

Annual
Report
of the **FEDERAL
TRADE
COMMISSION**

For the Fiscal Year Ended
June 30, 1962

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EXECUTIVE OFFICES OF THE FEDERAL TRADE COMMISSION

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

Field Offices

30 Church St., New York 7, N. Y.	Room 10511, U.S. Courthouse and Federal Building, 515 Rusk Avenue, Houston, Tex.
Room 1310, 226 West Jackson Boulevard, Chicago 6, Ill.	Room 811, U. S. Courthouse, Seattle 4, Wash.
Room 306, Pacific Building, San Francisco 3, Calif.	Room 1128, Standard Building, Cleveland 13, Ohio.
Room 405, 215 West Seventh Street, Los Angeles 14, Calif.	Room 2806, Federal Office Building, Kansas City, Mo.
Room 1001, 131 State Street, Boston 9, Mass.	Room 915, Forsyth Building, Atlanta 3, Ga.
Room 1000, Masonic Temple Building, New Orleans 12, La.	958 North Monroe Street, Arlington 1, Va.

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

Room 1003—c, U.S. Court and Custom House, St. Louis 1, Mo.	Room 3030—A, U.S. Courthouse, Philadelphia, Pa.
Room 1304, 1114 Commerce Street, Dallas 2, Tex.	Room 936, Equitable Building, 730 17th Street, Denver, Colo.
Room 204, 327 North Tryon Street, Charlotte, N.C.	Room 918 Metropolitan Bank Building, 117 N.E. First Street, Miami, Fla.

Letter of Transmittal

FEDERAL TRADE COMMISSION,
Washington, D. C.

To the Congress of the United States:

It is a pleasure to transmit herewith the Forty-eighth Annual Report of the Federal Trade Commission, covering its accomplishments during the fiscal year ended June 30, 1962.

By direction of the Commission.

PAUL RAND DIXON,
Chairman.

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

CONTENTS

Chapter	Page
1. The Year's Highlights	1
2. Scope of Authority	9
3. Executive Director	18
4. Office of the Secretary	22
5. Office of the General Counsel	23
Appellate Division	24
Division of Consent Orders	33
Legislation	33
6. Industry Guidance	35
Division of Trade Regulation Rules	35
Division of Advisory Opinions and Guides	36
Division of Trade Practice Conferences	39
7. Hearing Examiners	42
8. Restraint of Trade	43
Division of Mergers	45
Division of General Trade Restraints	46
Division of Discriminatory Practices	48
Division of Accounting	51
Compliance Division	52
Export Trade	54
9. Deceptive Practices	55
Investigation	56
Litigation	58
Division of Compliance	61
Division of Scientific Opinions	65
Monitoring of Advertising	66
10. Textiles and Furs	68
Division of Enforcement	69
Division of Regulation	72
11. Field Operations	74
12. Economics	75
Division of Economic Evidence	75
Division of Economic, Reports	76
Division of Financial Statistics	77
13. Appropriations and Financial Obligations	78

Chapter	Page
14. Appendixes	79
FTC Commissioners (1915-62)	79
Statutes Pertaining to the FTC	80
General Investigations by FTC since 1915	137

THE YEAR'S HIGHLIGHTS

A determined effort to provide dependable guidance to American businessmen on how to avoid illegal methods of competition and consumer deception highlighted the work of the Federal Trade Commission during fiscal 1962. At the same time, the Commission issued an all-time record number of orders halting unlawful business practices.

The year also witnessed the first results of major organizational and procedural changes the Commission made in order to cope with a mounting volume of work. With the Nation's economy expanding in size and complexity and building up heavier competitive pressures, necessity dictated that business evils be corrected faster and on a broader scale, even at the cost of a temporary slowdown while the Commission's reorganized staff became familiar with the new procedures. Thus, the performance pattern in casework was one of increasing momentum-not just in numbers but in effective and equitable law enforcement. Commencing with the advancement of many old cases (far enough along to warrant being completed under the former rules of practice), there followed at first a trickle, then a sharply increasing flow of casework freed from unwarranted delays. The new actions were, - wherever possible, initiated not to correct isolated violations but to stamp out industrywide disregard of the laws prohibiting favoritism to powerful sellers and buyers and deception of the public, principally through advertising.

