lots or for export. Within a year or so, cartel operations were suspended by the outbreak of World War II. Since then there has been no European cartel with which Potash Export Association's agreement might be resumed.

In the meantime, the Department of Justice obtained a consent decree in 1940, in compliance with which certain corrective measures were initiated in the domestic market.

INDUSTRIAL FINANCIAL REPORTS SERIES

Quarterly reports showing estimates of the aggregate financial data for all American manufacturing corporations have been made by the Federal Trade Commission in cooperation with the Securities and Exchange Commission for the calendar years 1947, 1948, and 1949. The purpose of these reports is to provide accurate current information as to the financial characteristics and profit or loss position of the Nation's manufacturing industries without disclosing the individual figures of any particular corporation. The reports also show composite financial statements from which can be developed the relationship between investment, sales, costs, and profits.

These quarterly reports provide a current barometer of conditions in the economy and its various industrial segments and have become of increasing value to Government and business. They can be used to determine (1) the general financial situation of manufacturing corporations, (2) the trend in manufacturing operations, and (3) variations which have taken place within specific industries or within the different asset size groups.

During the fiscal year the significance of the quarterly reports has been amply demonstrated. These are the only figures, public or private, which include reliable financial statistics covering the smaller manufacturing corporations. It has become evident that the profits of corporations of different sizes often diverge sharply in trend. The significance of the divergence has been great enough during the 1949

fiscal year to affect substantially the estimates of over-all profits for important manufacturing industries and to pose vital questions as to the well-being of small business.

The reports show that during the past two and a half years there has been a sharp change in the relative profits of corporations of different sizes. After a brief rise during 1947 the profits of the smallest corporations took a sudden downward turn, recovered somewhat in 1948, took another sharp dive, made another brief recovery and then dropped again in the second quarter of 1949. These small corporations, which were making more than 16 percent profit on their investment at the beginning of 1947, were barely averaging 5 percent 2 1/2 years later. The next largest size group of corporations, with assets of from \$250,000 to \$1,000,000, experienced a similar drop which, though less spectacular, was steadier. From a rate of profit of more than 20 percent on investment in the first quarter of 1947 they had declined to a rate of about 7 percent in the second quarter of 1949. The middle-sized group, with assets of from \$1,000,000 to \$5,000,000, fell in about the same way, or from more than 23 percent in 1947 to about 9 percent in 1949. The next largest group, with assets of more than \$5,000,000 and less than \$100,000,000, did much better than the smaller groups. The rate of profit for this group declined, but only from 19 percent to 10 percent. In the meantime, however, the largest corporations, those with more than \$100,000,000 in assets, did not suffer at all; on the average they actually gained. With profits of more than 13 percent in 1947, this group increased their profits to about 18 percent in 1948, and in the second quarter of 1949 had nearly the same rate of profit which they had in 1947.

Below is shown the percentage change in aggregate profits between the second quarter of 1949 and the same quarter of 1948 for corporations classified into five groups according to total asset size. All size classes showed a marked decrease in profits, but the decline was much more severe among the smaller corporations.

Comparison of profits for size classes or corporations

Value of corporate assets	Percentage change in in- come after taxes from second Quarter of 1948 to second quarter of 1949 Percent decrease
Under \$250,000	67
\$250,000 to \$1 000,000	59
\$1,000,000 to \$5,000,000	46
\$5,000,000 to \$100,000,000	39
\$100,000,000 and over	11

The quarterly financial reports also provide data for estimates of the degree of concentration of economic power.

Before World War II, the Commission undertook to obtain and tabulate the annual financial reports of certain industrial manufacturing groups of corporations for use in its own work. This work was discontinued during the war after OPA established its own financial reporting program. After the war the Division of Statistical Standards of the Bureau of the Budget organized an interdepartmental committee to develop a financial statistics project. The plan developed under the leadership of this committee called for the use of cross section sampling methods through which reports would be required from only about 10 percent of all manufacturing corporations. The Federal Trade Commission collects the reports from unregistered corporations, under the authority of section 6 of its organic act, and the Securities and Exchange Commission supplies data on corporations with securities registered on a stock exchange. The initial work was confined to manufacturing corporations, but the plan approved by the interagency group provided for expansion as rapidly as possible to include mining, wholesale trade, and retail trade corporations so as to provide estimates for a broader coverage of business corporations.

The quarterly financial reports work is coordinated so as to meet the needs of other agencies so far as possible. The Council of Economic Advisers uses the reports regularly and certain ratios developed therefrom are included in the President's Economic Report to the Congress. The reports are also used extensively by the Department of Commerce, the Federal Reserve Board, the Treasury Department, the Bureau of Labor Statistics, and other agencies.

Finally, in order to provide a comparison between the prewar and postwar periods, the Commission issued a special profits report : *Rates of Return (after Taxes) in Selected Industries for the Years 1940 and 1947*. Based on reports from more than 500 identical manufacturing corporations, the study showed 1940 and 1947 profit figures for each of 25 industries. In each of the industries, the corporations included accounted for more than half of the industry's assets. A similar study, covering 26 industries, has been made for the year 1948. The resulting report, showing comparative figures for 1940, 1947, and 1948, was completed but had not been printed as the fiscal year closed.

PART II. GENERAL LEGAL WORK

DESCRIPTION OF PROCEDURE

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

PROCEDURE UPON APPLICATIONS FOR COMPLAINT

Upon receipt of an application for complaint, the Commission through its Bureau of Legal Investigation considers the essential jurisdictional elements before deciding whether it shall be docketed for investigation. When docketed, it is assigned to the Chief of the Division of Radio and Periodical Advertising or the Chief of the Division of Field Investigation, depending upon the type of investigation to be made. Cases requiring field investigations are assigned to the Division of Field Investigation; other matters, as more fully set out on pages 32 to 36, are assigned to the Division of Radio and Periodical Advertising. The matter is thereafter assigned to an attorney for the purpose of developing all the essential facts.

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

¹ A brief statement of the provisions of these laws appears on p.3.

After developing all the facts, the examining attorney files a report summarizing the evidence, reviewing the applicable law, and recommending the action he believes the Commission should take. The record is then reviewed by the Chief of the Division of Radio and Periodical Advertising or the Chief of the Division of Field Investigation. If found to be complete, the file is submitted to the Commission through the Director of the Bureau of Legal Investigation, accompanied by a statement setting forth the facts as well as the division chief's conclusions and recommendations. The Director attaches his endorsement or submits to the Commission a separate memorandum in which he may set forth his disagreement with the recommendations of the division chief.

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

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

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

PROCEDURE UPON FORMAL COMPLAINTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In addition to the regular proceeding by way of complaint and order to cease and desist, the Commission may, in a proper case, bring suit in a United States district court to enjoin the dissemination of such false advertisements, whenever it has reason to believe

that such a proceeding would be to the interest of the public. These temporary injunctions remain in effect until an order to cease and desist has been issued and has become final, or until the Commission's complaint is dismissed by the Commission or set aside by the court on review.

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

LEGAL INVESTIGATIONS

INQUIRIES PRIOR TO FORMAL COMPLAINT OR STIPULATION

Investigation of applications for complaint preliminary to formal action for the elimination of practices violative of the laws administered by the Commission is the function of the Bureau of Legal Investigation. It performs all such legal investigating work and conducts a continuing survey of radio and periodical advertisements to detect false and misleading representations.

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

Applications for complaint are carefully screened in the office of the Director to determine if the facts furnished warrant docketing for investigation. If, as is frequently the case, applications for complaint do not contain sufficient information to warrant immediate docketing, further facts may be developed through correspondence with the complainant or with the proposed respondent.

On the basis of information thus obtained, there are docketed for full investigation only those matters indicating a violation of the laws administered by the Commission.

Of 1,177 applications for complaint received during the fiscal year, 507 were scheduled for investigation, 188 were referred to the Commission or other divisions within the Commission, 56 were referred to other Government agencies, and 279 were consolidated with other case files.²

² Statistics reported on pp.28-36 concerning the legal investigation work are division records and not the consolidated record of the Commission, and therefore do not coincide with the figures reported in the tabular summary of the legal work for the entire Commission appearing on p.46.

FIELD INVESTIGATIONS

A summary of the cases handled by the Division of Field Investigation during the fiscal year, classified according to the various acts administered by the Commission, is set forth in the following table :

Statutory basis of investigation	Pending July 1, 1948	Received during year	Completed during year	Pending June 30, 1949
Case work:				
Federal Trade Commission Act:				
Restraint of trade (sec. 5)	126	149	127	148
Deceptive practices (secs. 5 and 12)	406	652	605	453
Wool labeling (sec. 5)	8	3	9	2
Insurance (sec. 5)	0	9	1	8
Clayton Act				
Sec. 2	101	150	129	122
Sec.3	16	30	26	20
Sec.7	5	2	1	6
Export Trade Act	3	0	3	0
Lanham Trade-Mark Act	3	30	26	7
Subtotal	668	1,025	927	766
Industry-wide Investigations:				
Federal Trade Commission Act: Restraint of trade (sec. 5) (number of companies)				
	3	16	3	16
Clayton Act:				
Sec. 2 (number of companies)	61	0	61	0
Sec. 3 (number of companies)	5	0	5	0
Subtotal	69	16	69	16
Grand total	737	1,041	996	782

As shown by the table, industry-wide investigations completed during the year covered the practices of 69 separate companies. The industries investigated were 5 in number, as follows :

- Manufacturers of machine knives.
- Textile looms.
- Automobile industry.
- Manufacturers of cotton textiles.
- Manufacturers of battery chargers.

At the close of the fiscal year, 1 industry investigation was pending, involving the activities of 16 companies.

Of the other investigations completed, 41 were for the purpose of determining compliance with cease and desist orders.

The division received and answered 3,113 pieces of correspondence relating to matters under field investigation, in addition to preparing, for the signature of the Director, correspondence in the course of preliminary screening of applications for complaint.

A description of the work of the division during the past fiscal year follows:

False advertising and misrepresentation.--Some of the products involved in cases of this category were prefabricated houses, plastic flooring, textile goods, wearing apparel, radios, correspondence study courses, books, shoes, petroleum products, antifreeze solutions, furs,

cooking utensils, fountain pens, insecticides, and tires. The cases involved the entire range of known unfair and deceptive trade practices, including fictitious price marking, design pirating, disparagement, lottery methods of sale, misrepresentation as to performance, quality, origin, and composition of merchandise, misrepresentation as to nature of the business, deceptive packaging, falsely representing connection with Government, passing off used merchandise as new, and misuse of trade secrets.

Four of the cases involved insurance companies. The Commission's jurisdiction over this type of business became effective June 30, 1948, following the termination of the moratorium period provided in Public Law 15, Seventy-ninth Congress.

Restraint-of-Trade.--Investigations of trade practices which, if carried to fruition, would result in monopoly or have a tendency toward that end continued to constitute an important part of the work of the division. Investigations in this category during the year covered price-fixing, conspiracy to boycott, coercion, collusive bidding, control and limitation of supplies, interference with source of supply, intimidation, full-line forcing and tying contracts, various forms of basing-point, delivered-price, and zoning systems designed to eliminate price competition, misuse of patents and licensing agreements for monopolistic purposes, resale price maintenance, and selling below cost with the intent and effect of injuring competitors. The charge of price-fixing continued to be the most frequently recurring charge. Some of the more important products involved were automotive parts and accessories, foods, insulin, electrical supplies, household appliances, iron and steel, petroleum products, dairy products, cement, agricultural implements, radios and television, hardware, and building materials. Four of the cases received during the year involved insurance companies.

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

In view of its limited funds and personnel, the Commission endeavored to confine investigations to matters of substantial importance. Accordingly, efforts were made in the preliminary stages to determine whether the defenses available under the act were present in individual cases, as well as to determine whether the practices constituted prima facie violations of the statute.

Cases investigated during the fiscal year involved cans, glass containers, prepared foods, chemicals, automotive accessories, biological products, tractor parts, dairy supplies, office supplies, sugar, surgical supplies, soap, petroleum products, electrical appliances, cooking utensils, building materials, radio tubes, wearing apparel, and drugs.

Price discrimination, in violation of section 2 (a), continued to be the most frequent charge involved in investigations under this act.

Clayton Act, section 3.--This section of the act has application to exclusive-dealing contracts made upon condition that the buyer or lessee will not deal in the merchandise of a competitor. Products involved in investigations in this category during the year were fire extinguishers, towel cabinets, automotive parts, farm equipment, electrical appliances, radios, washing machines, petroleum products, tires, welding supplies, motorcycles, carbonated beverages, wearing apparel, and office equipment.

Clayton Act, section 7.--This section prohibits the direct or in direct acquisition by one corporation engaged in commerce of the stock or other share capital of another corporation engaged also in commerce, or the acquisition by a holding company of the stock or share capital of two or more corporations engaged in commerce, where the effect of such acquisitions or the use of such stock may be to substantially lessen competition between the acquiring and the acquired corporations, to restrain such commerce in any section or community, or to tend to create a monopoly in any line or commerce. The formation of subsidiary corporations for the actual carrying on of the immediate lawful business of the acquiring corporation and the acquisition of the capital stock thereof is excepted from the prohibition. The purchase of capital stock solely for investment purposes, where the stock is not voted or otherwise used to bring about substantial lessening of competition, is also excepted. Neither the acquisition of the property and assets of competing corporations nor the merger of the assets and businesses of competing corporations is prohibited by the Clayton Act, and the courts have held that the Commission is without authority under this statute to prevent such acquisitions or mergers, notwithstanding their effect on competition and commerce or their tendency to create a monopoly.

Matters receiving attention under section 7 during the year involved distillery products, plumbing pottery, fruit, and food, drugs, and cosmetics.

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

of which might be injurious to health. Investigations covered practically the entire range of prepared food products, dietary supplements, vitamin and mineral preparations, drugs, home remedies, cosmetics, hearing aids, eye glasses, sun lamps, arch and foot supports, orthopedic shoes, trusses, elastic garments and supports, short wave diathermy machines, arthritic remedies, hormone preparations, and colonic treatment devices.

Wool Products Labeling Act.--Violations of the Wool Act generally are coupled with other unfair methods of competition or unfair and deceptive practices, such as false advertising and misrepresentation. Investigation and proceedings under both the Wool Act and the Federal Trade Commission Act are required in these cases. Investigations involving violation of the Wool Act are also conducted by the Commission's Bureau of Trade Practice Conferences and Wool Act Administration. Investigations during the year included men's and women's coats and suits, sweaters, blankets, and woolen material used in the manufacture of clothing.

Export Trade Act.--Duties of the Bureau of Legal Investigation under this act may include investigation of the organization and operation of certain export trade associations organized and functioning under the Act, and in particular to ascertain whether they (a) are artificially or intentionally enhancing or depressing domestic prices; (b) are in restraint of the export trade of a domestic competitor; (c) are substantially lessening competition or otherwise restraining trade within the United States; or (d) are engaging in unfair methods of competition in foreign trade. Consideration was given during the year to two cases involving producers of alkali and alkali products, and a complete investigation was conducted of a third case involving fir lumber.

SURVEY OF RADIO AND PERIODICAL ADVERTISING

Through its Division of Radio and Periodical Advertising, the Commission conducts investigations of selected cases involving false and misleading advertising violative of the Federal Trade Commission Act, as well as other types of cases not requiring field contacts, including many industry-wide and project investigations. These investigations generally involve false or deceptive advertising detected during the course of the Commission's continuous survey of radio and periodical advertising.

The survey of advertising was inaugurated in 1929, at which time it was limited to magazines and newspapers. Expanded in 1934 to cover commercial radio continuities, it also has included, since 1939,

mail-order catalogs and foreign-language newspapers, and early in 1948 it was extended to commercial television broadcasts.

Advertisements selected in these surveys are carefully screened and processed, and may be used as a basis for the docketing of applications for complaint; for showing compliance, or proving noncompliance, with stipulations and orders to cease and desist; in drafting complaints and in the trial of cases; in connection with both individual and industry-wide investigations and studies; for making special surveys of entire industries, or segments of industries, where it is not practicable to contact the individual members of the industry either directly or by mail; to determine whether a trade practice conference may be warranted or desirable, or whether trade practice rules are being observed; or in connection with scientific studies, preparation of medical opinions, or liaison with other Government agencies.

As a special project, all advertisements of alcoholic beverages are assembled for special study and appraisal, with a view to proceeding in all instances where the statute appears to be violated. By special arrangement, all radio advertisements of alcoholic beverages are set aside for examination by representatives of the Alcohol Tax Unit in connection with its administration of the Federal Alcohol Administration Act.

As another special project, all radio and periodical advertisements of cigarettes are assembled, processed, and given special study looking to the docketing of applications for complaint where warranted.

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

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

Through such systematic calls during the fiscal year, the Commission procured 1,890 editions of representative newspapers of established general circulation and 1,249 editions of magazines and farm and trade journals of interstate distribution. These periodicals included 250 issues of farm journals, 180 issues of trade journals and

specialty publications, and 28 issues of domestic foreign-language publications.

In these newspapers, magazines, and farm and trade journals, 285,924 advertisements were examined, of which 13,536 were noted as containing representations that appeared to warrant investigation.

Mail-order advertising.--The Commission procured mail-order catalogs and circulars containing an aggregate of 17,374 pages, examination of which resulted in 178 advertisements being marked as containing possibly false and misleading representations. Of the 50 mail-order houses included in the survey, 5 had combined annual sales in excess of \$3,757,036,355.

Radio advertising.--In the past, calls for commercial continuities from all individual radio stations were issued three times yearly, but beginning July 1, 1949, the frequency of these calls will be proportioned to the population of the communities in which the stations are located. Under the new policy, commercial script broadcast by radio stations in small cities will be sampled once yearly; stations in cities of intermediate size, twice yearly; and stations in cities with a population of 200,000 or more, three times yearly, on a systematically staggered schedule.

National and regional networks respond on a continuous weekly basis, and producers of electrical transcription recordings submit texts of the commercial portions of all recordings once each month.

During the fiscal year, the Commission examined copies of 493,528 commercial radio broadcast continuities, amounting to 1,347,033 typewritten pages. These consisted of 693,330 pages of network script, 624,928 pages of individual station script, and more than 21,000 pages of script representing the built-in advertising portions of transcription recording productions destined for radio broadcast. An average of 5,345 pages of radio script was read each working day. From this material 12,879 advertising broadcast statements were marked for further study as containing representations that might be false or misleading.

Television advertising.--Expanding construction and completion of new television broadcast stations resulted in an appreciable increase in the volume of commercial script received during the latter half of the fiscal year. After an exploratory sampling of commercial script on the basis of four samplings yearly, a reduced rate of three times yearly for sampling periods of 15 days each was determined upon for regular coverage.

Requests for samplings of commercial script were issued to 55 television stations. During the 6 months ending June 30, 1949, some 4,400 commercial continuities were received from television networks,

individual station telecasters, and producers of television advertising film. Of the 3,252 commercial television continuities examined, 121 were marked and set aside as containing possibly false and misleading representations.

In addition to establishing contacts with new individual television stations, the Commission has continued to perfect adequate coverage of other developments in telecast advertising. Arrangements were made for coverage of the initial functioning of four television networks during the fiscal year, and contacts made with producers newly engaged in making television advertising film.

Cooperation of radio and publishing industries--The Commission has continued to receive the cooperation of the four Nation-wide standard broadcast network chains, the regional networks, commercial transcription producers, and the expanding television broadcast facilities; some 2,300 individual broadcast stations; 499 newspaper publishers; and 389 publishers of magazines, farm journals, and trade publications. These publishers and broadcasters generally have indicated a desire to aid in the elimination of false and misleading advertising.

Number of cases handled--At the close of the year 458 cases were pending, as compared with 572 at the close of the previous fiscal year. During the fiscal year, 389 investigations were completed, and 275 new investigations were initiated, 122 of which originated through the division's continuing survey of advertising; 69, through letters of complaint; and 84, by reference from the Commission. Settlement by stipulation was recommended in 43 cases; issuance of complaint, in 8 cases.

Correspondence handled by the division during the year totaled 3,144 incoming pieces of mail and 10,152 outgoing pieces.

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

Upon receipt of these data, scientific opinions are obtained based upon the sample and formula. Then a list of the claims that appear to be false or misleading is sent to the advertiser and he is invited to submit informally by letter, in person, or by counsel factual and scientific data in support of the questioned representations.

If, after a consideration of all available evidence, including that furnished by the advertiser, the questioned claims appear not to be

false or misleading, the division reports the matter to the Commission with the recommendation that the case be closed. If it appears from the weight of the evidence in the investigational files that the advertising is false and misleading, the matter is referred to the Commission with a recommendation either that complaint issue or that negotiation of an appropriate stipulation to cease and desist be authorized.

Industry-wide investigations.--During the year, the Division of Radio and Periodical Advertising completed an investigation of the wallpaper cleaner industry, dealing with the advertising and promotional practices of 18 companies. The division also completed a survey of practices of 131 manufacturers respecting their compliance with trade-practice rules for the radio receiving set manufacturing industry.

At the close of the year, the division was conducting industry-wide investigations with respect to the advertising of manufacturers and distributors of crib and carriage mattresses, involving 20 companies; the manufacturers and large distributors of so-called orthopedic or "health" shoes, involving 94 companies; and manufacturers and distributors of arch supports and other chiropodic appliances, involving 20 companies.

DISPOSITION OF CASES BY STIPULATION

Instead of disposing of cases by the formal complaint and the trial method, the Commission under certain circumstances affords respondents the opportunity of signing a statement of facts and an agreement to cease and desist from most types of unfair methods of competition and unfair or deceptive acts or practices in commerce. The policy of the Commission with respect to stipulations of this type is set forth in its statement of policy. (See p.114.)

During the fiscal year the Commission approved 139 stipulations, including five amendment stipulations. (See p. 48 for report of Bureau of Stipulations.)

FORMAL COMPLAINTS

During the fiscal year the Commission issued 96 formal complaints alleging violations of the laws it administers and reopened 1 case. Of these 96 new cases, 48 charged violation of the Federal Trade Commission Act; 38, violation of the Clayton Act; 5, violation of both the Federal Trade Commission and Clayton Acts; and 5, violation of both the Wool Products Labeling and Federal Trade Commission Acts.

I. Complaints Under Federal Trade Commission Act

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

[Complaints referred to are identified by accompanying docket numbers]

Twelve complaints were issued alleging unfair practices in restraint of trade, including conspiracies to fix prices and otherwise suppress competition. Two complaints illustrative of this type of proceeding are as follows :

National Paper Trade Association of the United States, Inc., and others.--This proceeding involves a national trade association, 23 regional trade associations, and over 1,100 paper distributors. The respondents were charged with conspiring to fix prices and restrain trade in the sale of fine and wrapping paper (5592).

American Dental Trade Association and others.--One hundred and forty manufacturers and distributors who sell over 75 percent of the dental equipment in the United States were charged with conspiring through their trade association and otherwise to fix prices and restrain trade (5636).

The other 10 complaints alleging restraint of trade involved the following products: shuttles (5593), beer (5633), bicycles and parts (5635), twine products (5644) , malleable iron chain (5657), alcoholic beverages (5634), spark plugs and automobile accessories (5620 and 5624), hearing aid instruments (5655), and hardware (5575).

B. FALSE ADVERTISING AND MISREPRESENTATION

A total of 35 complaints charged false and misleading advertising and other types of misrepresentation. Although some involve more than one classification, they may be classified broadly as follows:

Twelve complaints alleged false and misleading representations with respect to the therapeutic properties of medicinal preparations and devices, including, in some cases, deceptive failure to reveal potential dangers in the use of the advertised products; 9 charged misrepresentation with regard to the results to be obtained from the use of a product; 12, misrepresentation as to origin, composition, condition, quality, or price; and 2, misrepresentation as to business status of the respondents.

C. MISCELLANEOUS COMPLAINTS

Six complaints charged unlawful sale of lottery devices, either separately or in combination with other merchandise (5595, 5647, 5654, 5660, 5661, and 5662).

II. Complaints Under Wool Products Labeling Act

Five complaints alleged that wool products were misbranded in violation of the Wool Products Labeling Act and the rules and regulations promulgated thereunder, in that they were not so labeled as to disclose the kinds and percentages of the different fibers of which the fabrics were made, including the respective percentages of wool, reprocessed wool, or reused wool, together with the identity of the manufacturer or other seller of the products (5588, 5629, 5659, 5664, and 5669). One complaint (5669) further charged unlawful removal from wool products of required content and identifying information.

The complaints charged that these misbranding practices also were unfair and deceptive in violation of the Federal Trade Commission Act.

III. Complaints Under Clayton Antitrust Act.

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

Thirty-one complaints alleged violation of section 2 (a), which prohibits discriminations in price which may injure, destroy or prevent competition or tend to create monopolies. Twenty-four involved confectionery products (5596 through 5619). Companies cited in the other seven complaints are : General Motors Corp., Electric Auto-Lite Co., Lever Brothers Co., The Proctor and Gamble Co., Colgate-Palmolive-Peet Co., Florida Citrus Canners Cooperative, and F. & V. Manufacturing Co., Inc. The products involved in these proceedings are : spark plugs and automobile accessories (5620 and 5624); soap products (5585 through 5587); fruit juices (5640), and jewelry products (5579).