Of possibly even greater significance than the speedup of casework were two new procedures adopted late in the year. Both were designed to forestall rather than halt illegal business practices. One provides for the issuance of Trade Regulation Rules which spell out specifically and clearly what the Commission believes is illegal about particular business practices. The other provides for the Commission-not just the staff, as in the past-to give businessmen advisory opinions, whenever practicable, on whether the proposed actions would be illegal and hence would invite adversary action by the Commission.

These two procedures (discussed in more detail in Chapter Six) emphasize the Commission's deep concern with expanding its function to guide businessmen away from illegal methods of competition, rather than simply to exert the menace of the law against trans-

gressors. Such a guidance role for the Commission was envisioned by President Woodrow Wilson and the Congress in creating the Commission in 1914. In the years that followed, this basic objective was implemented almost entirely by assuming that the world of business would note and remember what adversary actions the Commission had brought, what inferences should be drawn from its rulings on particular sets of facts, and which of these rulings had been sustained in the courts. It is believed that Trade Regulation Rules and advisory opinions will offer a long needed and welcome addition to such previous guidance.

The fiscal year began with the introduction of the new procedures for handling cases. It was not an easy transition. Members of the staff, long accustomed to a single phase of casework; namely, investigation or trial, found themselves facing responsibility for both functions. Moreover, instead of pursuing the investigation of a single law violation, the staff was called upon to learn if competing business might not be engaged in the same illegal practices, and to recommend a broader and more equitable attack--designed to eliminate business evils instead of stopping single-law violations. To do this called for fuller -use of the Commission's heretofore charily employed powers, particularly the authority to demand information by mail from corporations, and if the occasion required, to hold investigational hearings, either public or closed. This combination of centering responsibility on particular attorneys for the prosecution of a case from inception to final order, plus broadening targets of illegality to the maximum practical extent, had an initial effect of slowing clown numbers of cases. Also contributing to the temporary slowdown was a new requirement that the Commission staff be prepared to try its case when a complaint against a respondent is issued. (Here the actual purpose was to assure the. Commission that any complaint it might issue was, based on thorough investigation, and to avoid delays inherent in belated investigational work.) Finally, when to these factors was added a procedural change, giving a proposed respondent 30 days in which to enter into a consent agreement before the complaint could be announced, it appeared outwardly that the Commission's casework had ground to a halt (except for cases being completed under the old procedures). However, by January of 1962, the new casework pipeline began to flow with final orders at an increasing rate. By the fiscal year's end, an all-time record of 407 had been issued. In addition, 474 complaints were approved by the Commission, compared to 410 the year before. The new system was beginning to prove that it could produce volume as well as speed and equity in law enforcement.

This is fortunate inasmuch as casework volume mounted seriously. During fiscal 1962, applications for complaint soared to 5,519 in the

area of deceptive practices-55 percent more than the average number in the preceding 5 years; and in applications for complaint against trade restraints, the number rose to 1,451, compared to 1,159, in 1961 and 1,042 in 1960. Nor are these applications the sole measure of volume, for many serve to identify trouble spots whose eradication might well prompt the Commission to institute action against a whole group of equally culpable competitors of the one named in the application.

Helping in meeting the problem of case volume was an increase in the size of the Commission's staff. Appropriations for fiscal 1962 of \$10,345,000 as compared to \$8,009,500 for 1961 made possible a staff increase from 855 to 1,126. Welcome as this increase was, the newcomers had no experience in Commission work, and the full potential of the addition could not be immediately realized; indeed, many months are required for this. Also, offsetting some of the capacity of the larger staff was the loss of more than a score of highly competent attorneys of long experience, many wooed by substantially higher salaries in private industry. The result was an organization with more trainees and fewer teachers. However, this situation should improve next year, due to higher Government salaries and to increased FTC experience for the newcomers.

That the Commission accomplished a record high number of orders was due in large part to its new consent order rule. This provides, among other things, that negotiations looking to the settlement of a case by consent be conducted by the Commission's own staff and that a satisfactory order be agreed to within a specified time or the privilege of so avoiding litigation be withdrawn. One effect of this was to discourage many respondents from seeking delays when they, having been found to be engaged in an illegal course of action, would plan to cease and desist at the latest possible time.

Equally important in speeding action on cases was the fact that hearing examiners whose expertise is mandatory in contested cases were freed from the more or less routine, and certainly time-consuming burden, of officiating in consent order negotiations. In short, the new consent order rule not only called for prompt decisions by respondents but it enabled the Commission to concentrate the skill of its hearing examiners on contested cases.

In addition to the changes in procedures, the actual casework completed during fiscal 1962 is impressive.