B. VIOLATION OF SECTION 2 (c) OF CLAYTON ACT, AS AMENDED BY

ROBINSON-PATMAN ACT

Twenty-nine complaints alleged violation of section 2 (c) , which prohibits, in connection with the interstate sale or purchase of merchandise, the granting by a seller or acceptance by a buyer of brokerage fees on purchases made for the buyer's own account. Twenty-one of these involved confectionery products (5596 through 5607, 5609 through 5617, and 5619), while eight involved food products (5576, 5578, 5623, 5628, 5643, 5646, 5651 and 5658).

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

In 24 complaints (5596 through 5619), respondents engaged in the manufacture and sale of candy and confectionery products, and in complaint 5620, respondents engaged

in the manufacture and sale of

spark plugs and automobile accessories, were charged with granting to certain customers discounts for alleged services and facilities rendered or benefits conferred, without making the same privilege available on proportionally equal terms to other competing customers. These acts and practices were alleged to be in violation of section 2 (d). In complaints 5596 through 5619, respondents were also charged with violating section 2 (e) by furnishing certain services and facilities to favored customers without making them available on proportionally equal terms to other competing customers.

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

The National Tea Co., which with its subsidiary constitutes one of the largest retail grocery chains in America, operating over 700 stores, was charged with inducing sellers of food and grocery items to discriminate in its favor by selling merchandise of like grade and quality to others at higher net prices than those accorded respondents. These practices were alleged to be in violation of section 2 (f) (5648).

E. VIOLATION OF SECTION 3 OF CLAYTON ACT

Five complaints alleged violation of section 3 of the Clayton Act, which prohibits tying or exclusive-dealing contracts. The products involved in these proceedings included automobile supplies, electrical appliances, radios, light hardware, sporting goods, and paints (5575), hearing aid instruments (5655), chewing gum products (5608), metallic packings for compression machinery (5649), and spark plugs and automobile accessories (5620). Typical of these complaints were those issued against Gamble-Skogmo, Inc., and Dictograph Products, Inc.

ORDERS TO CEASE AND DESIST

The Commission during the fiscal year issued 47 orders to cease and desist from the use of unfair methods of competition and other violations of the laws it administers. The following cases are illustrative of the orders issued.

I. Orders Under Federal Trade Commission Act

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

Bobbin Manufacturers Association, Boston, and others.--The Commission ordered this trade association, its officers, and 11 manufacturing companies to cease and desist from conspiring to fix prices and from entering into other agreements in restraint of trade in the sale of bobbins, spools, and related equipment used in the manufacture of

yarn and the weaving of cloth. The Commission found that the respondents manufactured and sold such a large proportion of these products that they were in a position to dominate and control their prices (5543).

Crown Manufacturers Association of America, Washington, D. C., and others.--In this case a trade association, its officers, and 12 corporate members were ordered to stop conspiring to fix prices and restrain trade in the sale of bottle caps. Concerted use of a freight-equalization system, resulting in price identity, was among the practices prohibited by the order. The respondents produce and sell over 80 percent of all crown bottle caps sold in the United States (4602).

American Shuttle Manufacturers' Association, Allentown, Pa., and others.--This trade association and 11 manufacturing firms were ordered to cease and desist from conspiring to fix prices and otherwise suppress competition in the sale of shuttles used in the weaving of cloth. Approximately 50 percent of the shuttles produced and sold in the United States are sold by the respondents in this proceeding (5593).

Association of Coupon Book Manufacturers, New York, and others.--The cease and desist order in this case required 6 trade associations and 33 manufacturing concerns to stop conspiring to fix prices and otherwise eliminate competition in the sale of tickets, checks, and coupons (5532).

Connecticut Leather and Findings Association, Inc., Waterbury, and others.--This trade association and eight jobbers of rubber heels, rubber soles, and accessory products were ordered to terminate a price fixing conspiracy. Among the collusive practices prohibited were fixing or maintaining prices, terms or conditions of sale; formulating or maintaining schedules used in calculating and arriving at uniform prices; and attempting to bring about or maintain uniform prices by means of contracts, warnings, threats, or any similar methods (5527).

B. FALSE ADVERTISING OF DRUGS AND DEVICES

The A. S. Kreider Shoe Co., Annville, Pa.--This manufacturer was ordered to stop advertising that its "Pollyanna Health Shoes" are "health" shoes or that their use will keep feet healthy, prevent the development of abnormalities or deformities of the feet, or correct foot disorders or abnormalities (5577).

The Univis Lens Co., Dayton, Ohio, and others.--Misrepresentation of the differences between Univis bifocal spectacle lenses and those of competitors was prohibited by the order in this case. Univis was required to stop representing, by picturizations or otherwise, that the user of competitive bifocal lenses, with round top reading segments,

must tilt his head and otherwise assume an unnatural and uncomfortable position in order to use such lenses to advantage. Other representations proscribed are to the effect that round top reading segments of bifocal lenses cause distress, discomfort, or eyestrain, or that the lines of demarcation between the tops of the reading segments and the distance segments in round top bifocals are more conspicuous than the corresponding lines in Unavis flat top bifocal lenses (5351).

William R Warner & Co., Inc., New York.--This company was ordered to discontinue advertising that its medicinal preparation "Agarol" contains agar-agar or any derivative of agar-agar in sufficient quantity to produce an independent laxative action. In addition, the order prohibited use of the term "Agarol" as a brand or trade name for the preparation (4770).

C. UNFAIR PRACTICES OTHER THAN MISREPRESENTATION OF DRUGS AND DEVICES

American Chemical Paint Co., Ambler, Pa.--The order in this case was directed against false representations that "Rootone" plant hormone powder has a definite proven value in increasing field crop production or that treating field crop seed with the product can be depended upon to cause a bigger crop yield. The company also was required to stop representing that field crop seed treated with the product has produced any certain yield unless it was actually produced under controlled test conditions (5135).

American Viscose Corp., Wilmington, Del.--In this case, the respondent was ordered to refrain from representing that products containing its rayon fibers or yarn have been tested and approved under "consumer standards" or under standards established by any group, organization, or agency which does not actually control the specifications of such standards. The prohibited representations were in connection with labels bearing such legends as "Crown Tested and Approved" (4862).

E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.--This respondent was prohibited from using disparaging misrepresentations concerning synthetic dry cleaning and degreasing solvents manufactured by a competitor. The disparaging misrepresentations forbidden include claims to the effect that certain competitive products have no merit or value and are not suitable or satisfactory; that the hazards of fire or explosion in the use of these products are greater than in the use of the respondent's solvents; or that certain competitive products are inflammable or explosive when used under standard or usual conditions. The order further directed the corporation to cease misrepresenting the constituents, properties, or characteristics of any

competitive products or supplying dealers with data on which disparaging misrepresentations may be based (4685).

Similar orders were entered in the following cases: G. S. Blakeslee & Co., Cicero, Ill. (4678); Detroit Rex Products Co., Detroit, Mich. (4674); and Columbia Appliance Corp., Long Island City, N. Y. (4669).

II. Orders Under Wool Products Labeling Act

The Wool Act and the rules and regulations promulgated under it provide that woolen or purported woolen merchandise shall bear a stamp, tag, label, or other mark showing the kinds and percentages of the different fibers of which the product is made, including the respective percentages of wool, reprocessed wool, or reused wool; the maximum percentage of any nonfibrous loading or adulterating material used; and the identity of the manufacturer or other person marketing the product in interstate commerce. The label or a proper substitute must be on the article when it is delivered to the consumer. A typical order issued by the Commission under this Act is as follows:

Smithline Coat Co., New York.--This company, engaged in the manufacture and sale of women's coats containing wool, was ordered to cease and desist from selling products containing wool without labeling them to show the information required by the Wool Products Labeling Act (5506).

III. Orders Under the Clayton Antitrust Act

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

Jacques Kreisler Manufacturing Corp., North Bergen, N. J., and others.--These respondents were ordered to cease and desist from discriminating in price between competing purchasers of jewelry products of like grade and quality, when the differences in price are not justified by differences in the cost of manufacture, sale, or delivery resulting from differing methods or quantities in which the products are sold or delivered. The case involved a retroactive quantity discount plan (5446).

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

Advance Realty Corp., Long Beach, Calif., and others.--The order in this case required the respondents, in connection with the interstate sale of seafood and other food products, to stop paying or granting commissions, brokerage, or any other compensation in lieu thereof to the buyers in such transactions, or to any agent acting for or subject to the control of parties other than the respondents (5469).

C. VIOLATION OF SECTION 3 OF CLAYTON ACT

National Pressure Cooker Co., Eau Claire, Wis., and others.--The Commission ordered the respondents to cease and desist from selling or contracting to sell pressure cookers, pressure canners, and related parts and accessories on the condition, agreement, or understanding that shall not use or deal in competitive products. The order further prohibits the corporation from inducing or attempting to induce such exclusive-dealing contracts by offering favorable shipment allocations or by refusing to deliver its products to dealers or distributors who are not willing to enter into such contracts (5531).

CASES IN FEDERAL COURTS**COMMISSION ACTIONS IN THE UNITED STATES SUPREME COURT, COURTS OF APPEALS, AND DISTRICT COURTS**

During the fiscal year there were 18 cases to which the Commission was a party in the Supreme Court of the United States and in United States courts of appeals. One of these involved a petition to review requiring an order requiring a special report; the others, petitions to review orders to cease and desist.

In proceedings to review Commission orders, rulings favorable to the Commission were obtained in six cases in courts of appeals and in two cases in the Supreme Court (one of these being a denial of a petition for certiorari to review a court of appeals decision upholding the Commission). In one instance, where a Commission order was affirmed and enforced in one circuit, a petition that had been filed in another circuit to review the same order, was dismissed upon stipulation. Another case was remanded to the Commission by a court of appeals for rescission of the order to cease and desist. The petition to review an order requiring a special report was dismissed for want of jurisdiction.

There was one decision adverse to the Commission, in which a court of appeals set aside an order. In another court of case, the Commission's order was slightly modified.

Pending in the Supreme Court at the close of the fiscal year was a petition for certiorari, filed by a corporation whose petition to review and set aside the order of the Commission had been denied by a court of appeals. Eight, petitions to review; orders to ceases and desist were pending in various courts of appeals.

During the year, certiorari was granted by the Supreme Courts to one petitioner in a lower court. The Commission filed no petitions for certiorari.

Eight new petitions to review Commission orders to cease and desist were filed. Judgment for the Government were obtained in three suits for civil penalties, involving violation of Commission orders to cease and desist. Two such cases were pending in the courts at the end of the fiscal year. In two cases, a district court dismissed the Government's complaints asking mandatory injunctions to compel two corporations to file special reports with the Commission, and judgments of forfeiture for failure to file. The district court decisions were affirmed on appeal. ³

PETITIONS TO REVIEW CEASE-AND-DESIST ORDERS

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

CASES DECIDED BY THE COURTS

Allied Paper Mills, Kalamazoo, Mich., and others.--The Supreme Court denied a petition for writ of certiorari to review a decision of the Seventh Circuit (Chicago) affirming, except as to one company, the Commission's order prohibiting a combination in restraint of trade in the sale of book print and coated paper.

Canute Co., Milwaukee.--The Seventh Circuit (Chicago) remanded this case to the Commission for rescission of its order prohibiting false and misleading advertising of Canute Water, a hair dye.

Clayton Mark and Co., Evanston, Ill., and others (Rigid Steel Conduit Association).--The Supreme Court, by an evenly divided vote, affirmed the decision of the Seventh Circuit (Chicago), which had upheld the Commission's order against a price-fixing combination in the sale of rigid steel conduit, involving the use, among other practices, of a basing-point, delivered-price system.

Decker Products Co., Pelham, N. Y., and others.--The District of Columbia Circuit affirmed the Commission's order forbidding false and misleading advertising of Vacudex, a device represented as saving gasoline.

Excelsior Laboratory, Inc., New York, N. Y.--The Second Circuit (New York) affirmed the Commission's order prohibiting the false and misleading advertising of Gosewisch's Odorless Garlic Tablets, a preparation represented as a treatment for high blood pressure.

Hillman Periodicals, Inc., New York, N. Y., and others.--The Second Circuit (New York) affirmed the Commission's order banning misrepresentation in the sale of book reprints.

³ These cases are now pending before the Supreme Court on writs of certiorari.

Standard Oil Co. (an Indiana corporation), Chicago.--The Seventh Circuit (Chicago) after slight modification, affirmed the Commission's order against price discrimination in the sale of gasoline in violation of the Clayton Antitrust Act.

Tag Manufacturers Institute, New York, N. Y., and others.--The First Circuit (Boston) set aside the Commission's order ' holding the evidence to be insufficient to sustain the charge of conspiracy to fix prices and otherwise restrain competition in the sale of tag products.

United States Steel Corp., New York, N. Y., and others.--Petitions had been filed in both the Third Circuit (Philadelphia) and the Fifth Circuit (New Orleans) for review of the Commission's order forbidding use of the "Pittsburgh-plus" basing-point system of determining prices for rolled-steel products, in violation of the Clayton Act and the Federal Trade Commission Act. The Third Circuit affirmed the order, and thereafter the Fifth Circuit, pursuant to joint stipulation of the parties, dismissed the petition pending before it.

CASES PENDING IN THE COURTS

Alberty Food Products, Hollywood, Calif., and others.--District of Columbia Circuit, misrepresentation of the therapeutic properties of food and drug products.

Americana Corp., Chicago.--Second Circuit (New York) deceptive practices in the sale of encyclopedias.

Artra Cosmetics, Inc., Bloomfield, N. J.--Third Circuit (Philadelphia) ' false and misleading advertising of a depilatory preparation.

Crown Manufacturers Association of America, Washington, D. C., and others.--Fourth Circuit (Richmond), combination and conspiracy tending to restrain competition in the sale of crown bottle caps.

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

Gold-Tone Studios, Inc., Rochester, N.Y., and others.--Second Circuit (New York), misrepresentation in the sale of photographs.

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

Dr. F. A. Newcomb, Lawrence, Kans.--Tenth Circuit (Denver), false and misleading advertising in -the sale of a medical device.

Standard Oil Co. (an Indiana corporation), Chicago.--Supreme Court, certiorari granted to review decision of the Seventh Circuit

(Chicago), modifying and affirming as modified the Commission's order against price discrimination in the sale of gasoline, in violation of the Clayton Act.

OTHER COURT CASES INVOLVING THE COMMISSION

General Foods Corp., New York, N. Y.--The Seventh Circuit (Chicago), on motion of the Commission, dismissed for lack of jurisdiction a petition to review an order requiring a special report.

U.S. v. Morton Salt, Co.; U.S. v. International Salt Co.--Complaints were dismissed in the District Court (Chicago), and prayers for injunctions and forfeitures for failure to file special reports ordered by the Commission were denied.- Judgments were affirmed by a divided court on review in the Seventh Circuit (Chicago).⁴

U.S. v. Al B. Wolf and others.--Judgment for \$2,000 was entered in United States District Court (Chicago) in a suit for civil penalties for violation of a Commission order to cease and desist.

U. S. v. Worthmore Sales Promotion Service, Inc.--Judgment for \$10,000 was entered in United States District Court (Chicago) in a suit for civil penalties for violation of a Commission order to cease and desist.

U. S. v. Canadian Ace Brewing Co.--Judgment for \$4,900 was entered in United States District Court (Chicago) in a suit for civil penalties for violation of a Commission order to cease and desist.

⁴ The supreme court of the United states granted certiorari in these cases October 24, 1949.

TABLES SUMMARIZING LEGAL WORK OF THE COMMISSION AND COURT PROCEEDINGS, 1948--49

TABLE I.--*Case work, fiscal years 1948 and 1949*

	Applications for complaint 1		Complaints 2	
	1948	1949	1948	1949
Pending beginning of year	1,140	1,378	392	320
Docketed	884	1,177	70	96
Settlements by stipulation vacated	15	3		
Settlements under Trade Practice conference rules vacated	6			
Dismissed cases reopened		3		
Orders to cease and desist vacated			1	1
Total for disposition	2,045	2,561	463	417
To complaint	66	90		
Consolidated with other proceedings	8	6		
Settled by stipulation	99	126	9	5
Settled by acceptance of Trade Practice Conference rules			2	3
Dismissed or closed	494	785	59	33
Orders to cease and desist			73	47
Complaints rescinded				1
Total dispositions	667	1,007	143	89
Pending end of year	1,378	1,554	320	328

1 These are cases docketed for investigation.

2 These are cases in which the Commission issues a formal complaint charging violation of one or more of the statutes it administers.

TABLE II.--*Court proceedings, fiscal years 1948 and 1949*

	Petitions for review of orders to cease and desist				Mandamus, injunctions, etc.	
	Courts of appeals		Supreme Court of the United States		1948	1949
	1948	1949	1948	1949		
Pending beginning of year	11	9	1			3
Cases appealed	7	6	1	3		
Suits instituted					3	
Total for disposition	18	15	2	3	3	3
Decisions for Federal Trade Commission	6	5	2	1		1
Decisions for others		1				2
Petitions withdrawn	3					
Remanded to Federal Trade Commission		1				
Certiorari denied				1		
Total dispositions	9	7	2	2		3
Pending end of year	9	8	0	1	3	0

PART III. SETTLEMENT OF CASES BY STIPULATION

CORRECTIVE ACTION THROUGH INFORMAL CONFERENCES

Certain types of cases ¹ involving unfair methods of competition or unfair or deceptive practices may be settled by the Commission without resort to the formal complaint and trial method. Settlement of these cases is effected in the public interest on the basis of a stipulation of facts and an agreement to cease and desist from practices deemed violative of law.

Cases considered appropriate for such treatment are referred by the Commission to its Bureau of Stipulations. This bureau takes no part in the investigation or prosecution of any matter. Its procedure is to notify the person concerned that certain of his business practices have been challenged as illegal. The notice includes a statement of the specific practices which preliminary investigation indicates should be discontinued. The businessman may reply by correspondence or confer, either in person or through an authorized representative, with the Director of the Bureau of Stipulations or with an attorney-conferee. These conferences are usually conducted by an attorney conferee. Other participants, besides the businessman and his representatives, may include one or more representatives of the Bureau of Legal Investigation and any other bureau interested in the matter. Opportunity is always afforded for an informal hearing, 85 having been held during the fiscal year.

Through frank, informal, and thorough discussion of the facts and issues involved, amicable settlements are usually reached whereby unfair and deceptive practices are eliminated in the public interest on a cooperative basis. As to charges deemed to have been substantially proved, a stipulation of facts is drafted, signed, and presented to the Commission for its consideration in disposing of the case. Or this informal hearing may result in a recommendation for closing the case, either in whole or in part, or for other action in accordance with law and the public interest.

Should it appear in the course of negotiations for a stipulation that the practices charged are generally in use in the industry involved,

¹ The policy of the Commission with respect to disposition of cases by stipulation is set forth in its statement of policy on p.114.

CORRECTIVE ACTION THROUGH INFORMAL CONFERENCES 49

the bureau recommends to the Commission the institution of investigations on an industry-wide basis. The objective is to provide uniform and concurrent voluntary corrective action applicable to all members of a given industry so that all may be placed on an equal competitive basis.

Another function of the Bureau of Stipulations is to obtain reports showing in detail the manner and form of compliance with stipulations.

During the fiscal year, upon the recommendation of the bureau, the Commission disposed of 212 cases as follows :

Accepted executed stipulations including 5 amendment stipulations	139
Closed without prejudice	41
Referred for further investigation	11
Directed issuance of complaints	16
Placed on suspense	5
Total	212

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

Cases pending June 30, 1948	109
Cases referred to bureau during fiscal year	234
Total for disposition	343
Cases disposed of during fiscal year	212
Cases pending July 1, 1949	131

PART IV. TRADE PRACTICE CONFERENCES

ESTABLISHMENT AND ADMINISTRATION OF TRADE PRACTICE RULES FOR INDUSTRIES

The trade practice conference is a procedure for accomplishing law observance on an industry-wide basis through the cooperative establishment of rules designed to prevent unfair trade practices.¹ Under the conference plan, rules are established after industry conferences and public hearings open to all interested or affected parties, including consumer representatives. Rules promulgated under this procedure define and catalog practices the Commission considers unlawful under the statutes it administers.

Industry cooperation in the formulation of trade practice rules promotes the maintenance of fair competitive conditions. Through such cooperation, widespread observance of the law may be achieved, with resulting economies in the cost of law enforcement both to government and to industry.

The Commission's primary concern in the establishment of industry rules is the protection of the public from the harmful effects of such unfair practices as false and misleading advertising and other deceptive selling methods.

In the administration of promulgated rules emphasis is placed on the maintenance of active cooperation between the industry and the Commission in promoting voluntary observance of the rules and in ascertaining new developments which may require amendment of the rules or other action. Industry members are afforded guidance designed to assure business conduct in conformity with the laws administered by the Commission.

Trade practice conference procedure.--The procedural requirements applicable to proceedings for establishment of trade practice rules are covered in the Commission's Rules of Practice. (See p.108.) Trade practice conference proceedings may be instituted in the public interest by the Commission upon its own motion or upon application by an industry. Any interested party or group in an industry, large or small, may apply to the Commission for the institution of such

¹ The Commission policy with respect to settlement of cases by means of this procedure is set forth at p.114.

proceedings. When a conference is authorized, industry representatives are invited to meet together to discuss proposed rules.

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

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

GROUP I AND GROUP II RULES EXPLAINED

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

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

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

CONFERENCE AND RULE-MAKING ACTIVITIES DURING YEAR

During the fiscal year, rules were promulgated for five industries, and existing rules for two other industries were revised and extended. Conferences were held for 12 industries, while public hearings on proposed rules involved 11 industries.

Industries for which both conference and public hearing were held during the fiscal year included mail-order insurance, yeast, and oil heating (New England States). Other conferences covered these industries : Floor-wax products, wool-shrinkage controls, wholesale

optical, bedding, peat, clinical thermometer, candy manufacturing, tie fabrics, and feather and down. Public hearings were held on proposed rules for the following industries : Fountain pen and mechanical pencil, rayon, nylon, and silk converting, fine and wrapping paper, canvas cover, trade pamphlet binding, handkerchief, cosmetic and toilet preparations, and cotton converting.

Trade-practice rules, specifically applicable to the problems of each industry and covering a wide variety of practices, were promulgated for seven industries having an estimated annual volume of business aggregating nearly 1½ billion dollars. A brief description of these industries and the trade practices covered by the rules follows :

Rules for the baby-chick industry.--Members of this industry are engaged in the sale and distribution of baby chicks, turkey poult, goslings, ducklings, and hatching eggs. These rules constitute a revision and extension of those promulgated December 31, 1938. Important new provisions include definitions of "crossbred," "inbred," "inbred line," "in-crossbred," and inhibitions respecting misuse of such terms. Other provisions specify requirements for the use of the word "hybrid" as descriptive of industry products. The rule respecting the use of the word "farm" in corporate and trade names has been made more specific, and numerous other changes have been embodied which further clarify the application to industry trade practices of laws administered by the Commission.

Rules for the handkerchief industry.--Members of the industry include manufacturers, importers, jobbers, and others who are engaged in the business of placing on the market or distributing handkerchiefs composed of textile fibers. Practices considered unfair and harmful are defined in the rules. Among the subjects covered are : Exclusive-dealing arrangements to exclude competitors' products ; improper consignment distribution; misrepresentation of product or of business status ; selling below cost and use of "loss leaders"; and discrimination in prices, in return of goods, and in facilities and services. The minimum size of men's handkerchiefs is specified. Also included are provisions regarding use of the term "hand-rolled," disclosure of the fact that products are "seconds," and identification of fiber content.

Rules for the rayon, nylon, and silk converting industry.--This industry comprises several hundred concerns, including integrated producers, who are engaged in business as converters of broad fabrics composed wholly of rayon, nylon, related synthetic fibers, or silk, and of broad fabrics in which any of these fibers, or combinations of such fibers, predominate. Rules for this industry are designed to prevent such unfair practices as misrepresentation of industry prod-

CONFERENCE AND RULE MAKING ACTIVITIES DURING YEAR 53

ucts, including misbranding and deception as to origin ; prohibited discrimination in terms of purchase and sale ; and inducing breach of contract.

Rules for the cotton converting industry.--Industry members are converters, including integrated producers, of broad goods composed entirely of cotton or mixtures in which cotton is the predominant fiber. The industry's products embrace such items as fabrics for clothiers' lining ; corset, brassiere, and allied fabrics; curtain and drapery fabrics ; shirting fabrics ; wash-goods fabrics ; interlining fabrics ; and bleached goods. The rules constitute a revision and extension of those promulgated July 21, 1936, and subsequently amended and republished on August 18, 1939, and provide additional coverage as requested by industry members.

Rules for the yeast industry.--The business of this industry is the manufacturing and marketing of yeast or yeast products used as a leavening agent in commercial or home baking. Included are rules inhibiting the giving of excessive samples or gifts and the making of loans or other inducements to purchase industry products, where the effect may be to substantially lessen competition, create a monopoly, or bring about an illegal discrimination.

Rules for the oil-heating industry of the New England States.--This industry is engaged in the retail sale, distribution, installation, servicing, or repairing of oil heat generating systems, and parts and accessories therefor, in the New England States. Persons, firms, and corporations engaged in the retail sale and distribution of fuel oil for consumption in such heating systems in the area are also members of the industry to which the rules are applicable. Important provisions relating to the expression of opinions by industry members as to available supply of fuel oil are included. Deceptive concealment of the fact that products are rebuilt or contain second-hand or used parts is covered by the rules. Also included are provisions which proscribe the use of false, misleading, deceptive, or unfair guarantees.

Rules for the trade pamphlet binding industry of the New York City trade area.--This industry is engaged principally in binding a large portion of the many thousands of pamphlets, books, magazines, circulars, and periodicals printed in this country, and in furnishing materials and supplies used in the binding operations. The rules proscribe various unfair methods of competition and other unlawful practices, such as illegal discrimination in price, services, or facilities ; commercial bribery ; defamation of competitors ; transactions below cost ; and inducing breach of contract.

PENDING CONFERENCE PROCEEDINGS

In addition to those proceedings which resulted in the promulgation of rules during the year, other proceedings were advanced and were in various stages of completion at the close of the fiscal period. Some of these pending proceedings are summarized below:

Cosmetic and toilet preparations industry.--Both the industry conference and the public hearing on proposed rules have been held. The proceedings were initiated on the Commission's own motion after a project investigation of the industry. The proposed rules have as one of their principal purposes clarification of the phrase "on proportionally equal terms" as used in section 2 of the Clayton Act, as amended, with particular reference to the furnishing or paying by industry members of salespersons or so-called "demonstrators." The objective is to provide a workable plan for the proportionalization of demonstrator services so as to afford industry members practical guidance for complying with the statute. The proposed rules also seek to clarify requirements applicable to foreign origin representations concerning industry products, as well as to deal specifically with various other industry practices.

Mail-order insurance industry.--Public Law 15 (79th Cong., 1st sess.) as amended, provides that after June 30, 1948, the Sherman Act, the Clayton Act, and the Federal Trade Commission Act "shall be applicable to the business of insurance to the extent that such business is not regulated by State law." Thus it became the obligation of the Commission to administer and enforce the Federal Trade Commission Act and certain sections of the Clayton Act with respect to the business of insurance.

In order to effect industry-wide correction of false, misleading, or deceptive advertising and sales promotional practices in the mail-order insurance industry, a trade practice conference was called by the Commission and a public hearing was subsequently held. Substantial progress has been made in the formulation of rules, all of which relate in detail to the nature of the advertising permitted under the law in the interstate sale of insurance.

Textile water-repellent industry.--Conference proceedings for this industry are being conducted on the Commission's own motion after a survey of the industry's practices. The proposed rules relate to advertising, labeling, and the various other selling methods used in the marketing of raincoats and outerwear represented as being impervious or resistant to the passage of water and moisture. A principal objective is the safeguarding of consumer purchasers from the harmful effects of deceptive claims as to the degree and permanency of water and moisture protection afforded by industry products.

Shrinkage and dimensional control of treated wool and wool products.--The subject of shrinkage and dimensional control of treated wool products involves, among other things, the development of acceptable test methods for determining the potential shrinkage existing in the various types of treated woven and knitted wool products being offered for sale commercially and in process of development. The degree or extent of treatment necessary for each of the many types of industry products and the methods and manner of washing, laundering, or dry cleaning them are also involved. A trade practice conference was held on the subject during the year and a draft of proposed rules is being prepared for submission at a public hearing for the consideration and comment of interested and affected trade groups as well as consumer representatives.

Fountain pen and mechanical pencil industry.--The proposed rules for this industry, on which public hearing was held during the year, include specific requirements for the use of such terms as "iridium tipped" and "osmiridium tipped" to describe the nibs or tips of fountain pen points, and also for use of such terms as "gold," "rolled-gold plate," "gold filled," and "gold electroplated" as descriptive of any part of such pens or mechanical pencils. Misuse of such terms has necessitated numerous corrective proceedings by the Commission against members of this industry. It is a primary purpose of the proposed rules to clarify the legal requirements respecting these subjects and to provide a basis for industry-wide correction of these and other unfair trade practices.

Automobile financing.--Acting on its own motion, the Commission authorized conference proceedings after complaints from members of Congress, better-business bureaus, and automobile purchasers indicated the "packing" of automobile sale and installment contracts whereby fictitious or exorbitant charges are deceptively concealed from the purchaser. Such concealment is generally accomplished by lumping finance charges and insurance in the automobile purchase contract. It has been proposed that rules be established requiring that prospective car buyers be given an itemized breakdown of all items making up the total amount to be paid by the buyer under the contract, and the listing separately of finance and insurance charges. Preliminary work was completed during the fiscal year and a conference authorized to consider proposed rules covering the practices in question.

Bedding industry.--Practices covered in proposed rules for this industry, which manufactures and sells mattresses, pads, box springs, bedsprings, metal cots and beds, and dual-purpose sleeping equipment, include: deceptive use of such descriptive terms as "felt,"

“latex,” “foamed rubber,” “Rx,” “orthopedic,” “custom-built,” “germ-proof,” and “waterproof”; deception as to used material and parts, and deceptive pricing. An industry-wide trade practice conference was held during the year and substantial progress made in the preparation of proposed rules for further consideration.

Floor wax products industry.--The proposed rules for this industry, which were the subject of a public hearing after an industry-wide conference held on the Commission's own motion, define “wax” and provide specifications for use of such terms as “slip-proof,” “slip resistant,” “waterproof,” “water resistant,” “spot-proof,” and “heavy duty” as descriptive of industry products. These provisions are designed to prevent the use of such terms under conditions which are false, misleading, or deceptive to the purchasing public.

RELATED RULE-MAKING WORK PERFORMED

In related activities, trade practices of six industries were studied and analyzed to determine whether conference proceedings would be desirable in the public interest. Preliminary steps were taken toward the institution of conference proceedings for 40 other industries, and included informal discussions of industry problems and practices, as well as the extent to which they might be covered in trade practice rules. In all, 790 informal office conferences were held with industry members and trade groups relative to pending and contemplated conference proceedings. More than 41,000 invitations to conferences, notices of public hearings, and rule acceptance cards were mailed to industry members and interested parties, in addition to voluminous correspondence with industry groups and individual industry members concerning various phases of rule-making work. Membership lists for 30 industries were prepared and maintained on a current basis.

ADMINISTRATION OF RULES

Rule administration work is directed toward attaining the highest degree of voluntary law observance through informal administrative action under promulgated rules. This involves cooperative compliance activities, including the maintenance of close liaison with industries having approved rules. By such means, the Commission is enabled to ascertain promptly rule violations requiring correction and new or changed competitive conditions which may necessitate rule revision or amendment. At the same time, industry members may be assisted informally in avoiding competitive practices contrary to the rules and the law. In furtherance of this cooperative liaison work, approximately 80 industries under rules were visited in the field by representa-

tives of the Rule Administration Division, 67 industry association executives were called on, and 137 industry members were contacted during the year.

In addition, approximately 1,700 members of various industries were invited through correspondence to give the Commission the benefit of any comments, suggestions, or information which they might care to submit respecting rule observance, new or changed industry conditions, or any other matters relating to the rules or their administration.

During the year, cooperative compliance activities have been materially enlarged. By continuous and direct contact with members of industries under rules, it has been possible to bring promptly to their attention matters of alleged violations and thus to facilitate immediate correction. Likewise, by keeping the members constantly alert to the requirements of rule provisions, potential infractions were arrested in their incipiency. In the past year the division gave attention to 4,758 matters involving alleged violations of rules. Of these, 4,129 were successfully concluded, leaving 629 matters to be carried over into the new fiscal year.

In addition to general rule administration, a number of industries received special attention, of which the following were typical :

Baby chick industry.--Since the promulgation of these rules, advertising and other practices of industry members have received considerable attention. This included a large volume of correspondence and many informal conferences with industry members for the purpose of assisting them in bringing their practices into full conformity with the baby chick rules. Cooperative liaison work with officials of the National Poultry Improvement Plan of the United States Department of Agriculture and its various executive committees was also conducted with a view to bringing about prompt and effective rule observance on a Nation-wide basis. Through this work, unfair practices such as deceptive claims concerning the quality, character, grade, productivity, development, vigor, nature, and origin of baby chicks have been materially reduced.

Fur industry.--In the course of administering these rules, the business practices of members of the industry were closely scrutinized and action to curb misrepresentation and deceptive selling of fur products was taken to the extent that they could be reached under existing law. For the most part, the practices in question involved the passing off of one kind of fur as another and higher grade of fur.

Luggage and related products industry.--Special attention was given during the year to the elimination and prevention of false advertising, misbranding, and other types of deception in the sale of

industry products. It was revealed that products made of split leather or other cuts of inferior leather were being advertised, labeled, marked, tagged, and stamped with various terms having the capacity and effect of misleading purchasers into the belief that such products were made of top grain leather. An extensive check was made of advertising and marking practices, conferences were held with industry members, and the cooperation of industry representatives was sought in effecting more widespread observance of the rules. Appropriate action to correct such unfair practices was taken where necessary.

Masonry waterproofing products industry.--Industry practices were carefully examined, including the advertising and labeling used by industry members, informal conferences were held, and every effort made to bring about voluntary observance of these rules.

Rayon industry.--Continuous attention was given during the year to the administration of the rules for this industry, particularly those provisions relating to disclosure of the fiber content of products containing rayon. Compliance work in this field took the form of an extensive survey of advertising, voluminous correspondence, numerous office conferences, and field liaison activities. This work had as its primary objective the protection of the consuming public from the harmful effects of deceptive methods employed in the advertising and sale of rayon products.

Watchcase industry.--The work performed on the rules for this industry, which were promulgated in 1948, related particularly to the use of proper and nondeceptive designations of the gold content of watchcases. Conferences have been held with representatives of industry groups, as well as with industry members, and a considerable volume of advertising has been surveyed. This program has resulted in a substantial degree of rule compliance, especially in regard to the use of proper gold content designations.

Watch rules (respecting use of such designations as "waterproof," "shockproof," and "nonmagnetic").--These rules have as their primary objective the elimination and prevention of deception in the marketing of watches, watchcases, and watch movements, whether of domestic or foreign manufacture, and the maintenance of fair competition among industry members. As a result of cooperative compliance efforts begun last year and continued with added emphasis into this fiscal year, there has been marked improvement in the observance of the rules.

Wholesale jewelry industry.--The administration of the wholesale jewelry rules during the fiscal year was directed principally to the elimination and prevention of the practice of representing imitation pearls and stones as genuine and precious. Misrepresentation of the

gold content of industry products was also the subject of special attention. In the course of the administration of these rules, national advertising agencies as well as manufacturers of industry products were contacted, an extensive survey of jewelry advertising was made, and close liaison maintained with officials of the jewelers' vigilance committee with the view of obtaining the highest possible degree of voluntary observance.

TYPES OF PRACTICES COVERED IN TRADE PRACTICE RULES

During the fiscal year promulgated rules for over 150 industries, comprising more than 2,000 separate provisions, were under administration. These rules embrace a wide variety of subjects, of which the following are illustrative :

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

Other subjects covered are slack-filled, short-weight, or deceptive containers; deceptive photographs or engravings; false or misleading guarantees, warranties, testimonials, or terms of sale; misrepresentation as to possible earnings or opportunities afforded on completion of correspondence school courses, or as to Government connection with, or indorsement of, any school or training or services offered; falsely representing offers as "special" or "limited"; misrepresenting regular lines of merchandise as "closeouts"; misrepresenting products as conforming to recognized industry standards; use of fictitious animal designations in describing fur products; representing retail prices as wholesale; representing domestic products as imported or vice versa; deceptive titles or names in selling books; false representations respecting tube capacity, range, and receptivity of radio receiving sets; and misrepresentation as to quantity, measure, or size of various products.

Rules also cover deceptive use of such terms as : "perfect," "real," "genuine," or "natural" in describing precious stones or their imitations; "pullorum tested," "blood tested," "hybrid," "inbred," or "inbred line," and "in-crossbred" as applied to baby chicks; "all fabric," "fast,"

or "fadeproof" as descriptive of household fabric dyes; "extra fancy," "extra select," "deluxe," or "choice" to describe canned tuna; "waterproof," "watertight," "water resistant," "water repellant," and related terms as descriptive of watches, watchcases, watch movements, baggage, or masonry waterproofing products; "shockproof," "unconditionally shock resistant," or "nonmagnetic" as applied to watches; "new," "demonstrator," "factory rebuilt," or "reconditioned" as descriptive of typewriters; "rolled gold plate," "gold plated," "gold filled," "gold electroplated," "gold," "karat," "sterling," "silver," or "solid silver" as applied to watchcases.

Subjects embraced in other rules include : exclusive or preemptive deals to eliminate or suppress competition; improper use of demonstrators; coercing adherence to published rental rates or trade-in values; disclosure as to remaining shrinkage in so-called preshrunk merchandise; disclosure that apparently new products are second-hand, used, rebuilt, or renovated; disclosure that products are artificial or imitations; specification of minimum requirements for standard or genuine products; disclosure as to imperfect or defective merchandise, as to presence of metallic weighting in silk products, as to true functions of radio parts and accessories, as to latent defects in artificial limbs or other prosthetic appliances, as to use and application of masonry waterproofing products, and as to true metal composition of watchcases.

INFORMATIVE LABELING

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

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

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

Specific informative labeling provisions are contained in the rules for the rayon, silk, and linen industries. Informative labeling for all types of hosiery is the subject of trade practice rules for the hosiery industry. Similar provisions applicable to shrinkage of woven cotton merchandise have been promulgated. Provisions of a like nature are found in the trade practice rules for the infants' and children's knitted outerwear industry; uniform industry; ribbon industry; handkerchief industry; and rayon, nylon, and silk converting industry. Rules relating to fur garments and fur products generally also contain informative labeling provisions.

Provisions on the subject of informative labeling are also included in the trade practice rules for the following industries : Artificial limb, masonry waterproofing, household fabric dye, watch case, wood-cased lead pencil, razor and razor blade, luggage and related products, curled hair, mirror manufacturing, sun glass, putty manufacturing, wholesale jewelry, paint and varnish brush manufacturing, toilet brush manufacturing, rubber tire, office machine marketing, and hand knitting yarn.

PART V. WOOL PRODUCTS LABELING ACT
INFORMATIVE LABELING FOR PROTECTION OF
INDUSTRY AND THE PUBLIC

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

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

The act requires that the label or other identification mark disclose the kind and percentage of each different fiber contained in the product, including the respective percentages of "wool," "reprocessed wool," and "reused wool." The maximum percentage of loading and adulterating material, if any, and the name of the manufacturer of the wool product or the name of a qualified distributor or reseller must also appear on the label. The label, or a proper substitute specified by the statute, is not to be removed or mutilated by the dealer but is to remain on the merchandise when delivered to the purchaser consumer.

Products covered by the act include not only finished articles such as wearing apparel and blankets but also the yarns and fabrics from which they are made. These products come from approximately 100 industries and are marketed through an estimated 250,000 distributor and dealer outlets.

Rules and regulations under Wool Act.--The act authorizes the Commission to make rules and regulations necessary for its administration and enforcement. Comprehensive rules and regulations were issued by the Commission, effective July 15, 1941. They are published

in booklet form and may be obtained upon application to the Commission. They provide for manufacturers, distributors, and dealers guidance on how to comply fully with the law.¹

Registered identification numbers.--Under rule 4 of the regulations, as effective during the fiscal year, wool products manufacturers residing in the United States could have registered identification numbers assigned to them. Such a number was for use upon the label as a means of identifying the manufacturer when the label carried the name of the dealer or reseller. At the close of the fiscal year, 7,304 manufacturers' registered identification numbers had been assigned, an increase of 481 over the preceding fiscal year.

On June 28, 1949, the Commission amended rule 4 of the rules and regulations, effective August 1, 1949. The amended rule provides that registered identification numbers may be assigned upon proper application² not only to manufacturers of wool products but also to persons subject to the labeling requirements of the act who market wool products in interstate commerce. It also provides that the registered identification number may be used on a wool product tag, label, or other mark as and for the name of the person to whom such number is assigned and need not be accompanied by the name of the reseller as originally required by rule 4.

Under the amended rule, manufacturers' numbers then currently registered with the Commission were continued in effect.

Continuing guaranties.--For the purpose of protecting distributors, dealers, and other resellers from the charge of misbranding when relying in good faith upon the manufacturer's statement of content provision is made in section 9 of the act for a guaranty on the part of the supplier. It may be either (1) a separate guaranty specifically designating the wool product guaranteed, or (2) a continuing guaranty applicable to all products handled by a guarantor. Continuing guaranties must be filed with the Commission in the form prescribed by rule 33 of the rules and regulations. This rule also provides for renewal of the continuing guaranties annually or whenever any change in ownership or management of the guarantor is made. At the close of the fiscal year, 9,673 continuing guaranties had been properly filed with the Commission, as against 8,671 at the end of the fiscal year 1948. These have been recorded and are open to public inspection.

Enforcement.--In cases of alleged violation requiring corrective action by formal proceedings, the use of the cease and desist order

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

² Application blanks for registered identification numbers may be obtained upon request.

procedure authorized by the Wool Act has proved adequate. The supporting peremptory remedies specifically provided by the Wool Act are available when needed, however, and in cases of deliberate or willful violation, misdemeanor proceedings may be applied.

Administrative compliance work included field inspection and industry counseling which, in most instances, resulted in voluntary and cooperative correction of labeling practices by concerns throughout the country. Compliance work during the year was carried on with 9,781 manufacturers, distributors, and other dealers in wool products. Field inspections in 39 States covered more than 26,000,000 articles. During the preceding fiscal year, field inspections totaled 8,966 concerns and covered more than 23,000,000 articles.

Cases of improper labeling were handled for the most part through cooperative, voluntary action without resort to compulsory proceedings. Relatively few cases have arisen in which it has been necessary to invoke mandatory processes.³ Administrative compliance work has proved an effective and economical method of protecting the public interest in this field.

³ For complaints alleging violations of the Wool Products Labeling Act see p.38; for Commission orders directed against such violations see p. 42.

PART VI. BUREAU OF MEDICAL OPINIONS

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

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

The Bureau provides medical opinions and scientific information needed in the preparation of formal complaints and the negotiation of stipulation-agreements, as well as in connection with affidavits of scientific experts. During the fiscal year it prepared 279 written opinions and rendered many oral opinions. A substantial amount of time was devoted to assisting the Commission's legal staff in its preparation for hearings in cases in which questions of science arose. Members of the Bureau staff attended many hearings, particularly where scientific witnesses were under cross-examination. The services of expert scientific witnesses were obtained in cases where it was necessary to determine scientific questions. During the year, 39 experts testified as witnesses in Commission cases.

The Director of the Bureau of Medical Opinions is the Commission's liaison officer with the Food and Drug Administration and with the Insecticide Division, Livestock Branch, Production and Marketing Administration of the Department of Agriculture. Through such cooperative relationships, the Commission has obtained much needed information and other assistance in connection with cases involving food, drugs, devices, cosmetics, and "economic poisons" such as insecticides, rodenticides, fungicides, and weed exterminators.

PART VII. FOREIGN TRADE WORK

EXPORT TRADE ACT

The Export Trade Act, commonly known as the Webb-Pomerene Law, enacted in 1918, is administered by the Commission through its Division of Export Trade. Designed to promote the export trade of the United States, this act authorizes the organization and operation of export trade associations among competing exporters, and grants to such associations an exemption from the antitrust laws, provided their operations do not restrain trade within the United States, restrain the trade of competing American exporters, or artificially enhance or depress prices within the United States.

With their activities subject to general supervision by the Commission, associations operating under the act are required to file periodic reports and such other information as may be requested from time to time. Under section 5 of the act, if the Commission has reason to believe that the law has been violated, it may investigate and, if it finds a violation, recommend that the offending association readjust its business to comply with the law.

Exporters interested in qualifying for operation under the act may obtain information and assistance from the Division of Export Trade. Its staff is available for informal consultation and advice and stands ready to be as helpful as possible in connection with all matters relating to this law. Detailed information may be obtained upon request.

In some cases an export association acts as a central selling agent for export shipments of its members. In others it directs and controls export sales by the members under association agreement. Still other associations buy the members' products and resell them in foreign markets.

Typically, the groups are organized along cooperative lines. Some are incorporated, others are not. In most instances they operate on a nonprofit basis, the profit obtained on export sales being realized by the members individually.

The law was first used to facilitate the sale of goods to the Allies during World War J. It was of importance during the reconstruction period after that war when large quantities of materials were shipped abroad to rehabilitate Europe. The so-called "boom period"

opened new markets for American goods in foreign countries, and when the depression followed, cooperation in export under the law aided many American exporters to continue in business in the face of very unfavorable trade conditions.

Later, the war in China closed many oriental markets to American exporters, forcing the associations to develop other markets to take the place of that trade. And when war broke out again in Europe in 1939, the countries involved in that conflict were eliminated one by one as markets for American goods, so that trade was shifted again, this time toward Latin America and Africa. In some instances goods en route to European ports were diverted to other countries. These shifts were readily made by a cooperative organization with agents abroad and knowledge of foreign conditions.

Normal export trade did not exist, of course, during World War II. Since the war the problems which have been presented to American exporters have increased in difficulty and complexity. As a result of unsettled world trade conditions, cooperative effort under the Export Trade Act has assumed even greater importance than before.

OPERATIONS IN 1948

Total exports by the associations were less in 1948 than in the previous year, the decline being especially marked during the second half of the year. Some groups have found it difficult to get back into foreign markets closed during the war period. Despite the gradual trend from a sellers' to a buyers' " market, the normal flow of business has been hindered by lack of dollar exchange, and associations have had many orders which could not be executed because of the inability of purchasers to establish credit.

Competition from foreign manufacturers has greatly increased as other countries have taken steps to build up their productive capacity and to export as much as possible in order to establish their position in world markets. In some countries an increase in the production of native crops has led to a decrease in demand for American foodstuffs. While during the war prices in some foreign countries were higher than controlled prices in the United States, foreign competitors in many cases are now underselling American goods. Among other things, production costs in foreign countries are held to a minimum by Government loans or subsidies, tax exemption, and other measures to encourage trade.

Several associations are now inactive, but report that the services rendered to members in the past justify continuation in the hope that export conditions will improve. Several associations went out of

business during the past fiscal year. One new association was organized during the year: Cerium Export Association, formed in March 1949 by the Cerium Metals Corp. of New York and General Cerium Co. of Edgewater, N. J. This association will export cerium misch metal, an element used chiefly in the manufacture of flints for cigarette lighters and other devices requiring a spark.

EXPORTS IN 1948 TOTAL \$700,183,502

Total value of exports by the associations in 1948, as compared with 1947, is as follows :

	1947	1948
Metals and metal products	\$59,904,442	\$389,580,731
Products of mines and wells	38,043,675	43,247,920
Lumber and wood products	18,951,866	11,799,541
Foodstuffs	233,969,556	142,165,390
Miscellaneous	732,919,382	464,389,920
Total	1,083,788,921	700,183,502

ASSOCIATIONS OPERATING UNDER THE ACT

At the close of the fiscal year ending June 30 1949, 45 export associations were registered with the Commission :

American Hardwood Exporters, Inc., 706 International Building, New Orleans.	Carbon Black Export, Inc., 500 Fifth Avenue, New York.
AMTEA (American Machine Tool Ex- port Association), 30 Church Street, New York.	Cerium Export Association, 52 Wall Street, New York.
American Spring Export Association, Inc., 50 Church Street, New York.	Citrus Corp. of America , Box 231, Lake Wales, Fla.
American Tire Manufacturers Export Association, 30 Church Street, New York.	Door Export Co., Washington Building, Tacoma, Wash.
California Dried Fruit Export Association, 1 Drumm Street, San Francisco.	Douglas Fir Export Co., 530 Henry Building, Seattle.
California Prune Export Association, 1 Drumm Street, San Francisco.	Durex Abrasives Corp., 240 North Avenue, New Rochelle, N. Y.
California Rice Exporters, 351 California Street, San Francisco.	Easco Lumber Association, 216 Pine Street, San Francisco.
	Electrical Export Corp., 122 East Fifty-first Street, New York.