Of the Commission's statutory responsibilities, none is more important than enforcing the Celler-Kefauver antimerger law, section 7 of the Clayton Act, which outlaws monopolistic and anticompetitive corporate acquisitions. Fiscal 1962 saw the Commission issue eight orders directed against unlawful mergers, a new record.

In a move to restore competitive conditions in the \$9 billion a year

dairy industry, it ordered Foremost Dairies, Inc., to sell 10 acquired concerns.

Union Carbide Corp., the Nation's second largest chemical company and the largest producer of polyethylene resins used for making polyethylene film, was ordered to divest itself of Visking Corp., the largest manufacturer of such film.

Other divestiture orders involved Simpson Timber Co., Minnesota Mining and Manufacturing Co., the National Sugar Refining Co., Leslie Salt Co., Continental Baking Co., and Hooker Chemical Co.

At the end of the year there were 24 merger complaints in various stages of trial. Among these was a complaint challenging the acquisition of two competing grocery chains by the Grand Union Co., the operator of more than 470 supermarkets along the eastern seaboard.

Another principal target of antitrust actions was the granting of discriminatory prices and promotional allowances and the receipt or payment of bogus brokerage, in violation of the Robinson-Patman Amendment to the Clayton Act.

Of the 91 cease and desist orders in the restraint of trade field 74, or 81 percent, curbed such activities. The respondents included manufacturers and distributors of food, household furnishings, clothing, cosmetics, and toiletries.

An especially significant order halted a price-fixing conspiracy by 14 automobile tire and tube manufacturers, accounting for substantially all of the industry's domestic production, and 2 trade associations. Key provisions of this order were that each manufacturer must abandon its existing prices, independently establish new ones, and furnish documentary proof to the Commission upon request that any changes made in its new prices within 6 months after adoption were a good-faith meeting of competition.

Orders also were issued stopping unlawful price-fixing combinations in the sale of coconut, juice grapes used in winemaking, and polyethylene shielding material used for radiation shields around atomic reactors on naval vessels.

In a noteworthy decision, the Commission issued an order against R. H. Macy & Co., Inc., of New York City, after ruling that the department store illegally used the leverage of its size and importance to induce suppliers to contribute more than half a million dollars towards the cost of its 1958 centennial celebration.

The Commission conducted many industrywide investigations by mail, under the powers provided by section 6 of the FTC Act. The use of section 6 special report orders has been found to be the fastest and most effective method of ascertaining the facts where violations of law reportedly are common throughout an industry. Simultaneous action also is the fairest solution since each industry member receives equal justice and none suffers a competitive disadvantage.

One group-action investigation was to determine whether drug manufacturers and distributors unlawfully are giving lower prices and other preferential treatment to any customers. Complaints were issued charging the Nation's largest drug wholesaler and a service organization composed of drug manufacturers, and wholesalers with knowingly inducing discriminatory promotional allowances from suppliers. Proceedings also were instituted against 18 suppliers on charges of illegal favoritism in paying such allowances.

Another broad-scale investigation revealed similar discrimination among competing customers by numerous publishers of magazines, comic books and paperbacks. By the close of the year six publishers were enjoined by orders.

Industrywide investigations also were used to ascertain the truthfulness of advertising claims for vibratory massage devices, cold remedies, analgesics, and air purifiers.

The Commission continued its efforts to assure that television demonstrations used to sell products must be valid and contain no deception. In two major decisions it ordered a fadeout to misleading TV commercials used in the promotion of shaving creams. It was found in one case that the purported "sandpaper" shown to be shaved quickly and easily after an application of "Colgate Rapid Shave" was in fact a sheet of plexiglass to which sand had been applied, and that real sandpaper could not be shaved in the manner and time demonstrated.

In the other decision, evidence established that the supposed "ordinary lather" compared unfavorably to "Rise" in TV advertising was actually "a phony substance resembling shaving cream." It did not contain the ingredients ordinarily used to keep a shaving cream from breaking down and was so formulated that it would come out of the can in "a good puff and would disappear rapidly."

Hit hard were concerns using fictitious pricing and savings claims; particularly the kind in which the advertiser compares a higher amount ("was," "usually," "regularly," "manufacturer's list price" and kindred designations) to his lower offering price (described as "is," "sale," "reduced to," "special," etc.). The Commission's position is that these purported bargain prices are illegally deceptive when the higher amounts are not the prices usually charged by the seller itself or the generally prevailing retail prices in the trade area.