- Electrical Manufacturers Export Association,
70 Pine Street,
New York.
- Export Screw Association of the
United States,
21 Stevens Street,
Providence, R. I.
- Flints Export Agency,
50 Broad Street,
New York.
- Florida Hard Rock Phosphate Export
Association,
318 East Main Street,
Lakeland, Fla.
- Flour Millers Export Association,
859 National Press Building,
Washington, D. C.
- General Milk Sales, Inc.,
19 Rector Street,
New York.
- Goodyear Tire & Rubber Export Co.,
The,
1144 East Market Street,
Akron, Ohio.
- Metal Lath Export Association, The,
205 East Forty-second Street,
New York.
- Motion Picture Export Association,
Inc.,
540 Fifth Avenue,
New York.
- Pacific Forest Industries,
1219 Washington Building,
Tacoma, Wash.
- Pacific Fresh Fruit Export Association,
333 Pine Street,
San Francisco.
- Pencil Industry Export Association,
167 Wayne Street,
Jersey City, N. J.
- Potash Export Association, Inc.,
420 Lexington Avenue,
New York.
- Railway Car Export Corp. of America,
1025 Connecticut Avenue,
Washington, D. C.
- Redwood Export Co.,
405 Montgomery Street,
San Francisco.
- Rubber Export Association, The,
1185 East Market Street,
Akron, Ohio.
- Steam Locomotive Export Association
Inc.,
30 Church Street,
New York.
- Sulphur Export Corp.,
420 Lexington Avenue,
New York.
- Texas Rice Export Association,
407 Jensen Drive,
Houston, Tex.
- Textile Export Association of the
United States,
271 Church Street,
New York.
- Typewriter Manufacturers Export As-
sociation,
3733 Albemarle Street NW.,
Washington, D. C.
- United States Alkali Export Associa-
tion,
11 Broadway,
New York.
- United States Scientific Export Associa-
tion, Inc.,
50 Broadway,
New York.
- Universal Dairy Products Co.,
80 East Jackson Boulevard,
Chicago.
- Walnut Export Sales Co., Inc.,
518 North Delaware Street,
Indianapolis.
- Washington Evaporated Apple Export
Association,
709 First Avenue North,
Yakima, Wash.
- Wescosa Lumber Association,
2 Pine Street,
San Francisco.
- Wine and Brandy Export Association
of California,
717 Market Street,
San Francisco.
- Wire Rope Export Trade Association,
The,
19 Rector Street,
New York.
- Wood Naval Stores Export Association,
Gulfport, Miss.

INQUIRIES AND RECOMMENDATIONS

Three inquiries covering operations of export associations were in progress during the year. One was completed and recommendations issued for readjustment of the business of the association. The other two, still pending July 1, 1949, were Carbon Black Export, Inc. (Docket 202-5) and a reopened inquiry, Pacific Forest Industries (Docket 202-1).

Recommendations issued to The Pipe Fittings and Valve Export Association on July 27, 1948, were in substance as follows :

(1) That the association refrain from entering into any understanding or agreement with nonmember American manufacturers of pipe fittings whereby these manufacturers agree to sell only at agreed and noncompetitive prices and terms or agree to refrain from competing in export trade in pipe fittings.

(2) That the association refrain from fixing prices , terms, or discounts upon, or from trading in any manner in, pipe fittings marketed in Hawaii, Puerto Rico, and the Virgin Islands, or any other territory or possession of the United States.

(3) That the association seasonably file with the Commission all information required by the Export Trade Act to be filed annually, and furnish all information and documentary evidence requested or required by the Commission, pursuant to the act, whether called for by report forms, by questionnaires or communications, by personal visitation, or otherwise.

TRUST LAWS AND TRADE REGULATION ABROAD

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

Argentina.--A new constitution adopted early in 1949 declares that capital must be used for the welfare of society and the service of the economy. It also provides for nationalization of all public utilities , minerals, water supply, coal, gas, and petroleum wells, and extends Government control of industry and foreign trade.

Australia.--A proposed constitutional amendment to give the government permanent power to control prices, rents, and charges was rejected in referendum in 1948. The government therefore turned over to the states such control as had been retained under the defense powers, and announced that cost-of-living subsidies would be discontinued. After conferences between state officials in the summer of 1948, price control was abandoned on a large number of items.

Austria.--Legislation governing rationing and allocation of scarce commodities became effective in March 1948. A price control law passed in April 1948 gave the government broad powers in price legislation. A wage-price agreement in September 1948 resulted in wage increases and discontinuance of price support subsidies on some foodstuffs.

Bolivia.--A newly organized economic council created by supreme decree on December 18, 1948, will study plans for instituting a more equitable distribution of wealth, as well as proposals concerning monetary policies, taxation, budget, and general fiscal matters.

Brazil.--A bill now before the Assembly calls for compulsory profit sharing. Under it, the owner of a business would be entitled to 8 percent return on the investment after taxes, and 30 percent of the total net profits would be distributed among the employees.

Canada.--A special committee on prices appointed in February 1948 reported to Parliament in June 1948; thereafter a royal commission on prices was appointed to continue the inquiry. Report of the Combines Investigating Commission on the bread-baking industry in western Canada was issued in November 1948, and in March 1949 the minister of justice announced that the alleged combine would be prosecuted. In a decision on February 28, 1949, the Ontario court of appeal dismissed on technical grounds the appeal of the Crown against acquittal of 18 companies which had been charged with unlawfully conspiring to prevent and lessen competition in dental supplies.

Colombia.--A decree in June 1948 provided in detail for foreign exchange control; licensing by the office of control of exchanges, imports, and exports; fixing of prices for domestic agricultural products and raw materials; fixing of quotas of obligatory consumption for domestic raw materials; and regulation of importation of new capital for investment in industries of benefit to the national economy. A new Economic Law was passed in December 1948.

Costa Rica.--A series of decrees published in October 1948 introduced new exchange controls. The national production council buys rice, corn, and beans at fixed support prices and resells at fixed retail prices. The goods may be stored in government warehouses until disposed of. Electric light and power facilities were nationalized in 1948.

Czechoslovakia.--A dual price system was adopted by the finance minister under the first budget of the five-year plan in January 1949. Workers, civil servants, small farmers, and other persons named in the regulations may buy rationed goods at fixed prices. All others must buy in the free market at higher prices. Nationalization, begun

in 1945, was continued by six new measures in April 1948, these being incorporated into the new constitution in June 1948. About 95 percent of industry is now nationalized. Under a law effective April 28, 1948, all foreign trade and international forwarding is conducted by government monopolies or nationalized trading companies organized and directed by the minister of foreign trade.

Dominican Republic.--Under a law effective April 20, 1948, a secretariat for national economy was created to develop and control various fields of industry as well as foreign and domestic commerce. This office is the official licensing agency for exports and imports and will control the issuance of bank drafts. It will also assist the national economic council, an advisory body.

Ecuador.--In December 1948 the President announced plans for the creation of a national institute for the development of production to direct and integrate the activities of the development banks, and of a development corporation to stimulate agricultural, industrial, and mineral production.

France.--Faced with demands for higher wages to meet the rise in rents and an increased production tax effective January 1, the government announced in January 1949 that prices would not be permitted to rise above the level of December 31, 1948, and that the burden of the tax increase must be absorbed in industrial and commercial profit margins and by a reduction in costs of production. At the same time a reconstruction and equipment loan was announced to finance projects in 1949.

Great Britain.--The Monopolies and Restrictive Practices (Inquiry and Control) Act of July 30, 1948, created a commission to make investigations and reports. The board of trade was to appoint the members and direct its operations. The results of such an inquiry may be submitted by the board to Parliament, which may direct further action or authorize a "competent authority" to issue orders declaring unlawful those agreements or arrangements found to be detrimental to the public interest. The law provides that in determining whether the acts or agreements in question are against the public interest " regard shall be had to the need to achieve :

(a) Production, processing, and distribution--by the most efficient and economical means--of goods of such types and qualities, in such volume, and at such prices to best meet the requirements of home and overseas markets;

(b) Organization of industry and trade in such a way that their efficiency is progressively increased and new enterprise encouraged;

(c) Fullest use and best distribution of men, materials, and industrial capacity in the United Kingdom; and

(d) Development of technical improvement, expansion of existing markets, and opening up of new markets.

The competent authorities named in the act, which may issue such orders, are the board of trade, the Minister of Supply, the Minister of Works, the Minister of Fuel and Power, the Minister of Health, the Minister of Agriculture and Fisheries, the Admiralty, the Minister of Food, and the Secretary of State, each of which has regulatory functions and powers. Offenders under the act may be punished by fine and imprisonment. Six inquiries have been directed by the board of trade in the following industries: Electric lamps, dental supplies, insulated electric wire and cables, match machinery, matches, and cast-iron pipe.

A committee of inquiry appointed by the Minister of Works in 1946 reported in 1948 that certain practices in the distribution of building materials were not in the national interest. The committee found that trade associations of distributors negotiate and enforce price-fixing arrangements with manufacturers, associations. In fact, no free competition was found in any industry producing building materials or their components. It was recommended that distributors' margins be controlled as a temporary measure. In addition, four specific actions on a permanent basis were recommended: (1) Registration of all trade agreements, (2) prohibition of certain types of agreements between manufacturers and merchants, (3) prohibition of price discrimination by either a manufacturer or merchant, as between customers in accepting orders, and (4) control of prices and margins. This report was issued before passage of the Monopolies Act, and no inquiry has been directed by the board of trade in the industry.

Report of the Jute Working Party (investigation committee) was published in 1948. Modernization was recommended, with the first step to be a reduction in the number of firms. Concluding that there were too many small firms in the industry, the report called for their amalgamation into a few groups covering spinning, weaving, and finishing. Such groups would be authorized to organize production in the most efficiently planned establishments and close down uneconomic units. It was also recommended that each group have a new large-sized plant for mass-producing yarns; that the industry be assured of suitable protection in the home market against competition of foreign goods; and that a development council be set up for guidance of the industry.

In industries not slated for nationalization, the government has adopted the development council plan under the Industrial Organization Act of 1947. Such a council may be set up by the board of

trade for the purpose of assisting an industry to increase its efficiency and productivity and to improve the service rendered to the community. Development councils were set up in 1948 and early in 1949 in the furniture, hosiery and knitwear, clothing, jewelry, and silver-ware industries.

Under the Gas Act of 1948, the gas industry was nationalized May 1, 1949. In October 1948 the government presented a bill for nationalization of the steel industry. Under a Town and Country Planning Act effective July 1, 1948, a central land board now has control over all material changes in the use of land.

Report of a governmental committee on resale price maintenance in 1949 recommended that no action be taken to deprive an individual producer of the power to prescribe and enforce resale prices for goods bearing his brand, but that steps be taken to render illegal the application of sanctions which would extend beyond the remedies open to an individual producer for any breach of resale price maintenance conditions.

Five important acts of the British Parliament effective July 5, 1948, dealt with national insurance, industrial injuries, a national health service, the care of children, and a plan of national assistance for those in acute need. A legal aid and advice bill presented to Parliament in November 1948 would provide for legal assistance to be made available, wholly or partly free, to persons with net incomes of less than \$1,700 a year or net capital of less than \$2,100.

Hungary.--An act effective July 28, 1948, created a new form of enterprise, including companies fully owned by the state, having unlimited liability, and companies in which the state owns 50 percent or more, with limited liability. About 90 percent of industrial production is said to be under government ownership or control. Practically all foreign trade is handled by the government through state agencies. Price control is now under the economic high council and industrial planning under the national office for planning. This latter agency has drafted a 5-year plan to become effective January 1, 1950, when the present 3-year plan expires.

Italy.--In 1948 the Council of Ministers approved a program to expand production and increase exports; stabilize prices, wages, and exchange rates; increase revenues and more strictly control government expenditures.

Japan.--The Law for the Termination of Zaibatsu Family Control, passed in 1948, was amended in November 1948, transferring the functions of the examination and reexamination committees to the Prime Minister. The law for the elimination of excessive concentration of economic power (1947) was also amended in November 1948. A for-

eign investment board has been established to rule upon proposals and agreements for the conduct of foreign business and investments.

Peru.--New price controls for prime necessities were ordered by a decree law December 3, 1948, with severe punishment for speculation and hoarding. An advisory commission on economic matters created in June 1948 will study and coordinate public and private economic development plans and advise national corporations and financial agencies handling loans for projects. In order to increase the cultivation of land and production of foodstuffs, the government is operating pools of federally owned farming machinery and tools, which are made available to farmers at reasonable prices.

Poland.--Federations of private industry with compulsory membership were ordered for a number of important industries in June 1948. Government foreign trade monopolies have also been established for products of importance, with authority to plan and administer purchase and sale in domestic and foreign commerce, and to fix prices with approval of the Minister of Industry and Commerce. A system of land socialization was adopted in July 1948. Under a compulsory savings law effective in January 1948, all private individuals and enterprises are compelled to save a portion of their income.

Rumania.--Establishment of a Ministry of Trade by decree in May 1948 brought practically all of Rumania's domestic and foreign trade under state control, covering business transactions, planning, procurement, and distribution of goods within the country and abroad. All privately owned resources of the subsoil and all manufacturing and processing enterprises, banks, insurance companies, transportation and communications were nationalized under a law published June 12, 1948. A state planning commission was established in July 1948 as the economic planning agency for all industry. The last of the large farms in Rumania were taken over by the government under a decree issued March 2, 1949.

Union of South Africa.--Price control is effected through regulation of profits. In order to combat the rising cost of living, the Minister of Economic Affairs published in July 1948 a list of revised profit margins that would be allowed by the government.

PART VIII. FISCAL AFFAIRS

APPROPRIATION ACTS PROVIDING FUNDS FOR COMMISSION WORK

The Independent Offices Appropriation Act, 1949 (Public Law 491, 80th Cong.) , approved April 20, 1948, provided funds for the fiscal year 1949 for the Federal Trade Commission as follows :

FEDERAL TRADE COMMISSION

Salaries and expenses.--For necessary expenses, including personal services in the District of Columbia; health service program as authorized by law (5 U. S. C. 150); payment of claims pursuant to section 403 of the Federal Tort Claims Act (28 U.S. C. 921); contract stenographic reporting services; newspapers not to exceed \$500; and not to exceed \$9,000 for deposit in the Treasury for penalty mail (39 U. S. C. 321d); \$3,401,510, of which not less than \$228,695 shall be available for the enforcement of the Wool Products Labeling Act; and not less than \$207,000 shall be available for the Trade Practice Conference Rule work : *Provided*, That no part of the funds appropriated herein for the Federal Trade Commission shall be expended upon any investigation hereafter provided by concurrent resolution of the Congress until funds are appropriated subsequently to the enactment of such resolution to finance the cost of such investigation.

Printing and binding.--For all printing and binding for the Federal Trade Commission, \$46,525.

APPROPRIATIONS FOR FISCAL YEAR

Funds appropriated to the Commission for the fiscal year 1949 as cited above amounted to \$3,448,035. In addition the Second Deficiency Appropriation Act , 1949 (Public Law 119, 81st Cong.) , approved June 23, 1949, provided \$173,000, making a total available of \$3,621,035. This sum was made up of two items: (1) \$3,574,510 for the general work of the Commission, and (2) \$46,525 for printing and binding.

Appropriations, allotments, expenditures, liabilities, and balances for the fiscal year ended June 30, 1949

	Amount available	Amount expended	Liabilities	Expenditures and liabilities	Balance
Federal Trade Commission, 1949 salaries, Commissioners and all other authorized expenses	\$3,574,510.00	\$3,441,105.36	\$118,998.03	\$3, 560,103.39	\$14,406.61
Printing and binding, Federal Trade Commission, 1949	46,525.00	16,899.33	19,501.83	36,401.16	10,123.84
Total fiscal year 1949	3,621,035.00	3,458,004.69	138,499.86	3,596,504.55	24,530.45
Unexpended balances:					
Federal Trade Commission, 1948	56,538.95	35,144.64	4,482.15	39,626.79	16,912.16
Printing and binding, Federal Trade Commission, 1948	37,656.00	12,944.62	23,668.81	36,613.43	1,042.57
Federal Trade Commission, 1947	71,045.74	1,603.14		1,603.14	69,442.60
Printing and binding, Federal Trade Commission, 1947	26,754.97	10,657.32		10,657.32	16,097.65
Transfer from Office of Price Administration, 1947	28,859.76				28,859.76
Total	3,841,890.42	3,518,354.41	166,650.82	3,685,005.23	156,885.19

Expenditures by functions--fiscal year 1949

	Antimonopoly				Unfair, deceptive, or fraudulent practices			
	Total expenditures, fiscal 1949	Legal case work	Economic and financial reports	Export trade	Legal case work	Trade practice conference	Wool Act Administration	Lanham Act and insurance
General Counsel	\$192,433	\$98,284	\$840	\$1,050	\$62,682	\$1,050	\$1,500	\$27,027
Bureau of Litigation	497,398	270,347		42,631	181,408		3,012	
Bureau of Legal Investigation	958,516	441,017			491,184	21,126	1,404	3,725
Bureau of Trial Examiners	187,152	70,694			116,019		439	
Bureau of stipulations	83,891		82,891	1,000				
Bureau of Medical Opinions	39,317		39,317					
Bureau of Trade Practice Conferences and Wool Act Administration	418,768					179,659	239,109	
Bureau of Industrial Economics	346,772	175,497	171,275					
Legal Records	89,920	40,474			38,062	2,846	8,538	
Stenographic Pool	140,849	54,406	8,542	2,168	51,163	10,158	12,886	1,526
Transportation funds to other agencies	24,000				19,400		4,600	
Commissioners, Commissioners' Offices, and Executive office	200,789	77,559	12,177	3,090	72,937	14,480	18,370	2,176
Administrative expenses	380,299	146,900	23,063	5,853	138,143	27,426	34,793	4,121
Printing and binding	36,401	14,337	6,900	136	13,482	639	811	96
Total	3,596,505	1,389,515	222,797	54,928	1,306,688	257,384	326,522	38,671
Total	3,596,505		1,667, 240				1,929, 265	

APPROPRIATIONS AND EXPENDITURES, 1915--49

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

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

	Printing and binding	50,000.00	33,902.35	16,097.65
1948	Lump sum	2,915,596.92	2,898,884.76	16,912.16
	Printing and binding	55,000.00	53,957.43	1,042.57
1949	Lump sum	3,574,510.00	3,560,103.39	14,406.61
	Printing and binding	46,525.00	36,401.16	10,123.84

APPENDIXES

FEDERAL TRADE COMMISSION ACT

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

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

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

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

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

¹ The salaries of the commissioners were increased to \$15,000 a year under the provisions of Public Law 359, 81st Cong., approved October 15, 1949.

² The salary of the secretary is controlled by the provisions of the Classification Act of

1923, approved March --49-, 1023, 42 Stat. 1488.

79

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

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

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

The Auditor for the State and Other Departments shall receive and examine all accounts of expenditures of the Commission. ³

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

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

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

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

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

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

³ Auditing of accounts was made a duty of the General Accounting Office by the Act of June 10, 1921, 42 Stat. 24.

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

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

“Antitrust Acts” means the Act entitled “An Act to protect trade and commerce against unlawful restraints and monopolies,” approved July 2, 1890; also sections 73 to 77, inclusive, of an Act entitled “An Act to reduce taxation, to provide revenue for the Government, and for other purposes,” approved August 27, 1894; also the Act entitled “An Act to amend sections 73 and 76 of the Act of August 27, 1894, entitled ‘An Act to reduce taxation, to provide revenue for the Government, and for other purposes,’” approved February 12, 1913; and also the Act entitled “An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,” approved October 15, 1914.

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

The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers, subject to the Acts to regulate commerce, air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938, 4 and persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 406 (b) of said Act, from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce.

(b) Whenever the Commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition or unfair or deceptive act or practice in commerce, and if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, partnership, or corporation may make application, and upon good cause shown may be allowed by the Commission to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission. If upon such hearing the Commission shall be of the opinion that the method of competition or the act or practice in question is prohibited by this Act, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or

corporation to cease and desist from using such method of competition or such act or practice. Until the expiration of the time allowed for filing a peti-

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

82 ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION, 1949

tion for review, if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time then until the transcript of the record in the proceeding has been filed in a circuit court of appeals of the United States, as hereinafter provided, the Commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section. After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time, the Commission may at any time, after notice and opportunity for bearing, reopen and alter, modify, or set aside, in whole or in part, any report or order made or issued by it under this section, whenever In the opinion of the Commission conditions of fact or of law have so changed as to require such action or if the public interest shall so require :

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

(c) Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or act or practice may obtain a review of such order in the circuit court of appeals of the United States, within any circuit where the method of competition or the act or practice in question was used or where such person, partnership, or corporation resides or carries on business, by filing in the court, within sixty days 5 from the date of the service of such order, a written petition praying that the order of the Commission be set aside. A copy of such petition shall be forthwith served upon the Commission, and thereupon the Commission forthwith shall certify and file in the court a transcript of the entire record in the proceeding, including all the evidence taken and the report and order of the Commission. Upon such filing of the petition and transcript the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, evidence, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the Commission, and enforcing the same to the extent that such order is affirmed, and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite. The findings of the Commission as to the facts, if supported by evidence, shall be conclusive. To the extent that the order of the Commission is affirmed, the court shall there-upon Issue its own order commanding obedience to the terms of such order of the Commission. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and

that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by

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

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

evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code.

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

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

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

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

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

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

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

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

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

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

appeals shall become final on the expiration

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

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

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

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

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

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

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

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

(d) Upon the direction of the President or either⁶ House of Congress to

⁶ The Independent Offices Appropriation Act of 1984 provided that future investigations by the Commission for Congress must be authorized by concurrent resolution of the two Houses. Under the Appropriation Act of 1950, funds

appropriated for the Commission are not to be spent upon any investigation thereafter called for by congressional concurrent resolution “until funds are appropriated subsequently to the enactment of such resolution to finance the cost of such investigation.”

investigate and report the facts relating to any alleged violations of the antitrust Acts by any corporation.

(e) Upon the application of the Attorney General to investigate and make recommendations for the readjustment of the business of any corporation alleged to be violating the antitrust Acts in order that the corporation may thereafter maintain Its organization, management, and conduct of business in accordance with law.

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

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

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

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

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

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

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

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

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the commission made In pursuance thereof.

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

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

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

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

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this Act, or who shall willfully neglect or fail to make, or cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or

by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000 or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 14.⁷ (a) Any person, partnership, or corporation who violates any provision of section 12 (a) shall, if the use of the commodity advertised may be injurious to health because of results from such use under the conditions prescribed in the advertisement thereof, or under such conditions as are customary or usual, or if such violation is with intent to defraud or mislead, be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than six months, or by both such fine and imprisonment ; except that if the conviction is for a violation committed after a first conviction of such person, partnership, or corporation, for any violation of such section, punishment shall be by a fine of not more than \$10,000 or by imprisonment for not more than one year, or by both such fine and imprisonment : *Provided*, That for the purposes of this section meats and meat food products duly inspected, marked, and labeled In accordance with rules and regulations issued under the Meat Inspection Act approved March 4, 1907, as amended, shall be conclusively presumed not injurious to health at the time the same leave official "establishments."

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

⁷ Section 5 (b) of the amending Act of 1938 provides :

Sec. 5 (b) Section 14 of the Federal Trade Commission Act, added to such Act by

section 4 of this Act, shall take effect on the expiration of sixty days after the date of the enactment of this Act.

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

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

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

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

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

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

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

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

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

Original act approved September 26, 1914.
Amended act approved March 21, 1938.

OTHER ACTS ADMINISTERED BY THE COMMISSION

In addition to the Federal Trade Commission Act, the Commission also administers section 2 of the Clayton Act (15 U.S. C., sec. 13), as amended by the

Robinson-Patman Anti-discrimination Act, and sections 3, 7, and 8 of the Clayton Act (15 U.S. C., secs. 14, 18, and 19); the Export Trade Act (15 U.S. C., secs. 61-65); the Wool Products Labeling Act (15 U. S. C., sec. 68); and certain sections of the Trade-Mark Act of 1946 (15 U.S. C., secs. 1051-1072, 1091-1096, and 1111-1127).

TYPES OF UNFAIR METHODS AND PRACTICES

TYPICAL METHODS AND PRACTICES CONDEMNED IN ORDERS TO CEASE

AND DESIST

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

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

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

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

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

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

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

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

8. Widespread threats to the trade of suits for patent infringement arising from the

sale by competitors of alleged infringing products, not in good faith, but for the purpose of intimidating the trade and hindering or stifling competition, and claiming, without justification, exclusive rights in public names of unpatented products.

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

10. Trade boycotts or combinations of traders to prevent certain wholesale or retail dealers or certain classes of such dealers from procuring goods at the same

terms accorded to the boycotters or conspirators, or through coercion to influence the trade policy of their competitors or of manufacturers from whom they buy.

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

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

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

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

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

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

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

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

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

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

equipment, or other privileges or advantages.

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

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

862102---49-----7

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

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

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

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

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

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

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

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

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

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

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

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

(g) Representing that ordinary private commercial seller and business is an association, or national association, or connected therewith, or sponsored thereby, or is otherwise connected with noncommercial or professional organizations or

associations, or constitutes an institute, or, in effect, that it is altruistic in purpose, giving work to the unemployed.

(h) Falsely claiming that business is bonded, or misrepresenting its age or history, or the demand established for its products, or the selection afforded, or the quality or comparative value of its goods, or the personnel or

staff or personages presently or theretofore associated with such business or the products thereof.

(I) Claiming falsely or misleadingly patent, trade-mark, or other special and exclusive rights.

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

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

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

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

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

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

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

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

(g) Obtaining agents or representatives to distribute the seller's products through falsely promising to refund the money paid by them should the product prove unsatisfactory, or promising that the agent would be granted right to exclusive or

new territory, would be given assistance by seller, or would be given special credit or furnished supplies, or overstating the amount of his earnings or the opportunities which the employment offers.

(h) Advertising a price for a product as illustrated or described and not including in such price all charges for equipment or accessories illustrated or

described or necessary for use of the product or customarily included as standard equipment, and failing to include all charges not specified as extra.

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

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

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

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

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

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

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

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

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

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

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

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

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

26. Coercing and forcing uneconomic and monopolistic reciprocal dealing.

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

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

(a) Misrepresenting, through salesmen or otherwise, products' composition, nature,

qualities, results accomplished, safety, value, and earnings or profits to be had therefrom.

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

(c) Misrepresenting the history or circumstances involved in the making and offer of the products or the source or origin thereof (foreign or domes-

tic) , or of the ingredients entering therein, or parts thereof, or the opportunities brought to the buyer through purchase of the offering, or otherwise misrepresenting scientific or other facts bearing on the value thereof to the purchaser.

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

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

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

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

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

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

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

RULES OF PRACTICE¹

RULE I. THE COMMISSION

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

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

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

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

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

Sessions.--The Commission may meet and exercise all its powers at any place, and may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

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

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

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

RULE II. THE SECRETARY

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

RULE III. INVESTIGATIONAL HEARINGS

Investigational hearings, as distinguished from formal hearings in adversary proceedings, shall be held only as ordered by the Commission and shall be held

¹ The rules of practice are published as last amended by the Commission on April 26 and 27 and May 2, 1949, and promulgated through the Federal Register for May 11, 1949, and then effective.

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

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

RULE IV. APPLICATIONS FOR COMPLAINT

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

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

RULE V. COMPLAINTS

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

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

RULE VI. SERVICE

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

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

(a) By delivering a copy of the document to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or

(b) By leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation. When proceeding under the Federal Trade Commission Act service may also be made at the residence of the person, partnership, or corporation to be served.

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

RULE VII. APPEARANCE

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

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

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

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

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

RULE VIII. ANSWERS

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

case respondent shall so state.

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

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to

authorize the Commission, without further notice to respondent, to proceed In regular course on the charges set forth in the complaint.

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

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

When a proceeding is at issue, or when the time for filing answer has expired, and if no submittal pursuant to Rule V is pending, a trial examiner will be appointed and thereafter the course of the hearing shall be regulated by the trial examiner, subject to the provisions of Rule XX. The trial examiner may, at the request or with the consent of the parties, hold a conference or conferences for the settlement or simplification of the issues in the proceeding by consent of the parties. Such conference or conferences may be held prior to, at, or subsequent to the first scheduled hearing for the taking of testimony.

RULE IX. INTERVENTION

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

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

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

RULE X. MOTIONS

During the time a proceeding is pending before a trial examiner all motions therein, except as provided in Rules XV (d) , XVI, and XIX, shall be addressed to and ruled upon by him, and no interlocutory appeals to the commission from such rulings shall

be allowed except as provided in Rules XVI and XX.

When a motion to dismiss for alleged failure of proof is granted as to the entire complaint, or is granted in part only and an interlocutory appeal under Rule XX is granted by the Commission, a recommended decision thereon shall immediately follow and the appropriate provisions of Rules XXI, XXII, and XXIII shall apply. No appeal may be taken from denial in whole or in part by the trial examiner of a motion to dismiss for alleged failure of proof but exceptions thereto may be presented at the time of final consideration by the Commission of the proceeding upon its merits

All motions prior to the appointment of a trial examiner and subsequent to the date of submission of his recommended decision shall be addressed to and ruled upon by the Commission. Ten copies of such motions shall be filed with the Secretary of the Commission, and shall state briefly the purpose thereof; and all supporting affidavits, records, and other papers, except such as have been previously filed, shall be filed with such motions and clearly referred to therein.

RULE XI. TIME

(a) *Computation.*--In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.

(b) *Continuances and extensions of time.*--Except as otherwise expressly provided by law, the Commission, for cause shown, may extend any time limits prescribed in these rules. Applications for continuances and extensions of time should be made prior to the expiration of time prescribed by these rules.

(c) *Regulation of time and place of hearing.*--Initial hearing before a trial examiner shall begin at the time and place ordered by the Commission, unless a notice of a change of such time and place is issued by the trial examiner, who shall regulate the course of hearings subject to the provisions of Rule XX.

RULE XII. DOCUMENTS

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

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

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

Form.--Documents not printed shall be typewritten, on one side of paper only; letter size, eight (8) inches by ten and one-half (10 ½) inches; left margin, one and one-half (1 ½) inches; right margin, one (1) inch.

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

Documents shall be bound at *left side only*.

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

a corporation, the originals of said documents shall be signed under the corporate name by a duly authorized official of such corporation, or by its attorney. Where the respondent is an association, the originals of said documents shall be signed under the association name for said association by a duly authorized official of such association, or by its attorney.

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

RULE XIII. ADMISSION AS TO FACTS AND DOCUMENTS

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

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

RULE XIV. TRIAL EXAMINERS

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

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

- (1) To administer oaths and affirmations.
- (2) To issue subpoenas authorized by law.
- (3) To rule upon offers of proof and receive relevant evidence.
- (4) To take or cause depositions to be taken whenever the ends of justice would be served thereby.
- (5) To regulate the course of the hearings.
- (6) To hold conferences for the settlement or simplification of the Issues by consent of the parties.
- (7) To dispose of procedural requests or similar matters.
- (8) To make and submit to the Commission a recommended decision as provided by Rule XXII.
- (9) To certify questions to the Commission for its determination.

(10) To take any other action authorized by Commission rule consistent with the Administrative Procedure Act.

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

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

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

RULE XV. HEARINGS IN ADVERSARY PROCEEDINGS

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

(a) Every party respondent shall have the right of due notice, cross-examination, presentation of evidence, objection, exception, motion, argument, appeal and all other fundamental rights.

(b) The taking of evidence and subsequent proceedings shall proceed with all reasonable diligence and with the least practicable delay.

(c) Not less than five (5) days notice of the time and place of any indefinitely postponed hearing shall be given to counsel of record or to parties, but in appointing such hearing due regard shall be had for the convenience and necessity of all parties or their representatives.

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

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

(f) Changes in the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. No physical changes

shall be made in or upon the official record or copies thereof in the custody of the Commission. Lists of changes agreed to in writing by opposing counsel may be incorporated into the record, if and when approved by the trial examiner, at the close of evidence in support of the complaint, or at the final hearing before the trial examiner, or at any time thereafter before he

files his report, and at no other times. If any changes are ordered by the trial examiner without such written agreement between opposing counsel they shall be subject to objection and exception.

RULE XVI. SUBPOENAS

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

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

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

RULE XVII. WITNESSES AND FEES

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

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

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

RULE XVIII. EVIDENCE

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

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

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

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

RULE XIX. DEPOSITIONS

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

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

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

Upon application granted, such deposition may be taken before a person having power to administer oaths other than the person designated in the notice, provided reasonable written notice of such change is given the opposing party. Each witness so testifying shall be duly sworn and the adverse party shall have the right to cross examine such witnesses. The questions propounded to the witnesses and the answers thereto shall be reduced to writing, and, in the presence of the officer taking the deposition, read to the witness and subscribed by the witness and certified in usual form by said officer. Thereafter the said officer shall forward said deposition with three copies thereof, in an envelope under seal, endorsed with the title of the case, and addressed to the Commission at its office in Washington, D. C. If in a pending case, such sealed deposition shall immediately be forwarded to the presiding trial examiner and at a time of hearing read in evidence subject to such objections to the questions and answers as were noted at the time of taking the deposition or as would be valid were the witness personally present at such hearing.

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

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

RULE XXI. PROPOSED FINDINGS AND CONCLUSIONS BEFORE TRIAL EXAMINER

At the close of the reception of evidence before the trial examiner in all formal proceedings, or within a reasonable time thereafter to be fixed by the trial examiner, parties may file for consideration by the trial examiner their proposed findings and conclusions, together with their reasons therefor. Such proposals shall be in writing and shall contain exact references to the record and

authorities relied on. Copies thereof shall be furnished all parties, and three copies, including the signed original, shall be filed with the Commission.

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

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

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

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

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

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

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

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

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

RULE XXIII. EXCEPTIONS

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

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

shall become part of the record.

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

If exceptions are to be argued, they shall be argued at the time of final argument upon the merits, except as otherwise provided in Rule XX.

RULE XXIV. BRIEFS AND ORAL ARGUMENTS BEFORE THE COMMISSION

A. QUESTIONS FOR PRESENTATION

Questions which may be presented for consideration and decision by the *Commission* on final hearing include the following :

(1) Whether the findings and conclusions recommended by the trial examiner are relevant and material to the issues and are supported by reliable, probative, and substantial evidence and by the greater weight of the evidence;

(2) Whether additional findings and conclusions, not recommended by the trial examiner, should be made either with or without sending the case back to the trial examiner for the reception of further evidence;

(3) Whether the trial examiner was justified in having taken official notice of any fact and whether the Commission should take official notice of any other fact;

(4) Whether due process was observed and whether there was any prejudicial irregularity in procedure or prejudicial error in the rulings of the trial examiner;

(5) Whether the facts show a violation of law amenable to redress by the Commission and what conclusions of law are justified and requisite in the premises; and

(6) Whether an order to cease and desist, an order of dismissal, or other order, should be entered and issued, and the substance and form thereof.

B. BRIEFS

Filing.--Any party to a proceeding may file a brief in support of his contentions within the time limits fixed by these rules.

Briefs not filed on or before the time fixed in the rules will be received only by special permission of the Commission.

Time.--Opening brief shall be filed by the attorney supporting the complaint within twenty (20) days after service upon him of a copy of the recommended decision of the trial examiner.

Brief on behalf of respondent shall be filed within twenty (20) days after service upon respondent or respondent's attorney of copy of brief in support of the complaint.

Where respondent shall have filed an answer admitting all material allegations of fact, the time so limited shall begin to run at the time of filing such answer.

In the event permission is granted for filing reply brief in support of the complaint, it shall be filed within ten (10) days after filing of brief on behalf of respondent. No further brief on behalf of respondent shall be filed.

Number.--Twenty (20) copies of each brief shall be filed. *Contents.*--Briefs, except

the reply brief in support of the complaint, shall contain, in the following order :

(a) A concise abstract or statement of the case.

(b) A brief of the argument, exhibiting a clear statement of the points of fact or law to be discussed, with references to the pages of the record and the authorities relied upon in support of each point.

The exceptions, if any, to the recommended decision of the trial examiner may also be included in the brief.

Index--Briefs comprising more than ten (10) pages shall contain on their top flyleaves a subject index with page references. The subject index shall be supplemented by an alphabetical list of all cases referred to, with references to pages where references are cited.

Form--*Briefs* shall be printed, multigraphed, or otherwise neatly processed on good unglazed white paper in type not smaller than ten (10) point double leaded, citations and quotations single leaded; footnotes not less than eight (8) point single leaded. Type page shall not be more than twenty-nine (29) picas wide by approximately forty-eight (48) picas deep and trimmed page shall be seven (7) inches by ten (10) inches, with an inside margin of not less than one (1) inch.

Length--Unless leave be granted, briefs shall not exceed seventy-five (75) printed pages.

Signing--At least one copy of each brief shall be signed in ink, by the respondent or his duly authorized attorney, as prescribed in Rule XII.

C. ORAL ARGUMENTS

Oral arguments before the Commission shall be had as ordered, on written application of the Chief Trial Counsel of the Commission, or of the respondent, or of attorney for respondent, filed within fifteen (15) days after filing of brief on behalf of respondent.

Oral arguments before the Commission shall be reported stenographically unless otherwise ordered by the Commission.

RULE XXV. COMMISSION'S ADJUDICATION

Upon submittal of a case to the Commission for final decision on the merits the Commission will consider the whole record, including the recommended decision of the trial examiner and the exceptions thereto, will resolve all questions of fact by what it deems to be the greater weight of the evidence thereon, will make its decision stating the reasons or basis therefor and enter an appropriate order, and wherever it decides that an order to cease and desist should be entered will also make, as provided by law, a report in writing stating its findings as to the facts. As authorized under the various statutes defining its powers and duties the Commission adjudicates all formal proceedings brought before It and as authorized under the Administrative Procedure Act reserves such adjudications exclusively to itself.

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

RULE XXVI. REPORTS SHOWING COMPLIANCE WITH ORDERS AND WITH STIPULATIONS

In every case where an order to cease and desist is issued by the Commission for the purpose of preventing violations of law and in every Instance where the Commission approves and accepts a stipulation in which a party agrees to cease and desist from the unlawful methods, acts, or practices Involved, the respondents named in such orders and the parties so stipulating shall file with the

862102---49-----8

Commission, within sixty days of the service of such order and within sixty days of the approval of such stipulation, a report, in writing, setting forth in detail the manner and form in which they have complied with said order or with said stipulation; provided, however, that if within the said sixty (60) day period respondent shall file petition for review in a circuit court of appeals, the time for filing report of compliance will begin to run *de novo* from the final judicial determination; and provided further that where the order prevents the use of a false advertisement of a food, drug, device, or cosmetic, which may be Injurious to health because of results from such use under the conditions prescribed in the advertisement, or under such conditions as are customary or usual, or if the use of such advertisement is with intent to defraud or mislead, an Interim report stating whether and how respondents intend to comply shall be filed within ten days.

Within its sound discretion, the Commission may require any respondent upon whom such order has been served and any party entering into such stipulation, to file with the Commission, from time to time thereafter, further reports in writing, setting forth in detail the manner and form in which they are complying with said order or with said stipulation.

Reports of compliance shall be signed In ink by respondents or by the parties stipulating.

RULE XXVII. REOPENING OF PROCEEDINGS

In any case where an order to cease and desist has been issued by the Commission it may, upon notice to the parties, modify or set aside, in whole or in part, Its report of findings as to the facts or order in such manner as it may deem proper at any time prior to expiration of the time allowed for filing a petition for review or prior to the filing of the transcript of record in the proceeding in a Circuit Court of Appeals of the United States pursuant to a petition for review or for enforcement of such order.

In any case where an order to cease and desist issued by the Commission has become final by reason of court affirmance or expiration of the statutory period for court review without a petition for such review having been filed, the Commission may at any time after reasonable notice and opportunity for hearing as to whether changed conditions of fact or of law or the public interest so require, reopen and alter, modify or set aside in whole or in part its report of findings as to the facts or order therein whenever in the opinion of the Commission, after such hearing, such action is required by said changed conditions or by the public interest.

In any case where an order dismissing a formal complaint of the Commission has been entered the Commission may, upon reasonable notice to the parties and opportunity for a hearing as to whether said proceeding should be reopened, issue an order reopening the same whenever, in the opinion of the Commission, changed conditions of fact or of law or the public interest so require.

RULE XXVIII. TRADE PRACTICE CONFERENCE PROCEDURE

(a) *Purpose.*--The trade practice conference procedure has for its purpose the

establishment, by the Commission, of trade practice rules in the interest of industry and the purchasing public. This procedure affords opportunity for voluntary participation by industry groups or other interested parties in the formulation of rules to provide for elimination or prevention of unfair methods of competition, unfair or deceptive acts or practices, and other illegal trade

practices. They may also include provisions to foster and promote fair competitive conditions and to establish standards of ethical business practices in harmony with public policy. No provision or rule, however, may be approved by the Commission which sanctions a practice contrary to law or which may aid or abet a practice contrary to law.

(b) *When authorized.*--Trade practice conference proceedings may be authorized by the Commission upon its own motion or upon application therefor whenever such proceedings appear to the Commission to be in the interest of the public. In authorizing proceedings, the Commission may consider whether such proceedings appear to have possibilities (1) of constructively advancing the best interests of industry on sound competitive principles in consonance with public policy, or (2) of bringing about more adequate or equitable observance of laws under which the Commission has jurisdiction, or (3) of otherwise protecting or advancing the public interest.

(c) *Application.*--Application for a trade practice conference may be filed with the Commission by any Interested person, party, or group. Such application shall be in writing and be signed by the applicant or the duly authorized representative of the applicant or group desiring such conference. The following information, to the extent known to the applicant, shall be furnished with such application or in a supplement thereto :

- (1) A brief description of the industry, trade, or subject to be treated.
- (2) The kind and character of the products involved.
- (3) The size or extent and the divisions of the industry or trade groups concerned.
- (4) The estimated total annual volume of production or sales of the commodities involved.
- (5) List of membership of the industry or trade groups concerned in the matter.
- (6) A brief statement of the acts, practices, methods of competition or other trade practices desired to be considered, or drafts of suggested trade practice rules.

(d) *Informal discussions with members of the Commission's staff.*--Any interested person or group may, upon request, be granted opportunity to confer in respect to any proposed trade practice conference with the Commission's trade practice conference office, either prior or subsequent to the filing of any such application. They may also submit any pertinent data or information which they desire to have considered. Such submission shall be made during such period of time as the Commission or its duly authorized official may designate.

(e) *Industry conferences.*--Public notice of the time and place of any such authorized conference shall be issued by the Commission. A member of the Commission or of its staff shall have charge of the conference and shall conduct the conference pursuant to direction of the Commission and in such manner as will facilitate the proceeding and afford appropriate consideration of matters properly coming before the conference. A transcript of the conference proceedings shall be made, which, together with all rules, resolutions, modifications, amendments or other matters offered, shall be filed in the office of the Commission and submitted for its consideration.

(f) *Public hearing on proposed rules.*--Before final approval by the Commission of rules for an industry, and upon public notice, further opportunity shall be afforded by the Commission to all interested persons, corporations or other organizations, including consumers, to submit in writing relevant sug-

gestions or objections and to appear and be heard at a designated time and place.

(g) *Promulgation of rules.*--When trade practice rules shall have been finally approved and received by the Commission, they shall be promulgated by official order of the Commission and published, pursuant to law, in the Federal Register. Said rules shall become operative thirty (30) days from date of promulgation or at such other time as may be specified by the Commission. Copies of the final rules shall be made available at the office of the Commission. Under the procedure of the Commission a copy of the trade practice rules as promulgated by the Commission is sent to each member of the industry whose name and address is available, together with an acceptance form providing opportunity to such member to signify his intention to observe the rules in the conduct of his business.

(h) *Violations.*--Complaints as to the use, by any person, corporation or other organization, of any act, practice or method inhibited by the rules may be made to the Commission by any person having information thereof. Such complaints, if warranted by the facts and the law, will receive the attention of the Commission in accordance with the law. In addition, the Commission may act upon its own motion in proceeding against the use of any act, practice or method contrary to law.

(i) *Amendment of rules.*--Trade Practice rules may be amended or rescinded by the Commission upon its own motion or upon application filed with it by any interested person, party or group. Such application shall be in writing, signed by the applicant or his duly authorized representative, and shall set forth the reasons for the requested action.

RULE XXIX. PUBLIC INFORMATION

The Rules of Practice of the Commission, and such amendments as may be made thereto, shall be published in the Federal Register and may be obtained from the Commission upon application.

The findings, conclusions of law, and final orders of the Commission in respective formal proceedings and a digest of accepted stipulations to desist from unlawful practices shall be published in the official reports of the Commission.

Trade Practice Conference Rules for respective industries, issued under Rule XXVIII hereto, may be obtained upon application to the Commission and shall be published in the Federal Register.

Information concerning the activities of the Commission will be released from time to time under the direction or pursuant to the authority of the Commission.

In proceedings instituted by the issuance of formal complaint, the pleadings, transcript of testimony, exhibits, and all documents received in evidence or made a part of the record therein shall be available for inspection and copying by the public at the convenience of the Commission.

Documents, records, and reports made public by the Commission, including stipulations to cease and desist, certain trade practice conference records, and certain papers filed under the Wool Products Labeling Act, shall be available for inspection and copying at the convenience of the Commission.

The records and files of the Commission, and all documents, memoranda,

correspondence, exhibits, and information of whatever nature, other than the documentary matters above described, coming into the possession or within the knowledge of the Commission or any of Its officers or employees in the

discharge of their official duties, are confidential, and none of such material or information may be disclosed, divulged, or produced for inspection or copying except under the following circumstances :

Upon good cause shown, the Commission may by order direct that certain records, files, papers, or information be disclosed to a particular applicant.

(a) Application by a member of the public for such disclosure shall be In writing, under oath, setting forth (1) the interest of the applicant in the subject matter; (2) a description of the specific information, files, documents, or other material inspection of which is requested; (3) whether copies are desired; and (4) the purpose for which the information or material, or copies, will be used if the application is granted. Upon receipt of such an application the Commission will take action thereon, having due regard to statutory restrictions, its rules of practice, and the public interest.

(b) In the event that confidential material is desired for inspection, copying, or use by some agency of the Federal or a State Government, a request therefor may be made by the administrative head of such agency. Such request shall be in writing, and shall describe the information or material desired, its relevancy to the work and function of such agency and, if the production of documents or records or the taking of copies thereof is asked, the use which, is Intended to be made of them. The Commission will consider and act upon such requests, having due regard to statutory restrictions, its rules of practice, and the public interest.

In cases in which an officer or employee of the Commission has been lawfully served with a subpoena duces tecum, material designated herein as confidential shall be produced only when and as authorized by the Commission. Service of such subpoena shall immediately be reported to the Commission with a statement of all relevant facts. The Commission will thereupon enter such order or give such instructions as it shall deem advisable in the premises. If the officer or employee so served has not received instructions from the Commission prior to the return date of the subpoena, he shall appear in response thereto and respectfully decline to produce the documents or records subpoenaed (pointing out that he is not permitted to do so under this rule, and request a continuance pending action by or instructions from the Commission. If, notwithstanding, the court or other body orders the production of any of the material subpoenaed, the officer or employee shall immediately report the facts to the Commission.

RULE XXX. PROCEDURE FOR ESTABLISHING QUANTITY LIMITS

A. HOW INITIATED

Proceedings for the establishment of a quantity limit rule are initiated by resolution of the Commission either upon its own motion or pursuant to petition therefor.

B. PETITION FOR ESTABLISHMENT, AMENDMENT, OR REPEAL OF A

QUANTITY-LIMIT RULE

Any interested party may at any time file with the Commission, in writing, a request

or petition for the establishment of a quantity-limit rule for any commodity or class of commodities, or for the revision or repeal of a previously established rule. Such petition shall state the petitioner's interest and such relevant facts, documented if possible, as may tend to show the need for the action requested.

C. INVESTIGATION

If the Commission believes that consideration should be given to the fixing or establishing of quantity limits for a particular commodity or class of commodities, it shall initiate an investigation thereof by appropriate resolution. Such investigation shall include the ascertainment of facts and information concerning the quantity differentials granted to purchasers in the distribution of the particular commodity or class of commodities, the number of available purchasers of given quantities, and facts and information pertinent to competitive conditions existing in the distribution thereof. The investigation shall be nonpublic and facts and information so obtained, such as the names of purchasers, the volume of their purchases, prices paid, conditions of sale and the details of competitive relations, shall not be published except in composite form so as not to reveal facts as to specific parties.

(1) *Voluntary process.*--Investigation shall be conducted by any authorized agent or agents of the Commission, who may, by interview, conference, correspondence or otherwise, request any person believed to have information or documents relevant to the inquiry to furnish such information orally or in writing, or to produce or permit the copying of such documents.

(2) *Compulsory process.*--In the conduct of such investigation, the Commission may invoke any or all of the compulsory processes authorized by law and every person in any manner required to respond to such process shall be given actual notice of the purpose of the investigation.

The compulsory process which may be invoked shall include the following :

(a) The Issuance of a subpoena directing the party named therein to appear before the officer designated therein and to testify to facts and matters under investigation or produce documents relating thereto, or both. Oral information obtained by this compulsory process shall be under oath and a stenographic record shall be made thereof;

(b) The issuance of a notice to a corporation, to produce for examination and copying documents relating to any matter under investigation;

(c) The issuance of an order requiring a corporation to file a special report or answers in writing to specific questions.

(3) *Rights of witnesses under compulsory process.*--(a) Any person required to attend and testify or submit documents or other data shall be entitled to retain or, on payment of lawfully prescribed cost, procure a copy of any document produced by such person and a copy of the transcript of his own testimony;

(b) Any person compelled to appear at an investigation may be accompanied and advised by counsel or other qualified representative or by both, but such counsel or qualified representative may not, as a matter of right, otherwise participate in the investigation.

D. HEARING ON PROPOSED QUANTITY-LIMIT RULE

(1) *Formulation of proposed rule.*--When, after due consideration of the facts and information so obtained, it shall appear to the Commission that available purchasers in greater quantities are so few as to render differentials on account thereof unjustly discriminatory or promotive of monopoly in any line of commerce, it shall formulate a proposed quantity-limit rule.

(2) *Publication of proposed rule.*--The proposed quantity-limit rule shall be published in the Federal Register and otherwise, to the extent practicable, made available to interested parties, and the notice thereof shall include the following :

(a) The rule, amended rule, or repeal proposed;

(b) A statement of the purpose to be accomplished by the proposed rule, together with a reference to the authority under which the rule is proposed and the ultimate matters of fact in support thereof;

(c) A statement of the time within which any interested person may present to the Commission in writing, in accordance with paragraph (D) (3) (a) of this section, any data, views or argument concerning the proposed rule and within which time to present, if desired, a request for opportunity to be heard orally thereon.

(3) *Method of presenting views, data, and argument--*(a) *Written data.*--Seven copies of such written views, data, and argument shall be submitted to the Commission, and shall conform to the requirements of Rule XII of the Commission's rules of practice.

(b) *Oral hearing*--Oral hearing may be granted within the discretion of the Commission.

E. PROMULGATION OF QUANTITY-LIMIT RULE

After the consideration of the results of its investigation or investigations and of the data, views and arguments presented by interested parties, the Commission will, if it deems such action warranted, promulgate a quantity-limit rule. Such rule, which may be the proposed rule or a modification or revision thereof, shall fix and establish maximum quantities of the particular commodity or class of commodities upon which differentials on account of quantity may thereafter be granted. Such quantity-limit rule shall be published in the Federal Register, together with a reference to the authority or authorities therefor, a statement of Its basis and purpose, and the effective date thereof, which shall be not less than thirty (30) days after the date of such publication.

F. AMENDMENT OR REPEAL OF QUANTITY-LIMIT RULE

The procedure for the amendment or repeal of a quantity-limit rule shall be the same as that for the establishment of a new quantity-limit rule.

G. ENFORCEMENT OF QUANTITY-LIMIT RULE

Procedure in cases of violations of a quantity-limit rule shall be in accordance with the Commission's applicable rules of practice.

RULE XXXI. PETITIONS FOR THE ISSUANCE, AMENDMENT, OR REPEAL OF RULES

Any interested person may petition for the issuance, amendment, or repeal of a rule. Such petitions shall specifically set forth the proposed rule, amendment, or repeal, together with a statement of the basis for and reasons supporting the proposal made, and seven copies of such petition shall be filed. After consideration of any such

petition, the Commission will take such action with respect thereto as it deems appropriate and duly inform petitioner thereof.

When, pursuant to a petition therefor, or upon its own motion, the Commission proposes to issue a substantive rule or amend or repeal such a rule, notice thereof and further rule-making procedure will be in conformity with the provisions of Section 4 of the Administrative Procedure Act.

This rule is not applicable to matters provided for under Rules XXVIII and XXX.

STATEMENT OF POLICY¹

STATUS OF APPLICANT OR COMPLAINANT

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

POLICY AS TO PRIVATE CONTROVERSIES

It is the policy of the Commission not to institute proceedings against alleged unfair methods of competition or unfair or deceptive acts or practices where the alleged violation of law is a private controversy redressable in the courts, except where said practices tend to affect the public. In cases where the alleged injury is one to a competitor only and is redressable in the courts by an action by the aggrieved competitor and the interest of the public is not involved, the proceeding will not be entertained.

SETTLEMENT OF CASES BY TRADE PRACTICE CONFERENCE AND STIPULATION AGREEMENTS

Upon the promulgation of trade practice conference rules for an industry, an examination will be made of all charges of law violations by members of that industry then pending before the Commission which have not reached the formal stage through the issuance of complaint. In those instances in which the pending charges are adequately covered by the trade practice conference rules, and which are not excluded by the exceptions hereinafter stated, the Commission will consider the advisability of closing the matters without prejudice to reopening whenever that action appears to be warranted. In such instances consideration will be given to whether or not a proposed respondent has subscribed to the trade practice conference rules for his industry, to whether or not there is adequate reason to believe that he is in fact complying with such rules and will continue to do so, and to whether or not the public interest or the applicable statute requires any further proceedings.

Upon the promulgation of trade practice conference rules for an industry, formal complaints which have not then been adjudicated and in which the charges are adequately covered by such rules, and which are not excluded by the exceptions hereinafter stated, may be brought directly before the Commission on motion to suspend without prejudice to the Commission’s right to resume

1 The statement of policy which follows with the exception of “Cooperation With Other Agencies” is published as amended and added to on August 19, 1947, and promulgated through the Federal Register for August 29, 1947.

For exception referred to see footnote on p.117.

the proceeding. In considering such motions the Commission will be guided by factors similar to those outlined above with respect to informal matters.

Whenever the Commission shall have reason to believe that any person has been or is using unfair methods of competition or unfair or deceptive acts or practices in commerce, and that the interest of the public will be served by so doing, it may, in instances which are not excluded by the exceptions hereinafter stated, withhold service of complaint and extend to the person opportunity to execute a stipulation satisfactory to the Commission, in which the person, after admitting the material facts, promises and agrees to cease and desist from and not to resume such unfair methods of competition or unfair or deceptive acts or practices. All such stipulations shall be matters of public record, and shall be admissible as evidence of prior use of the unfair methods of competition or unfair or deceptive acts or practices involved in any subsequent proceeding against such person before the Commission.

It is the policy of the Commission to utilize the trade practice conference and stipulation procedures to encourage widespread observance of the law by enlisting the cooperation of members of industries and informing them more fully of the requirements of the law, so that wherever consistently possible the Commission may avoid the need for adversary proceedings against persons who, through misunderstanding or carelessness, may violate the law unintentionally. But it is not the policy of the Commission to grant the privilege of settling cases through trade practice conference or stipulation agreements to persons who have violated the law where such violations involve intent to defraud or mislead; false advertisement of foods, drugs, devices or cosmetics which are inherently dangerous or where injury is probable; suppression or restraint of competition through conspiracy or monopolistic practices; or violations of the Clayton Act; nor will the privilege be granted where the Commission is of the opinion that such procedure will not be effective in preventing continued use of the unlawful methods, acts or practices. The Commission reserves the right in all cases to withhold the privilege of settlement by trade practice conference or stipulation agreements. When in connection with an industry-wide investigation informal matters of whatever nature are docketed against individual members of that industry, from which the promulgation of trade practice conference rules ensues covering the questioned practices, and which are subscribed to and accepted by the affected members of the industry, the Commission will give careful consideration to whether or not the public interest requires further investigation of such informal matters.

Explanatory statement. --The Commission has long had a public statement of policy governing the settlement of informal cases by stipulation agreements. There has been no comparable generally published statement of policy with respect to trade practice conference agreements. Under its present program, the Commission may institute trade practice conferences on its own initiative. When it appears that questionable practices are so prevalent in an industry that they may be more effectively and expeditiously reached by trade practice conference than by individual proceedings, the Commission may utilize that procedure in dealing with the over-all problem. In those situations it

is necessary, after the promulgation of trade practice conference rules, to determine what further action should be taken in pending informal cases relating to the same parties and practices, as well as to determine the extent to which pending formal matters may have been affected.

It is the desire of the Commission to inform the public on these matters, but to avoid commitments which may abrogate its statutory procedures or frustrate

the effectiveness of its corrective processes. To this end the Commission has formulated a statement of policy concerning the scope and effect of its trade practice conference procedure insofar as it may affect the settlement of pending matters before it, and it has reappraised its policy with respect to the settlement of cases by stipulation agreements.

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

It has long been the Commission's practice in certain instances where proper circumstances are present to dispose of pending matters upon acceptance by the affected parties of trade practice rules for their industry covering the charges in such matters. This practice was specifically limited in 1936 when the Commission determined that whenever an application for trade practice conference is received from an industry, some or all of whose members are respondents in proceedings before the Commission involving alleged violations of the Clayton Act or combinations or conspiracies in restraint of trade in violation of the Federal Trade Commission Act, such proceedings will have to go forward without regard to the trade practice conference procedure.

The cooperative procedures, however, require a constant vigilance to avoid the dangers inherent in them. Their use should never be permitted as an easy escape for wilful violators of the laws administered by the Commission or as a means for avoiding or delaying the effectiveness of the Commission's corrective action. These considerations have governed the Commission's policy with respect to the settlement of pending matters by trade practice conference or stipulation agreements.

Trade practice conference rules have no force of law in themselves. Violations of those rules are not proceeded against directly. The Commission can proceed only on a charge of violation of the law upon which the rules are based. Their purpose is to express the requirements of the statutes and decisions in terms which may be understood by the members of particular industries and in language addressed to their problems and practices. An agreement by a member of an industry to abide by the rules is an expression of intention to abide by the basic law.

It is manifestly difficult to draft a statement of policy on a broad basis which does not afford an evasive device to the wilful violator while seeking to avoid unduly harsh treatment of the unintentional or casual violator. Any statement of policy must, therefore, depend for its effectiveness upon the consistent and sound judgment of the Commission in applying it in individual instances. But no statement of policy should be so broad as to constitute an invitation to reluctant or recalcitrant respondents to avail themselves of informal settlements for the purpose of delaying or defeating

effective action. It should invite only those who desire in good faith to correct unlawful practices on a cooperative and voluntary basis. The object of the Commission is to correct--not to punish. But there must be a reasonable assurance that any cooperative procedure will be effective and provide full freedom to institute such further proceedings as are or may become necessary in the public interest.

Conspiracies and monopolistic practices are, with few exceptions, deliberately engaged in for the purpose of restraining competition and ordinarily with knowledge of their illegality. Since good faith is ordinarily lacking in such violations, it cannot be expected to be present in agreements by the conspirators to discontinue and not resume the violations. Violations of this type are frequently also criminal violations of the Sherman Act, and the settlement of such violations by informal agreement may impair the rights of private litigants or compromise the enforcement of that act by the Department of Justice. When conspirators are discovered, or when they are on the verge of being discovered, they would doubtless be glad to make use of the Commission's trade practice conference or stipulation procedure as a protection against the more rigorous procedure provided by the antitrust laws.

Trade practice conference rules may include rules against restraints of trade and against violations of the Clayton Act. Insofar as such rules may be informative to and followed by members of the affected industries, they have a substantial value. They should not be accepted, however, as a basis for the settlement of cases in which the Commission has reason to believe that such violations have occurred.

COOPERATION WITH OTHER AGENCIES ²

In the exercise of its jurisdiction with respect to practices and commodities concerning which other Federal agencies also have functions, it is the established policy of the Commission to cooperate with such agencies to avoid unnecessary overlapping or possible conflict of effort.

It is the policy of the Commission not to institute proceedings in matters such as the labeling or branding of commodities where the subject matter of the questioned portion of the labeling or branding used is, by specific legislation, made a direct responsibility of another Federal agency.

In proceedings involving false advertisements of food, drugs, cosmetics, and devices as defined in section 15 of the Federal Trade Commission Act, account is taken of the labeling requirements of the Food and Drug Administration in any corrective action applied to the advertising. In the case of advertisements of food, drugs, cosmetics, or devices which are false because of failure to reveal facts material with respect to the consequences which may result from the use of the commodity, it is the policy of the Commission to proceed only when the resulting dangers may be serious or the public health may be impaired, and in such cases to require that appropriate disclosure of the facts be made in the advertising.

²The statement is published as amended by the Commission on March 2, 1948, and promulgated through the Federal Register for March 9, 1948.

INVESTIGATIONS BY THE COMMISSION, 1915-49

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

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

Agencies initiating or requesting investigations are indicated in parentheses in the headings below.

Accounting Systems (F. T. C.).--Pointing the way to a general improvement in accounting practices, the Commission, published *Fundamentals of a Cost System for Manufacturers* (H. Doc. 1356, 64th, 31 p., 0. p., 7/1/16) and *A System or Accounts for Retail Merchants* (19 p., 0. p., 7/15/16).

Accounting Systems.--See Distribution Cost Accounting.

Advertising as a Factor in Distribution.--See Distribution Methods and Costs.

Agricultural Implements.--See Farm Implements and Distribution Methods and Costs.

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

¹ The wartime cost-finding inquiries, 1917-1918 (p. 135), include approximately 870 separate investigations.

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

³ Inquiries desired by either House of Congress are now undertaken by the Commission as a result of concurrent resolutions of both Houses. For further explanation, see footnote on p.84.

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*

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 vegetable (Public Res. 112, 74th, 6/20/36), the Commission made recommendations concerning, among other things, the marketing of commodities covered by the inquiry : corporate consolidations and mergers; 5 unbalanced agricultural-industrial relations; cooperative associations; production financing; transportation; and terminal markets. Its recommendations for improvement of the Perishable Agricultural Commodities Act were adopted by Congress in amending that act (Public, 328, 75th) In 1937. [*Report of the F. T. C. on Agricultural Income Inquiry, Part I, Principal Farm Products*, 1,134 p., 3/2/37 (summary, conclusions, and recommendations, S. Doc. 54, 75th, 40 p.); *Part II, Fruits, Vegetables, and Grapes*, 906 p. 6/10/37; *Part III, Supplementary Report*, 154 p., 11/8/37; and interim reports of 12/26/35 (H. Doc. 380, 74th, 6 p.), and 2/1/37 (S. Doc. 17, 75th, 16 p.).]

Agricultural Prices.--See Price Deflation.

Aluminum Foundries (W. P. B.), Wartime, 1942-43.--Details were obtained for the War Production Board, at its request, from aluminum foundries throughout the U.S. covering their operations for May 1942 and their compliance with W. P. B. Supplementary Orders m-1-d, M-1-c, and M--1--f.

Antifreeze Solutions, Manufacturers of (W. P. B.), Wartime, 1943-44.--War Production Board Order L-258 of 1/20/43 prohibited production of salt and petroleum-base antifreeze solutions. While production of these products had ceased, great quantities were reported to be still in the hands of producers and distributors. To enable W. P. B. to determine what further action should be taken to protect essential automotive equipment from these solutions, it requested the Commission to locate producers' inventories as of 1/20/43, and to identify all deliveries made from such inventories to distributors subsequent to that date.

Automobiles.--See Distribution Methods and Costs, and Motor Vehicles.

Bakeries and Bread.--See under Food.

Beet Sugar.--See under Food-Sugar.

Building Materials.--See Distribution Methods and Costs.

Calcium Arsenate (Senate).--High prices of calcium arsenate, a poison used to destroy the cotton boll weevil (S. Res. 417, 67th, 1/23/23), appeared to be due to sudden increased demand rather than trade restraints (*Calcium Arsenate Industry*, 5. Doc. 345, 67th, 21 p., 3/3/23).

Capital Equipment (W. P. B.), Wartime, 1942-43.--For the War Production Board, a survey was made in connection with Priorities Regulation No.12, as amended 10/3/42, of concerns named by it to determine whether orders had been improperly operated to secure capital equipment or whether orders that had been rerated had been extended for the purpose of obtaining capital equipment in violation of priorities regulations.

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. 20; *Agricultural Implement and Machinery Industry* (H. Doc. 702, 75th, 6/6/39), p.1038; *The Present Trend of Corporate Mergers* (3/7/47); *The Merger Movement A Summary Report* (1948); and F. T. C. Annual Reports : 1938, pp.19 and 29; 1939, p.14; 1940, p.12; 1941, p. 19; 1942, p.9; 1943, p.9; 1944, p. 7; 1945, p.8; 1946, p.12; 1947, p.12; and 1948, p.11.

⁵ See footnote 4, p.118.

Cartels.--See paragraphs headed Copper Industry, International Phosphate Cartels, Sulphur Industry, International Electrical Equipment Cartel, International Steel Cartels, and Fertilizer (F. T. C.).

Cement (Senate).--Inquiry into the cement industry's competitive conditions and distributing processes (S. Res. 448, 71st, 2/16/31) showed that rigid application of the multiple basing-point price system tended to lessen price competition and destroy the value of sealed bids; concerted activities of manufacturers and dealers strengthened the system's price effectiveness; and dealer associations' practices were designed to restrict sales to recognized "legitimate" dealers (*Cement Industry*, S. Doc. 71, 73d, 160 p., 0. p., 6/9/33).

Chain Stores (Senate).--Practically every phase of chain-store operation was covered (S. Res. 224, 70th, 5/12/28), including cooperative chains, chain-store manufacturing and wholesale business, leaders and loss leaders, private brands, short weighing and overweighing and sales, costs, profits, wages, special discounts and allowances, and prices and margins of chain and independent grocery and drug distributors in selected cities. (For subtitles of 33 reports published under the general title, *Chain Stores*, 1931-33, see F. T. C. Annual Report, 1941, p.201.)

In the *Final Report on the Chain-Store Investigation* (S. Doc. 4, 74th, 1-10 p., 0. 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.

Chromium Processors (W. P. B.), Wartime, 1942-43.--For the War Production Board, the Commission investigated the transactions of the major chromium processors to determine the extent to which they were complying with Amendment No.2 to W. P. B General Preference Order No. m-18a, issued 2/4/42. The investigation was conducted concurrently with a survey of nickel processors.

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

Coal (Congress and F. T. C.), Wartime, 1917-18, Etc.--From 1916 through the first World War period and afterward, the Commission at different times investigated anthracite and bituminous coal prices and the coal industry's financial condition.

Resulting cost and price reports are believed to have substantially benefited the consumer. Among the published reports were : *Anthracite Coal Prices*, preliminary (S. Doc. 1-9, 65th, 4 p., 0. 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., 0. p., 5/19/17); *Anthracite and Bituminous Coal Situation*, summary (H. Doc. 193, 65th, 29 p., 0. p., 6/19/17); and *Anthracite and Bituminous Coal*

⁶Basing-point systems are also discussed In the published reports listed herein under “Price Bases,” “Steel Code,” and “Steel Sheet Piling.” ⁷ See footnote 4, p.118.

(S. Doc. 50, 65th, 420 p., 0. p., 6/19/17) --pursuant to S. Res. 217, 64th 6/22/16; H. Res. 352, 64th, 8/18/16, and S. Res. 51, 65th, 5/1/17; *Washington, D. C., Retail Coal Situation* (5 p., release, processed, 0. p., 8/11/17)-pursuant to F. T. C. motion; *Investment and Profit in Soft-Coal Mining* (two parts, 5/31/22 and 7/6/22, 218 p., 0. p., 5. Doc. 207, 65th)--pursuant to F. T. C. motion; and *Report of the F. T. C. on Premium Prices of Anthracite* (97 p., 0. 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., 0. p.; (2) Pennsylvania, anthracite, 145 p., 0. p.; (3) Illinois, bituminous, 127 p.; (4) Alabama, Tennessee, and Kentucky, bituminous, 210 p.; (5) Ohio, Indiana, and Michigan, bituminous, 288 p., o. p.; (6) Maryland, West Virginia, and Virginia, bituminous, 286 p., o. p.; and (7) trans-Mississippi States, bituminous, 459 p., o. p.).

Coal, Current Monthly Reports (F. T. C.).--The Commission (December 1919) initiated a system of current monthly returns from the soft coal industry similar to those compiled during the World War, 1917-18 (*Coal--Monthly Reports on Cost of Production*, 4/20/20 to 1-0/30/20, Nos. 1 to 6, and two quarterly reports with revised costs, 8/25/20 and 12/6/20, processed, o. p.). An injunction to prevent the calling for the monthly reports (denied about seven years later) led to their abandonment.

Combed Cotton Yarns.--See Textiles.

Commercial Bribery (F. T. C.).--Investigating the prevalence of bribery of customers' employees as a means of obtaining trade, the Commission published *A Special Report on Commercial Bribery* (H. Doc. 1107, 65th, 3 p., o. p., 5/15/18), recommending legislation striking at this practice; *Commercial Bribery* (S. Doc. unnumbered, 65th, 36 p., o. p., 8/22/18); and *Commercial Bribery* (S. Doc. 258, 66th, 7 p., o. p., 3/18/20).

Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of (W. P. B.), Wartime, 1942-43.--The Commission conducted an Investigation for the War Production to determine whether manufacturers of commercial cooking and plate warming equipment were complying with W. P. B. Limitation Orders L-182 and L-182 as amended 3/2/43; Conservation Orders M-126 and M-9-c, as amended; and Priorities Regulation No.1.

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, entitled *The Concentration of Productive Facilities, 1947--Total Manufacturing and 26 Selected Industries* (96 p.), Is summarized beginning at p. 15.

Contractors, Prime, Forward Buying Practices of (W. P. B.), Wartime, 1942-43.--The matter of procurement, use, and inventory stocks of critical materials involved in the operation of major plants devoting their efforts to war production was inquired into for the information of the War Production Board. Items such as accounting, inventory, control, purchase, practices, etc., formed a part of the inquiry.

Cooperation in American Export Trade.--See Foreign Trade.

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

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

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

Copper Base Alloy Ingot Makers (W. P. B.), Wartime, 1942-43.--This investigation- was designed to ascertain the operations, shipments, and inventories of copper, copper alloys, copper scrap, and copper base alloy ingot makers and was conducted for the purpose of determining the extent to which they were complying with governing W. P. B. Preference and Conservation Orders M--9--a and b, and M-9-c.

Copper Industry (F. T. C.)--The Commission's report on *The Copper Industry*, transmitted to Congress (3/11/47), was in two parts : *Part I--The Copper Industry of the United States and International Copper Cartels*, and *Part II--Concentration and Control By the Three Dominant Companies*. The Commission reported that "The copper situation is particularly serious, not only because of the concentration of control of the 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."

Copper, Primary Fabricators of (W. P. B.), Wartime, 1941-42.--A survey and inspection of a specified list of companies which used a large percentage of all refinery copper allocated, and at the same time represented a fair cross-section of the industry, were made to ascertain the degree of compliance accorded to preference, supplementary, and conservation orders and regulations of the Director of Priorities, Office of Production Management (later the War Production Board).

Corporation Reports.--See Industrial Financial Reports.

Corporate Mergers and Acquisitions (F. T. C.)--To determine the impact on the Nation's economy of corporate mergers and acquisitions, the Commission made a study of the merger movement for the years 1940-46, inclusive. The results of the study were transmitted to Congress in a report entitled *The Present Trend of Corporate Mergers and Acquisitions* (23 p., 3/7/47), which showed, among other things, that during the period covered, more than 1,800 formerly independent competitive firms in manufacturing and mining industries alone had disappeared as a result of mergers

or acquisitions, and that more than one-third of the total number of acquisitions occurred in only three industries, food, nonelectrical machinery, and textiles and apparel--all predominantly “small business” fields. (See also *Mergers*.)

Cost Accounting.--See Accounting Systems.

Cost of Living (President), Wartime, 1917-18.--Delegates from the various States met in Washington, April 30 and May 1, 1917, at the request of the Federal Trade Commission, and considered the rapid rise of wartime prices and the plans then being made for the Commission’s general investigation of foodstuffs. [See

Foods (President), Wartime, 1917-18, herein.] Proceedings of the conference were published (*High Cost of Living*, 119 p., o. p.).

Cost of Living (President).--President Roosevelt, in a published letter (11/16/37), requested the Commission to investigate living costs. The Commission (11/20/37) adopted a resolution undertaking the Inquiry and a few months thereafter submitted a confidential report to the President.

Costume Jewelry, Manufacturers of (W. P. B.), Wartime, 1943-44.--Because it appeared that vast quantities of critical metals were being diverted illegally from war use to the manufacture of costume jewelry and similar items, the War Production Board requested the Commission to investigate 45 manufacturers to ascertain the facts concerning their compliance with W. P. B. Orders M-9-a, M-9-b, M-9-c, M-9-c-2, M-43, M-38, M-11, M-11-b, M-126, L-81, L-131, and L-131-a, all as amended.

Cotton Industry.--See Textiles.

Cottonseed Industry (House).--Investigating alleged price fixing (H. Res. 439, 69th, 3/2/27), the Commission reported evidence of cooperation among State associations but no indication that cottonseed crushers or refiners had fixed prices in violation of the antitrust laws (*Cottonseed Industry* H. Doc. 193, 70th, 37 p., 3/5/28).

Cottonseed Industry (Senate)--Two resolutions (S. Res. 136, 10/21/29, and S. Res. 147, 11/2/29--71st) directed the Commission to determine whether alleged unlawful combinations of cottonseed oil mill corporations sought to lower and fix prices of cottonseed and to sell cottonseed meal at a fixed price under boycott threat; and whether such corporations acquired control of cotton gins to destroy competitive markets and depress or control prices paid to seed producers (*Investigation of the Cottonseed industry*, preliminary report, 5. Doc. 91, 71st, 4 p., o. p., 2/28/30, and final report, 207 p., with 11 vols. testimony, 5. Doc. 209, 71st, 5/19/33).

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

Distribution.--See Millinery Distribution.

Distribution Methods and Costs (F. T. C.).--This inquiry into methods and costs of distributing important consumer commodities (F. T. C. Res., 6/27/40) was undertaken by the Commission pursuant to authority conferred upon it by section 6 of the F. T. C. Act. Eight parts of the *F. T. C. Report on Distribution Methods and Costs* were transmitted to Congress and published under the sub titles: *Part I, Important Food Products* (11/11/43, 223 p., o. p.); *Part III, Building Materials--Lumber, Paints and Varnishes, and Portland Cement* (2/19/44, 50 p., o. p.); *Part IV, Petroleum Products, Automobiles, Rubber Tires and Tubes, Electrical Household Appliances, and 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 coopera-

862102--49----9

tion with the Coordinator of Fisheries, Interior Dept. During World War II special reports on the distribution of some 20 commodity groups were made for confidential use of the Office of Price Administration and other war agencies.

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

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

Electric Lamp Manufacturers (W. P. B.), Wartime, 1942--43.--At the direction of the War Production Board, an investigation was made of the activities of manufacturers of portable electric lamps whose operations were subject to the restrictions imposed by W. P. B. Limitation and Conservation Orders L-33 and m--9--c.

Electrical Household Appliances.--See Distribution Methods and Costs.

Farm Implements (Senate), Wartime, 1917-18.--The *Report of the F. T. C. on the Causes of High Prices of Farm Implements* (inquiry under S Res. 223, 65th, 543/18; 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 Corporations 8 (S. Res. 487, 62d, 3/1/13), this inquiry disclosed extensive use of bogus independent fertilizer companies for competitive purposes (*Fertilizer Industry*, S. Doc. 551, 64th, 269 p., o. p., 8/19/16). 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*, 5. Doc. 347, 67th, 87 p., o. p.3/3/23).

Fertilizer and Related Products (O. P. A.), Wartime, 1942-43.--At the request of O. P. A. (June 1942), the Commission investigated costs, prices, and profits in the fertilizer and related products industries. The inquiry developed information with reference to the operations of 12 phosphate rock mines of 11 companies, and 40 plants

of 24 companies producing sulphuric acid, superphosphate, and mixed fertilizer. One of the principal requirements of the inquiry was to obtain information concerning costs, prices, and profits for 103 separate formulas of popular-selling fertilizers during 1941 and 1942.

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

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. A summary of the report appears at p.18.

Fish.--See Distribution Methods and Costs.

Flags (Senate), Wartime, 1917-18.--Unprecedented increases in the prices of U.S. flags in 1917, due to wartime demand, were investigated (S. Res. 35, 65th, 4/16/17). The inquiry was reported in *Prices of American Flags* (S. Doc. 82, 65th, 6 p., o. p., 7/26/17).

Flour Milling.--See Food, below.

Food (President), Wartime, 1917-18.--President Wilson, as a wartime emergency measure (2/7/17), directed the Commission "to investigate and report the facts relating to the production, ownership, manufacture, storage, and distribution of foodstuffs" and "to ascertain the facts bearing on alleged violations of the antitrust acts." Two major series of reports related to meat packing and the grain trade with separate inquiries into flour milling, canned vegetables and fruits, canned salmon, and related matters, as listed below.

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

The reports first led to antitrust proceedings against the Big Five Packers, resulting in a consent decree (Supreme Court of the D. C., 2/27/20),⁹ which had substantially the effect of Federal legislation in restricting their future operations to certain lines of activity. As a further result of the investigation, Congress enacted the Packers and Stockyards Act (1921), adopting the Commission's recommendation that the packers be divorced from control of the stockyards. (The meat-packing industry is further referred to under Meat Packing Profit Limitation, p.128.)

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

9 The legal history of the consent decree and a summary of divergent economic Interests involved in the question of packers participation In unrelated lines of food products were set forth by the Commission In *Packer Consent Decree* (S. Doc. 219, 68th, 44 p., o. p., 2/20/25), prepared pursuant to S. Res. 278, 68th, 12/8/24.

126 ANNUAL REPORT OF THE FEDERAL TRADE COMMISSION, 1949

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, pp.125-126.)

Food (President) Continued--Bakeries and Flour Milling.--One F. T. C. report was published by the Food Administration (*U. S. Food Administration, Report of the F. T. C. on Bakery Business in U. S.*, pp.5-13, o. p., 1133/17). Other reports were : *Food Investigation, Report of the F. T. C. on Flour Milling and Jobbing* (4/4/18, 27 p., o. p.) and *Commercial Wheat Flour Milling* (9/15/20, 118 p., o. p.).

Food (President) Continued-Canned Foods,¹⁰ Private Car Lines, Wholesale Food Marketing.--Under the general title *Food Investigation* were published *Report of the F. T. C. on Canned Foods-General Report and Canned Vegetables and Fruits* (5/18/18, 103 p., o. p.); *Report of the F. T. C. on Canned Foods-Canned Salmon* (12/27/18, 83 p., o. p.); *Report of the F. T. C. on Private Car Lines*, regarding transportation of meats, fruits, and vegetables (6/27/19, 271 p., o. p.); and *Report of the F. T. C. on Wholesale Marketing of Food* (6/30/19. 268 p., o. p.), which recommended that a wholesale dealer in perishable food products should be required to procure a Federal license and that Federal inspection and standards should be provided. Provisions in accordance with these recommendations were incorporated in the Perishable Agricultural Commodities Act (1930).

Food--Biscuits and Crackers (O. P. A.), Wartime, 1942-43.--As requested by the Office of Price Administration, the Commission investigated costs and profits in the biscuit and cracker manufacturing industry and submitted its report to that agency 3/25/43. The survey of 43 plants operated by 25 companies showed, among other things, that costs were lower and profits higher for the larger companies than for the smaller ones.

Food--Bread Baking (O. E. S.), Wartime, 1942-43.--This investigation was requested (10/23/42) by the Director of the Office of Economic Stabilization and was conducted to determine what economies could be made in the bread-baking industry so as to remove the need for a subsidy for wheat, to prevent an increase in bread prices, or to lower the price of bread to consumers. Essential information on more than 600 representative bakeries' practices, costs, prices, and profits was developed and reported to O. E. S. (12/29/42). The report also was furnished to the Secretary of Agriculture and special data gathered in the inquiry were tabulated for O. P. A.

Food--Bread Baking (O. P. A.), Wartime, 1941-42.--In the interest of the low-income consumer, for whom it was deemed necessary the price of bread should be held at a minimum, the Commission investigated costs, prices, and profits of 60 representative bread-baking companies, conveying its findings to O. P. A. (Jan. 1942) in an unpublished report.

Food--Bread and Flour (Senate) --Reports on this inquiry (S. Res. 163, 68th, 2/26/24) were: *Competitive Conditions in Flour Milling* (S. Doc. 97, 70th, 140 p., o. p., 5/3/26); *Bakery Combines and Profits* (S. Doc. 212, 69th, 95 p., 2/11/27); *Competition and Profits in Bread and Flour* (S. Doc. 98, 70th, 509 p., o. p.,

¹⁰ In connection with its wartime cost finding inquiries. 1917-18, p.140 herein, the Commission published *Report of the F. T. C. on Canned Foods 1918--Corn, Peas, String Beans, Tomatoes, and Salmon* (86 p., 11/21/21).

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

Food--Wholesale Baking Industry (F. T. C.).--This inquiry (F. T. C. Res., 8/31/45) resulted in two reports to Congress : *Wholesale Baking Industry, Part I--Waste in the Distribution of Bread* (4/22/46, processed, 29 p.) and *Wholesale Baking Industry, Part II--Costs, Prices and Profits* (8/7/46, 137 p.). *Part I* developed facts concerning wasteful and uneconomic practices in the distribution of bread, including consignment selling which involves the taking back of unsold bread; furnishing, by gift or loan, bread racks, stands, fixtures, etc., to induce distributors to handle a given company's products. It was found that,

although War Food Order No. 1 which prohibited these practices was only partially observed, in 1945 as compared with 1942, the quantity of bread saved was sufficient to supply the population of England, Scotland, and Wales with a daily ration of one-third of a loaf for 30 days, the population of France for 36 days, or the population of Finland for nearly 1 year. The Commission suggested that "a careful examination of present laws be made by the legislative and executive branches of the Government to determine what legislation, if any, is needed to permanently eliminate wasteful trade practices and predatory competition which threaten the existence of many small bakers, foredoom new ventures to failure and promote regional monopolistic control of the wholesale bread-baking industry."

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

Food--Fish.--See Distribution Methods and Costs.

Food--Flour Milling (Senate).--This study of costs, profits, and other factors (S. Res. 212, 67th, 1/18/22) was reported in *Wheat Flour Milling Industry* (S. Doc. 130, 68th, 130 p., o. p., 5/16/24).

Food--Flour Milling (O. E. S.), Wartime, 1942-43.--Requested by the Director of the Office of Economic Stabilization, this inquiry covered practices, costs, prices, and profits in the wheat flour-milling industry, its purpose being to provide the Director with facts to determine what economies could be effected in the industry so as to eliminate the need for a wheat subsidy, without reducing farmers' returns, or to reduce bread prices. The report was made to O. E. S. and a more detailed report was prepared for O. P. A.

Food-Flour-Milling Industry, Growth and Concentration in (F. T. C.).--The Commission's study showed that there has been a progressive increase in the size of flour-mill operations and a progressive decrease in the number of flour-milling establishments. Nevertheless, the Commission reported, there is a lesser degree of concentration in the flour-milling industry than in many other important industries. The results of the study were presented to Congress in a report on the *Growth and Concentration in the Flour-Milling Industry* (6/2/47).

Food--Grain Elevators (F. T. C.), Wartime, 1917-18.--In view of certain bills pending before Congress with reference to regulation of the grain trade, the Commission, in a preliminary report, *Profits of Country and Terminal Grain Elevators* (S. Doc. 40, 67th, 12 p., o. p., 6/13/21) presented certain data collected during its inquiry into the grain trade ordered by the President.

Food--Grain Exporters (Senate) .--The low prices of export wheat in 1921 gave rise to this inquiry (S. Res. 133, 67th, 12/22/21) concerning harmful speculative price manipulations on the grain exchanges and alleged conspiracies among country grain buyers to agree on maximum purchasing prices. The Commission recommended stricter supervision of exchanges and additional storage facilities for grain not controlled by grain dealers (*Report of the F. T. C. on Methods and Operations of Grain Exporters*, 2 vols., 387 p., o. p., 5/16/22 and 6/18/23).

Food--Grain, Wheat Prices (President).--An extraordinary decline of wheat prices was investigated (President Wilson's directive 10/12/20) and found to be due chiefly to abnormal market conditions (*Report of the F. T. C. on Wheat Prices for the 1920 Crop*, 91 p., o. p., 12/13/20).

Food--Important Food Products.--See Distribution Methods and Costs.

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

Food--Milk.--See Distribution Methods and Costs.

Food--Milk and Milk Products (Senate), Wartime, 1917-18.--Covering an inquiry, S. Res. 431, 65th, 3/3/19) into fairness of milk prices to producers and of canned-milk prices to consumers, the *Report of the F. T. C. on Milk and Milk Products 1914-18* (6/6/21, 234 p., o. p.) showed a marked concentration of control and questionable practices many of which later were recognized by the industry as being unfair.

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

Distribution of Milk and Dairy Products, H. Doc. 94, 75th, 39 p., o. p., 1/4/37). Legislation has been enacted in a number of States carrying into effect all or a portion of the Commission's recommendations.

Food--Peanut Prices (Senate).--An alleged price-fixing combination of peanut crushers and mills was investigated (S. Res. 139, 71st, 10/22/29). The Commission found that an industry-wide decline in prices of farmers' stock peanuts during the business depression was not due to such a combination, although pricing practices of certain mills tended to impede advancing and to accelerate declining prices (*Prices and Competition Among Peanut Mills*, S. Doc. 132, 72d, 78 p., o. p., 6/30/32).

Food--Raisin Combination (Attorney General) --Investigating allegations of a combination among California raisin growers (referred to F. T. C. 9/30/19), the Commission found the enterprise not only organized in restraint of trade but conducted in a manner threatening financial disaster to the growers. The

Commission recommended changes which the growers adopted (*California Associated Raisin Co.*, 26 p., processed, o. p., 6/8/20).

Food--Southern Livestock Prices (Senate).--Although the low prices of southern livestock in 1919 gave rise to a belief that discrimination was being practiced, a Commission investigation (S. Res. 133, 66th, 7/25/19) revealed the alleged discrimination did not appear to exist (*Southern Livestock Prices*, S. Doc. 209, 66th, 11 p., o. p., 2/2/20).

Food--Sugar (House).--An extraordinary advance in the price of sugar in 1919 (H. Res. 150, 66th, 10/1/19) was found to be due chiefly to speculation and hoarding. The Commission made recommendations for correcting these abuses (*Report of the F. T. C. on Sugar Supply and Prices*, 205 p., 11/15/20).

Food--Sugar, Beet (F. T. C.).--Initiated by the Commissioner of Corporations and completed by the F. T. C., this inquiry dealt with the cost of growing beets and the cost of beet-sugar manufacture (*Report on the Beet Sugar Industry in the U.S.*, H. Doc. 158, 65th, 164 p., o. p., 5/24/17).

Foreign Trade--Antidumping Legislation (F. T. C.).--To develop information for use of Congress in its consideration of amendments to the antidumping laws, the Commission studied recognized types of dumping and provisions for preventing the dumping of goods from foreign countries (*Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries*, S. Doc. 112, 73d, 100 p., o. p., 1/11/34; supplemental report, 111 p., o. p., processed, 6/27/38).

Foreign Trade--Cooperation in American Export Trade (F. T. C.).--This inquiry related to competitive conditions affecting Americans in international trade. The Export Trade Act, also known as the Webb-Pomerene law, authorizing the association of U.S. manufacturers for export trade, was enacted as a result of Commission recommendations (*Cooperation in American Export Trade*, 2 vols., 984 p., o. p., 6/30/16; also summary, S. Doc. 426, 64th, 7 p., o. p., 5/2/16; and conclusions 1916. 14 p., o. p.).

Foreign Trade--Cotton Growing Corporation (Senate).--The report of an inquiry, (S. Res. 317, 68th, 1/27/25) concerning the development of this British company, *Empire Cotton Growing Corporation* (S. Doc. 226, 68th, 30 p., o. p., 2/28/25), showed there was then little danger of serious competition with the American grower or of a possibility that the United States would lose its position as the largest producer of raw cotton.

Fruit Growers and Shippers (W. P. B.), Wartime, 1943-44.--This investigation was requested by the War Production Board to determine whether 7 grape growers and 12 grape shippers, all located in California, were in violation of W. P. B. Order L-232 with respect to quotas affecting the use of lugs (wooden shipping containers).

Furnaces, Hot Air, Household (W. P. B.), Wartime, 1943-44.--The Commission made a Nation-wide survey for the War Production Board of the operations of one of the largest manufacturers in the United States of household hot air furnaces, to determine whether its practices in selling and servicing domestic heating plants were in violation of Orders L-79 and P-84, and other applicable regulations and orders of W. P. B.

Fuse Manufacturers (W. P. B.), Wartime, 194243.--For the War Production Board the Commission investigated and reported on the activities of representative fuse manufacturers whose operations were subject to W. P. B. Limitation Orders L-158 and L-161, as amended.

¹¹ See footnote 8, p.124.

Gasoline.--See Petroleum.

Glycerin, Users of (W. P. B.), Wartime, 1942-43.--At the request of the War Production Board, paint and resin manufacturers, tobacco companies, and other large users of glycerin were investigated to determine whether they had im-properly extended preference ratings to obtain formaldehyde, paraformaldehyde, or hexamethylenetetramine, to which they were not otherwise entitled.

Grain.--See Food.

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

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

House furnishings (Senate).--This inquiry (S. Res. 127, 67th, 1/4/22) resulted in three volumes showing concerted efforts to effect uniformity of prices in some lines (*Report of the F. T. C. on House furnishing Industries*, 1018 p., o. p., 1/1-7/23, 10/1/23, and 10/6/24).

Household Furniture (O.- P. A.), Wartime, 1941-42.--Costs, prices, and profits of 67 representative furniture companies were studied to determine whether, and to what extent, price increases were justified. A study was also made to determine whether price-fixing agreements existed and whether wholesale price increases resulted from understandings in restraint of trade. Confidential reports were transmitted to O. P. A. in Sept. 1941.

Independent Harvester Co. (Senate), Wartime, 1917-18.--After investigation (S. Res. 212, 65th, 3/11/18) of the organization and methods of operation of the company which had been formed several years before to compete with the "harvester trust," but which had passed into receivership, the *F. T. C. Report to the Senate on the Independent Harvester Co.* (5 p., release, processed, o. p., 5/15/18) showed the company's failure was due to mismanagement and in-sufficient capital.

Industrial Financial Reports (F. T. C. and S. E. C.).--This (1947-49) series of reports is intended to meet the general needs of the Government and the public for

current reliable corporation financial data. The reports show the aggregate estimates for American manufacturing corporations as derived from reports collected by the Federal Trade Commission and the Securities and Exchange Commission. This work is based upon resumption by F. T. C. of its prewar financial reporting function and continuation by S. E. C. of its current responsibilities for collection of financial information from corporations with

securities registered on a national exchange. F. T. C. obtains comparable information from a carefully selected sample of small, medium size and large nonregistered corporations. The sample has been designed so that the two sets of data can be combined to provide estimates for 21 major industry groups as well as the aggregate for all manufacturing corporations. The *Industrial Financial Reports* formerly were known as *Industrial Corporation Reports*. A summary appears at p.121.

Insignia Manufacturers (W. P. B.), Wartime, 1944-45.--Preliminary studies made by the War Production Board disclosed the probability that certain insignia manufacturers had acquired larger quantities of foreign silver than necessary to fill legitimate orders and diverted the balance to unauthorized uses. In response to W. P. B.'s request the Commission surveyed the acquisition and use of foreign silver by such manufacturers to determine the degree of their compliance with Order M--199 and checked the receipt and use of both domestic and treasury silver, as well as the manufacture of insignia, as controlled by Orders L-131 and M-9-c.

International Electrical Equipment Cartel (F. T. C.).--In its 1948 report on this subject (107 p., also 10 p. processed summary) the Commission points out the high degree of economic concentration in the electrical equipment industry which exists in each of the important industrial nations.

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 inter-national 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., also 12 p. processed summary.)

Jewel Bearings, Consumers of (W. P. B.), Wartime, 1942-43.--For the War Production Board, users of jewel bearings were investigated to determine the extent to which they were complying with W. P. B. Conservation Order m-50, which had been Issued to conserve the supply and direct the distribution of jewel bearings and jewel-bearing material.

Leather and Shoes (F.- T. C.- and House), Wartime, 1917-18.--General complaint regarding high prices of shoes led to this inquiry, which is reported in *Hide and Leather Situation*, preliminary report (H. Doc. 857, 65th, 5 p., o. p., 1/23/18), and *Report on Leather and Shoe Industries* (180 p., o. p., 8/21/19). A further study (H. Res. 2-17, 66th, 8/19/19) resulted in the *Report of time F. T. C. on Shoe and Leather Costs*

and Prices (212 p., o. p., 6/10/21).

Lumber-Costs.--See wartime Cost Finding, 1917-18.

Lumber Trade Associations (Attorney General).--The Commission's extensive survey of lumber manufacturers' associations (referred to F. T. C., 9/4/19)

resulted in Department of Justice proceedings against certain associations for alleged antitrust law violations. Documents published were : *Report of the F. T. C. on Lumber Manufacturers' Trade Associations*, incorporating regional reports of 1/10/21, 2/18/21, 6/9/21, and 2/15/22 (150 p., o. p.); *Report of the F. T. C. on Western Red Cedar Association, Lifetime Post Association, and Western Red Cedarmen's Information Bureau* (22 p., o. p., 1/24/23), also known as *Activities of Trade Associations and Manufacturers of Posts and Poles in the Rocky Mountain and Mississippi Valley Territory* (S. Doc. 293, 67th, o. p.); and *Report of the F. T. C. on Northern Hemlock and Hardwood Manufacturers Association*. (52 p., o. p., 5/7/23).

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

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

Mergers (F. T. C.).--In its 1948 report entitled *The Merger Movement: A Summary Report* (134 p., also 7 p. processed summary) the legal history of the antimerger provisions of the Clayton Act is reviewed. The report calls attention to the loophole in the Clayton Act which permits corporations to purchase the assets rather than (or in addition to) the stock of competing firms, thereby evading the original intent of Congress "to arrest the creation of monopolies in their incipiency." (See also *Corporate Mergers*.)

Metal--Working Machines, Invoicing and Distribution of (W. P. B.), Wartime, 1942-43.--For the War Production Board an inquiry was made to obtain complete data from the builders of metal-working machines (including those manufactured by their subcontractors) such as all nonportable power-driven machines that shape metal by progressively removing chips or by grinding, boning, or lopping; all nonportable power-driven shears, presses, hammers, bending machines, and other machines for cutting, trimming, bending, forging, pressing, and forming metal; and all power-driven measuring and testing machines. Each type and kind of machine was reported on separately.

Milk.--See Food.

Millinery Distribution (President).--This inquiry, requested by President Roosevelt, embraced growth and development of syndicates operating units for retail millinery distribution, the units consisting of leased departments in department or specialty stores (*Report to the President of the United States on Distribution Methods in the Millinery Industry*, 65 p., processed, 11/21/39).

Motor Vehicles (Congress).--Investigating (Public Res. 87, 75th, 4/13/38) distribution and retail sales policies of motor vehicle manufacturers and dealers, the Commission found, among other things, a high degree of concentration and strong competition; that many local dealers' associations fixed prices and operated used-car valuation or appraisal bureaus essentially as combinations to restrict competition; that inequities existed in dealer agreements and in certain manufacturers' treatment of some dealers; and that some companies' car finance plans developed serious abuses (*Motor Vehicle Industry*, H. Doc. 468, 76th, 1077 p., 6/5/39). The leading companies

voluntarily adopted a number of the Commission's recommendations as company policies.

National Wealth and Income (Senate).--In 1922 the national wealth was estimated (inquiry pursuant to S. Res. 451, 67th, 2/28/23) at \$353,000,000,000 and the national income in 1923 at \$70,000,000,000 *National Wealth and Income* (S. Doc. 126, 69th, 381 p., o. p., 5/25/26 and *Taxation and Tax-Exempt Income* (S. Doc. 148, 68th, 144 p., o. p., 6/6/24)).

Nickel Processors (W. P. B.), Wartime, 1942-43.--The Commission was designated by the War Production Board to investigate the transactions of some 600 nickel processors for the purpose of determining the extent to which they were complying with W. P. B. Preference Order No. M-6-a, issued 9/30/41, and Conservation Order M-6-b, issued 1/20/42. The investigation was conducted concurrently with a survey of chromium processors.

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

Packer Consent Decree.--See Food (President) Continued-Meat Packing, Paint, Varnish, and Lacquer Manufacturers (W. P. B.), Wartime, 194344.--The purpose of this survey was to determine whether the manufacturers covered were in violation of War Production Board Orders M-139, *M-150*, *M-159*, M-246, and M-327 in their acquisition and use of certain chemicals, all subject to W. P. B. allocations, used in the manufacture of paint, varnish, and lacquer. Sales of such products to determine their end uses also were investigated.

Paperboard (O. P. A.), Wartime, 1941-42.--Costs, profits, and other financial data regarding operations of 68 paperboard mills (O. P. A. request, 11/12/41) for use in connection with price stabilization work, were transmitted to O. P. A. In a confidential report (May 1942).

Paper--Book (Senate), Wartime, 1917-18.--This inquiry (S. Res. 269, 64th, 9/7/16) resulted in proceedings by the Commission against certain manufacturers to prevent price enhancement and the Commission recommended legislation to repress trade restraints [*Book Paper Industry--A Preliminary Report* (S. Doc. 45, 65th, 11 p., o. p., 6/13/17), 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, 6/27/47; S. Doc. 61, 65th, 8 p., o. p., 7/10/17)].

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

Paper--Newsprint (Attorney General).--The Commission investigated (inquiry referred to F. T. C. 1/24/38) the manner in which certain newsprint manufacturers complied with a consent decree entered against them (11/26/17) by the U.S. District

Court, Southern District of New York.

Peanut Prices.--See Food.

Petroleum Products.--See Distribution Methods and Costs.

Petroleum and Petroleum Products, Prices (President and Congress).--At different times the Commission has studied prices of petroleum and petroleum products and issued reports thereon as follows: *Investigation of the Price of*

Gasoline, preliminary (S. Doc. 403, 64th, 15 p., o. p., 4/10/16) and *Report on the Price of Gasoline in 1915* (H. Doc. 74, 65th, 224 p., o. p., 4/11/17--both pursuant to S. Res. 109, 63d, 6/18/13¹² and 5. 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 re-storing effective competition; *Advance in the Prices of Petroleum Products* (H. Doc. 801, 66th, 57 p., o. p., 6/1/20)--pursuant to H. Res. 501, 66th, 4/5/20, in which report the Commission made constructive proposals to conserve the oil supply; *Letter of Submittal and Summary of Report on Gasoline Prices in 1924* (24 p. processed, 6/4/24, and Cong. Record, 2/28/25, p. 5158)--pursuant to request of President Coolidge, 2/7/24; *Petroleum Industry--Prices, Profits and Competitions* (S. Doc. 61, 70th, 360 p., o. p., 12/12/27)--pursuant to S. Res. 31, 69th, 6/3/36; *Importation of Foreign Gasoline at Detroit, Mich.* (S. Doc. 206, 72d, 3 p., o. p., 2/27/33) --pursuant to S. Res. 274, 72d, 7/16/32; and *Gasoline Prices* (S. Doc. 178, 73d, 22 p., o. p., 5/10/34)--pursuant to S. Res. 166, 73d, 2/2/34.

Petroleum Decree (Attorney General).--The Commission investigated (inquiry referred to F. T. C. 4/16/36) the manner in which a consent decree entered (9/15/30) against Standard Oil Co. of California, Inc., and others, restraining them from monopolistic practices, was being observed, and reported (4/2/37) to the Attorney General.

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

Petroleum Pipe Lines (Senate).--Begun by the Bureau of Corporations,¹³ this inquiry (S. Res. 109, 63d, 6/18/13) showed the dominating importance of the pipe lines of the great midcontinental oil fields and reported practices of the pipe-line companies which were unfair to small producers (*Report on Pipe-Line Transportation of Petroleum*, 467 p., o. p., 2/28/16), some of which practices were later remedied by the Interstate Commerce Commission.

Petroleum--Regional Studies (Senate and F. T. C.) --Reports published were : *Pacific Coast Petroleum Industry* (two parts 4/7/21 and 11/28/21, 538 p.)--pursuant to S. Res. 138, 66th, 7/31/19; *Reports of the F. T. C. on the Petroleum Industry of Wyoming* (54 p., o. p., 1/3/21)--pursuant to F. T. C. motion; *Petroleum Trade in Wyoming and Montana* (S. Doc. 233, 67th, 4 p., 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 1896-19143 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.

¹² See footnote 8, p.124.

¹³ See footnote 8, p.124. Conditions In one of the midcontinent fields were discussed by the Bureau of Corporations in *Conditions in the Healdton Oil Field* (Oklahoma) (116 p., 3/15/15).

Power-Electric (Senate).--This inquiry (S. Res. 329, 68th, 2/9/25) resulted in two reports, the first of which, *Electric Power Industry--Control of Power Companies* (S. Doc. 213, 69th, 272 p., o. p., 2/21/27) dealt with the organization, control, and ownership of commercial electric-power companies. It called attention to the dangerous degree to which pyramiding had been practiced in superimposing a series of holding companies over the underlying operating companies, and was influential in bringing about the more comprehensive inquiry described under Power--Utility Corps., below. *Supply of Electrical Equipment and Competitive Conditions* (S. Doc. 46, 70th, 282 p., o. p., 1/12/28) showed, among other things, the dominating position of General Electric Co. in the equipment field.

Power--Interstate Transmission (Senate).--Investigation (S. Res. 151, 71st, 11/8/29) was made of the quantity of electric energy transmitted across State lines and used for development of power or light, or both (*Interstate Movement of Electric Energy*, S. Doc. 238, 71st, 134 p., o. p., 12/20/30).

Power--Utility Corporations (Electric and Gas Utilities) (Senate).--This extensive inquiry (S. Res. 83, 70th, 2/15/28; Public Res. 46, 73d, 6/1/34; and F. T. C. Act, Sec. 6) embraced the financial set-up of electric and gas utility companies operating in interstate commerce and of their holding companies and other companies controlled by the holding companies. The inquiry also dealt with the utilities' efforts to influence public opinion with respect to municipal ownership of electric utilities. The Commission's reports and recommendations, focusing congressional attention upon certain unfair financial practices in connection with the organization of holding companies and the sale of securities, were among the influences which brought about enactment of such remedial legislation as the Securities Act (1933), the Public Utility Holding Company Act (1935), the Federal Power Act (1935), and the Natural Gas Act (1938).

Public hearings were held on all phases of the inquiry and monthly interim reports presented hundreds of detailed studies by the Commission's economists, attorneys, accountants, and other experts, based on examination of 29 holding companies having \$6,108,128,713 total assets; 70 subholding companies with \$5,685,463,201 total assets; and 278 operating companies with \$7,245,106,464 total assets. The testimony, exhibits, and final reports (*Utility Corporations*, S. Doc. 92, 70th) comprised 95 volumes.¹⁴

Price Bases (F. T. C.).--More than 3,500 manufacturers representing practically every industrial segment furnished data for this study (F. T. C. motion, 7/27/27) of methods used for computing delivered prices on industrial products and of the actual and potential influence of such methods on competitive markets and price levels. In the cement industry the basing-point method¹⁵ was found to have a tendency to establish unhealthy uniformity of delivered prices and cross-hauling or cross-freighting to be an economic evil (*Report of the F. T. C. on Price Bases Inquiry, Basing-Point Formula, and Cement Prices*, 218 p., o. p., 3/26/32). Illustrating the use in a heavy commodity industry of both a modified zone-price system and a uniform delivered-price system, the Commission examined price schedules of the more important manufacturers of range boilers, 1932-36, disclosing that the industry operated under

a zone-price formula, both before and after adoption of its N. R. A. code (*Study of Zone-Price Formula* in

¹⁴ Final reports were published in 1035; a general index in 1037. 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, 1035, 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.

Range Boiler Industry, 5 p., processed, 3/30/36, a summary based on the complete report which was submitted to Congress but not printed).

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

Priorities (W. P. B.), Wartime, 1941-45.--Pursuant to Executive orders (January 1942), W. P. B. designated the Federal Trade Commission as an agency to conduct investigations of basic industries to determine the extent and degree to which they were complying with w. P. B. orders relative to the allocation of supply and priority of delivery of war materials. F. T. C. priorities investigations are listed herein under the headings : Aluminum, Foundries Using; Antifreeze Solutions, Manufacturers of; Capital Equipment, Chromium, Processors of; Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of; Contractors, Prime, Forward Buying Practices of; Copper Base Alloy Ingot Makers; Copper, Primary Fabricators of; Costume Jewelry, Manufacturers of; Electric Lamps, Manufacturers of; Fruit Growers and Shippers; Furnaces, Hot Air, Household; Fuse Manufacturers; Glycerin, Users of; Insignia Manufacturers; Jewel Bearings, Consumers of; Metal-working Machines, Invoicing and Distribution of; Nickel, Processors of; Paint, Varnish, and Lacquer, Manufacturers of; Quinine, Manufacturers and Wholesalers of; Silverware, Manufacturers of; Silverware Manufacturers and Silver Suppliers; Steel Industry; Textile Mills, Cotton; and Tin, Consumers of. The report on each of these investigations was made directly to W. P. B.

Profiteering (Senate), Wartime, 1917-18--Current conditions of profiteering (S. Res. 255, 65th, 6/10/18) as disclosed by various Commission investigations were reported in *Profiteering* (S. Doc. 248, 65th, 20 p., o. p., 6/29/18).

Quinine, Manufacturers and Wholesalers of (W. P. B.), Wartime, 1942-43.--At the instance of the War Production Board, investigation was made to determine whether requirements of its Conservation Order No. m-131-a, relating to quinine and other drugs extracted from cinchona bark, were being complied with.

Radio (House)--A comprehensive investigation of the radio industry (H. Res. 548, 67th, 3/4/23); *Report of the F. T. C. on the Radio Industry*, 347 p., o. p., 12/1/23) contributed materially to enactment of the Radio Act of 1927 and the succeeding Federal Communications Act of 1934. The investigation was followed by Commission and Department of Justice proceedings on monopoly charges which culminated in a consent decree (11/2/32; amended, 11/2/35).

Rags, Woolen.--See Textiles.

Raisin Combination.--See Food.

Range Boilers.--See Price Bases.

Rates of Return in Selected Industries (F. T. C.).--A comparison of the pre war (World War II) and postwar rates of return on stockholders investments after taxes for more than 500 identical manufacturing corporations. The study, covering the years 1940 and 1947, includes 25 selected manufacturing industries (7 p., processed).

Resale Price Maintenance (F. T. C.).--The question whether a manufacturer of standard articles, identified by trade-mark or trade practice, should be permitted to fix by contract the price at which purchasers should resell them, led to the first inquiry, resulting in a report, *Resale Price Maintenance* (H. Doc. 1480, 65th, 3 p., o. p., 12/2/18). Other reports were : *A Report on Resale Price Maintenance* (H. Doc. 145, 66th, 3 p., 6/30/19) and *Resale Price Maintenance* (F. T. C. motion, 7/25/27; reports, Part I, H. Doc. 546, 70th, 141 p., o. p., 1/30/29,

and Part II, 215 p., 6/22/31). The *Report of the F. T. C. on Resale Price Maintenance* (F. T. C. Res., 4/25/39) was submitted to Congress 12/13/45. The inquiry developed facts concerning the programs of trade organizations interested in the extension and enforcement of minimum resale price maintenance contracts, and the effects of the operation of such contracts upon consumer prices and upon sales volumes of commodities in both the price-maintained and non-price-maintained categories.

Rubber Tires and Tubes.--See Distribution Methods and Costs.

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

Silverware Manufacturers (W. P. B.), Wartime, 1942-43.--Silverware manufacturers were investigated at the request of the War Production Board to determine the extent to which they had complied with the cop per orders, that is, W. P. B. General Preference Order No. m-9-a, Supplemental Order No. m-9-b, and Conservation Order m-9-c, as amended.

Silverware Manufacturers and Silver Suppliers (W. P. B.), Wartime, 1942-43.--The activities of silverware manufacturers and silver suppliers under W. P. B. Conservation and Limitation Orders m-9-a, b, and c, m-100 and L-140 were investigated and reported on at the request of the War Production Board.

Sisal Hemp (Senate).--The Commission assisted the Senate Committee 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 twin (*Mexican Sisal Hemp*, S. Doc. 440, 64th, 8 p., o. p., 5/9/16). The Commission's distribution plan was adopted.

Southern Livestock Prices.--See Food.

Steel Code and Steel Code as Amended (Senate and President).--The Commission investigated (S. Res. 166 73d, 2/2/34) price fixing, price increases, and other matters (*Practices of the Steel Industry Under the Code*, S. Doc. 159, 73d, 79 p., o. p., 3/19/34) and the Commission and N. R. A. studied the effect of the multiple basing-point system under the amended code (*Report of the F. T. C. to the President in Response to Executive Order of May 30, 1934, With Respect to the Basing-point System in the Steel Industry*, 125 p., o. p., 11/30/34) 17 The Commission recommended important code revisions.

Steel Companies, Proposed Merger (Senate).--An inquiry (S. Res. 286, 67th 5/12/22) into a proposed merger of Bethlehem Steel Corp. and Lackawanna Steel Co., and of Midvale Steel & Ordnance Co., Republic Iron & Steel Co., and Inland Steel Co., resulted in a two-volume report, *Merger of Steel and Iron Companies* (S. Doc.

208, 67th, 11 p., o. p., 6/5/22 and 9/7/22).

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

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

¹⁷ As of the same date in the N. R. A. published its *Report of the National Recovery Administration on the Operation of the Basing-Point System in the Iron and Steel Industry* (175 p., processed). The basing-point system is also discussed in published reports listed under "Cement" and "Price Bases" herein.

Steel Costs and Profits (O. P. A.), Wartime, 1942-43.--A report on the Commission's survey of costs, prices and profits in the steel industry, begun in April 1942 at the request of O. P. A., was made to that agency. The inquiry covered 29 important steel-producing companies.

Steel Industry (O. P. M.), Wartime, 1941-42.--This investigation covered practically every steel mill in the country and was conducted for the purpose of determining the manner in which the priorities and orders promulgated by the Office of Production Management were being observed, I. e., the technique used in the steel industry in meeting the requirements of O. P. M. (later the War Production Board) orders and forms controlling the distribution of pig Iron, iron and steel, iron and steel alloys, and iron and steel scrap.

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

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

Sugar.--See Food.

Sulphur Industry (F. T. C.)--In its report to Congress on *The Sulphur Industry and International Cartels* (6/16/47), the Commission stated that the operations of all four producers constituting the American sulphur Industry generally have been highly profitable, and that the indications are that foreign cartel agreements entered into by Sulphur Export Corp., an export association organized under the Webb-Pomerene Law, have added to the profitability of the U. S. industry. On 2/7/47, after hearings, the Commission recommended that Sulphur Export Corp. readjust its business to conform to law.

Taxation and Tax-Exempt Income.--See National Wealth and Income.

Temporary National Economic Committee, Studies of the F. T. C.--See F.T.C. Annual Report, 1941, p.218, for titles.

Textile Mills, Cotton (W. P. B.), Wartime, 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.

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,

¹⁸ See footnote 15, p.135.

12/31/34 to 6/20/35, 174 p., o. p. (Part VI financial tabulations processed 42 p., o. p.); *Report of the F. T. C. on the Textile Industries in 1933 and 1934*), Parts I to IV, 8/1/35 to 12/5/35, 129 p., o. p.; Parts 11 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*, 5. Doc. 194, 68th, 38 p., o. p., 1/20/25).

Textiles--Cotton Trade (Senate)--Investigation (S. Res. 262, 67th, 3/29/22) involved a decline in cotton prices, 1920-22, as reported in *Preliminary Report of the F. T. C. on the Cotton Trade* (S. Doc. 311, 67th, 28 p., o. p., 2/26/23). After a second inquiry (S. Res. 429, 67th, 1/31/23), the Commission recommended certain reforms in trading practices and particularly in permitting Southern delivery of cotton on New York futures contracts (*The Cotton Trade*, incl. testimony, 5. 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.

Tin Consumers (W. P. B.), Wartime, 1942-43.--The principal consumers of tin were Investigated at the Instance of the War Production Board to determine the degree of their compliance with Conservation Order m-43-a, as amended, and other orders and regulations issued by the Director of the Division of Industry Operation, controlling the inventories, distribution, and use of the tin supply in the U.S.

Tobacco (Senate)--Inquiry (S. Res. 329, 2/9/25) into activities of two well-known companies disclosed that alleged illegal agreements or conspiracies did not appear to exist. (*The American Tobacco Co. and the Imperial Tobacco Co.*, 5. 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 Market*

862102--49----10

ing of Leaf Tobacco in the Flue-Cured Districts of the States of North Carolina and Georgia, 54 p., processed, 5/23/31).

Tobacco Prices (Congress).--Inquiries with respect to a decline of loose-leaf tobacco prices following the 1919 harvest (H. Res. 533, 66th, 6/3/20) and low tobacco prices as compared with high prices of manufactured tobacco products (S. Res. 129, 67th, 8/9/21) resulted in the Commission recommending modification of the 1911 decree (dissolving the old tobacco trust) to prohibit permanently the use of common purchasing agencies by certain companies and to bar their purchasing tobacco under any but their own names (*Report of the F. T. C. on the Tobacco Industry*, 162 p., o. p., 12/11/20, and *Prices of Tobacco Products*, S. Doc. 121, 67th 109 p., o. p., 1/17/22).

Trade and Tariffs in South America (President).--Growing out of the First Pan-American Financial Conference held in Washington, May 24-29, 1915, this inquiry (referred to F. T. C. 7/22/15) was for the purpose of furnishing necessary information to the American branch of the International High Commission appointed as a result of the conference. Customs administration and tariff policy were among subjects discussed in the *Report on Trade and Tariffs in Brazil, Uruguay, Argentina, China, Bolivia, and Peru* (246 p., o. p., 6/30/16).

Twine.--See Sisal Hemp and Textiles.

Utilities.--See Power.

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

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

Wartime Costs and Profits (F. T. C.).--Cost and profit information for 4,107 identical companies for the period 1941-45 is contained in a Commission report (1948) on *Wartime Costs and Profits for Manufacturing Corporations, 1941 to 1945* (30 p., processed, with 106 p. appendix), Compilation of the information

¹⁹ See footnote 10, p.126.

²⁰ Approximately 260 of the wartime cost inquiries are listed in the F. T. C. Annual Reports, 1918, pp.29-30, and 1919, pp. 38-42 and in *World War Activities of the F. T. C., 1917-18* (69 p., processed, 7/15/40).

contained in the report was begun by the Office of Price Administration prior to the transfer of the financial reporting function of that agency to the Federal Trade Commission in December 1946.

Wartime Inquiries, 1917-18, Continued.--Further wartime inquiries of this period are described herein under the headings : Coal, Coal Reports--Cost of Production, Cost of Living, Flax, Food, Farm Implements, Independent Harvester Co., Leather and Shoes, Paper--Book, Paper--Newsprint, Profiteering, and Textiles--Woolen Rag Trade.

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

INDEX

[Index does not include names or items in alphabetical lists, tables, or appendixes. For names of export trade associations, see p.68 ; for appropriation items, see p.76 ; and for titles and summaries of investigations, 1915-49, see p.118.]

	Page
Administrative Procedure Act	7
Advance Realty Corp	42
Advertising, false and misleading :	
Complaints alleging	37
Criminal penalties	28
Food, drugs, devices, cosmetics	2, 3, 27, 31, 40
Injunctive proceedings involving	27
Investigation of	29, 32
Mail-order	34
Newspaper and periodical	33
Orders directed against	40
Procedure in cases involving	35
Radio commercial	34
Survey of	32
Television	34
Alberty Food Products	45
Allied Paper Mills	44
American Chemical Paint Co	41
American Dental Trade Association	37
American Shuttle Manufacturers Association	40
American Viscose Corp	41
Americana Corp	45
Arch supports, advertising of	36
Artra Cosmetics, Inc	45
Association of Coupon Book Manufacturers	40
Automobile financing, trade practice conference for	55
Automobile industry, investigation of	29
Ayres, William A., Commissioner	5
Baby chick industry; trade practice rules for	10, 52, 57
Bedding industry, trade practice conference for	55
Blakeslee, G. S. & Co	42
Bobbin Manufacturers Association	39
Brokerage payments (see Clayton Act, sec. 2).	
Canadian Ace Brewing Co	46
Candy manufacturing industry, trade practice conference for	52

Canute Co	44
Canvas cover industry, trade practice conference proceedings for	52
Carbon Black Export, Inc	70

	Page
Carson, John, Commissioner	5
Cartels, international	18
Cerium Export Association	68
Clayton Act:	
Application to insurance business	11
Complaints issued under	38
Contempt proceedings under	27
Orders issued under	42
Procedure under	25
Section 2 (see also Robinson-Patman Act)	3, 30, 38,
42	
Section 3	3, 31, 39, 43
Section 7	3, 31
Section 8	3
Clayton Mark & Co	44
Clinical thermometer industry, trade practice conference for	52
Colgate-Palmolive-Peet Co	38
Columbia Appliance Corp	42
Committee on the Judiciary, House of Representatives	15
Complaint, application for	24
Complaints, formal	3, 6, 9, 25, 36
Concentration of productive facilities	11, 13, 15
Congress of the United States	1, 2, 3, 11
Connecticut Leather & Findings Association, Inc	40
Cosmetic and toilet preparations industry, trade practice proceeding for	54
Cotton converting industry, trade practice rules for	53
Court cases :	
Civil penalty suits	10, 27, 46
Decided	44
Pending	45
Petitions to review	44
Crown Manufacturers Association of America	40
Davis, Ewin L., Commissioner	5
Decker Products Co	44
Detroit Rex Products Co	42
Dictograph Products, Inc	39
du Pont, E. I., de Nemours & Co., Inc	42
Electric Auto-Lite Co	38
Elgin Razor Corp	45
Excelsior Laboratory, Inc	44
Exclusive-dealing contracts (see Clayton Act, sec. 3).	
Export Trade Act :	
Export associations operating under	10, 68
Export associations organized during year	68
Inquiries and recommendations under	10, 32, 70

Provisions of	3, 66
F. & V. Manufacturing Co	38
Fabrics and apparel, water resistant (see Water resistant).	
Feather and down industry, trade practice conference for	52
Federal Power Commission Act of 1934	12
144	INDEX

	Page
Federal Trade Commission :	
Accounting, Division of	8
Acts administered by	1, 3
Administration, Bureau of	6
Antimonopoly Trials, Division of	7
Appellate Proceedings, Division of	6
Appropriations, expenditures, and fiscal affairs	76
Cases in Federal courts	43
Chairman	5
Commissioners	5
Compliance, Division of	6
Deceptive Practice Trials, Division of	7
Duties of	3
Economics, Division of	8
Executive Office	5
Export Trade, Division of	7, 66
Field Investigation, Division of	7, 24, 29
Foreign trade work	66
General Counsel, Office of	6
Industrial Economics, Bureau of	8
Investigations, general	2, 3, 8, 11, 15
Investigations, industry-wide	4, 7, 29, 36
Legal activities	3, 9, 24
Legal Investigation, Bureau of	7, 24, 28
Litigation, Bureau of	6
Medical Opinions, Bureau of	9, 65
Organized	1
Personnel	5
Planning Council	9
Policy, Statement of	114
Procedure upon application for complaint	24
Procedure upon formal complaints	25
Publications	12
Radio and Periodical Advertising, Division of	7, 32
Rule Administration, Division of	8, 56
Rule Making, Division of	8
Rules of practice	96
Secretary	5
Staff organization	5
Statistics and Financial Reports, Division of	9
Stipulations, Bureau of	7, 48
Trade-Marks and Insurance, Division of	6

Trade Practice Conferences and Wool Act Administration, Bureau of	8,50
Trial Examiners, Bureau of	7
Wool Act Administration and Inspection, Division of	8,
62	
Federal Trade Commission Act :	
Amended	2
Applicable to insurance business	11
Approved	1
Civil penalties under	10, 27, 46
Complaints issued under	37

INDEX

145

Page

Federal Trade Commission Act--Continued	
Orders to cease and desist issued under	39
Procedure under	24
Section 5	3, 37, 39
Section 6	3, 12, 23
Sections 12-15, inclusive	3
Text of	79
Types of unfair practices in violation of	90
Wheeler-Lea amendment to	2, 27,
31	
Ferguson, Garland S., Commissioner	5
Fertilizer industry	18
Finance charges, automobile (see Automobile financing).	
Floor wax products industry, trade practice conference for	51,
56	
Florida Citrus Cannery Cooperative	18
Food and Drug Administration	65
Fountain pen and mechanical pencil industry, trade practice conference	
proceedings for	52, 55
Freer, Robert E., Commissioner	5
Fur industry, trade practice rules for	57
Galter, Jack	45
Gamble-Skogmo, Inc	39
General Foods Corp	46
General Motors Corp	38
Gold-Tone Studios, Inc	45
Handkerchief industry, trade practice rules for	10, 52
Hillman Periodicals, Inc	44
Industrial Financial Reports	11, 21
Insurance	6, 11, 30, 51,
54	
International Salt Co	46
Investigations, general :	
Concentration of Productive Facilities	15
Fertilizer Industry	18
Industrial Corporation Reports	21
Investigations, industry-wide :	

Arch supports industry	36
Automobile industry	29
Battery chargers	29
Cotton textiles	29
Machine knives	29
Mattresses, crib or carriage	36
Radio receiving set industry	36
Shoes, orthopedic or "health"	36
Textile looms	29
Wallpaper cleaning preparations	36
Jewelry (see Wholesale jewelry).	
Justice, Department of	12
Kreider, The A. S., Shoe Co	40
Kreisler, Jacques, Manufacturing Co	42
Labeling, informative	60, 62
Lanham Act (see Trade-Mark Act).	
Lever brothers Co	38
146	

INDEX

	Page
Luggage and related products industry, trade practice rules for	57
Mattresses, crib and carriage, industry-wide investigation of	36
Medical opinions	65
Minneapolis-Honeywell Regulator Co	45
Morton Salt Co	46
National Paper Trade Association of the United States, Inc	37
National Pressure Cooker Co	43
National Tea Co	39
Natural Gas Act of 1938	12
Newcomb, Dr. F. A	45
Nitrogen cartel	18
Oil heating industry (New England), trade practice rules for	10, 51,
53	
Orders to cease and desist	4, 26,
39	
Pacific Forest Industries	70
Packers and Stockyards Act	12
Paper, fine and wrapping	37, 52
Patent Office	11
Patents, Commissioner of	10
Peat industry, trade practice conference for	52
Phosphate rock cartel	19
Pipe Fittings & Valve Export Association	70
Potash cartel	20
President of the United States	1, 2, 3,
4	
Price discrimination (sec Clayton Act, section 2).	
Price-fixing	2, 30, 37,
39	
Proctor & Gamble Co	38

Public Utilities Holding Company Act of 1935	12
Radio receiving set manufacturing industry	36
Rates of return in selected industries	14, 23
Rayon industry, trade practice rules for	58
Rayon, nylon, and silk converting industry, trade practice rules for	10, 52
Restraint of trade	3, 30, 37, 39
Rigid Steel Conduit Association	44
Robinson-Patman Act (<i>see</i> also Clayton Act, section 2)	12, 30, 38, 42
Rules (<i>see</i> Trade Practice Rules).	
Rules of practice	96
Securities Act of 1933	12
Securities and Exchange Commission	11, 14, 21
Senate, United States	1, 4
Sherman Act	1
Shoes, orthopedic or "health," industry-wide investigation of	36, 40
Shrinkage control of wool products, trade practice conference for	55
Standard Oil Co. (Indiana)	45
Stipulations to cease and desist	4, 7, 9, 36, 48
Stock Exchange Act of 1934	12
Supreme Court of the United States	2, 10, 12, 43
Tag Manufacturers Institute	45
Thermometer (<i>see</i> clinical thermometer).	
Tie fabrics industry, trade practice rules for	52
Trade-Mark Act of 1946	2, 3, 6, 10
Trade pamphlet binding industry, trade practice rules for	10, 53

INDEX

147

Page

Trade Practice rules:	
Administration of	56
Conferences for establishment of	4, 10, 50, 51
Group I and Group II rules explained	51
Informative labeling provisions of	60
Procedure for establishing	50
Promulgated during year	10, 13, 51
Purposes of	50
Types of practices covered by	59
United States Steel Corp	45
Univis Lens Co., The	40
Wallpaper cleaning preparations industry, investigation of	36

Warner, William R & Co., Inc	41
Watch case industry, trade practice rules for	58
Watches, trade practice rules concerning	58
Water resistant fabrics and apparel, trade practice conference for	54
Wax, floor (see floor wax).	
Webb-Pomerene Law (see Export Trade Act).	
Wheeler-Lea Amendment (see also Federal Trade Commission Act)	2, 27
Wholesale jewelry industry, trade practice rules for	58
Wholesale optical industry, trade practice conference for	51
Wolf, Al B	46
Wool Products Labeling Act:	
Administration of	10, 62
Approved	62
Complaints issued under	38
Effective date of	62
Enforcement of	63
Guaranties	63
Investigations under	32, 64
Orders issued under	42
Procedure under	25, 62
Provisions of	3
Registered identification numbers	63
Rules and regulations under	62
Section 2	62
Section 9	63
Section 14	62
Wool shrinkage controls, trade practice conference for	51, 55
Worthmore Sales Promotion Service, Inc	46
Yeast industry, trade practice rules for	10, 51, 53