Orders were issued halting pricing misrepresentation by sellers of electric appliances, sunglasses, watches, housewares, automobile seat covers, tires, vitamins, paint, asphalt tile, clothing, and numerous other items.

These actions were not limited to retailers using false bargain claims to lure customers in their stores. Also involved were manufacturers who preticketed their wares with fictitiously high price tags or otherwise gave retail customers the means to mislead the public as to the actual prices.

For example, a large manufacturer of electric floor polishers was ordered to stop furnishing its distributors and retailers with suggested list prices that it knows or should know are higher than the, usual retail prices in the trade areas where they are supplied.

A wide variety of other deceptive practices was enjoined by the Commission, among them:

- Advertising that various vitamin and mineral preparations will be beneficial in treating tiredness, nervousness and other conditions without disclosing that they -will be of no benefit whatever in the great majority of cases;

- Overstating the size of merchandise;

- Using bait advertisements featuring low prices in order to get leads on interested prospects to whom more expensive merchandise can be sold;

- Misrepresenting that imported items are domestic, that rebuilt television picture tubes are new, that persons completing a correspondence course on civil service preparation are guaranteed Government jobs, and that purchasers of home freezer plans can buy their food requirements and a freezer for the same or less money than they have been paying for food alone.

Vigorous enforcement of the Wool Products Labeling Act, the Fur Products Labeling Act, the Textile Fiber Products Identification Act and the Flammable Fabrics Act resulted in 144: orders against violators.

The high volume of cease and desist orders during the year was not achieved at the expense of decreased emphasis on guidance procedures. Rather, the Commission relied heavily on these procedures in attempting to obtain compliance with statutes it administers.

Since, as a general rule, businessmen will abide by the law voluntarily when its requirements are clearly spelled out, the Commission continuously has intensified efforts to show them how to avoid legal pitfalls.

Ten sets of trade practice rules (five new ,and five updated sets) were promulgated, in contrast to three in fiscal 1961. The 10 industries, which have an estimated aggregate sales volume of several billion dollars, are: pleasure boat; residential aluminum siding; stationers; luggage and related products; mirror; rebuilt, reconditioned and other used automotive parts; wall coverings; metallic watch band; optical products; and tobacco distributing.

There are presently 166 industries operating under trade practice rules.

Two new "Guides" were issued-a 9-point guide for Advertising Shell Homes, and a 15-point Guide for Advertising Fallout Shelters. Guides are interpretive rules, restating in layman's language the law as previously decided by the Commission and the courts.

These two new guides bring to eight the number issued by the Commission since the inception of the program in 1955. The earlier six cover (1) cigarette advertising, (2) tire advertising, (3) deceptive pricing, (4) bait advertising, (5) deceptive advertising of guarantees, and (6) advertising allowances and other merchandising payments and services.

The Bureau of Industry Guidance also drafted proposed guides which would require that the content of shoes be disclosed clearly and nondeceptively on labels and in advertising.

These staff proposals were sent to industry members and other interested parties for comments and suggestions, and the response was heavy. At the close of the year the Bureau was in the process of preparing guides, incorporating appropriate suggestions received, for submission to the Commission.

The Commission's vital appellate and compliance work received considerable attention during fiscal 1962. New and more vigorous measures were utilized to secure necessary information concerning compliance. In the deceptive practice field alone, judgments totaling \$100,400 were recovered in civil penalty suits. This exceeds the civil penalty judgments obtained in any previous year for all categories of compliance cases combined.

In the antimonopoly area, 350 orders were under active compliance consideration. In addition, a review was begun of all outstanding restraint of trade orders issued under section 5 of the FTC Act to determine whether violations are occurring, even though no complaints have been brought to the Commission's attention.

During the year, the Commission's first two civil penalty actions were brought -under the 1959 amendment to the Clayton Act. They seek civil penalties of \$110,000 and \$75,000 respectively, for alleged violations of orders halting discriminatory promotional allowance payments.

In addition to policing compliance with its own orders, the FTC, at the request of the Attorney General, was engaged in determining how the judgments in 56 Department of Justice antitrust cases are being complied with. Field investigation was begun in 40 of these cases. Eleven investigations were completed and in seven of the matters recommendations were forwarded to the Department of Justice.

The Commission's Appellate Division handled 86 cases during the year, completing litigation in 30. It represented the Commission in 10 of the 11 U.S. courts of appeals and 6 district courts, and participated with the Solicitor General's Office in preparing and presenting Commission cases before the Supreme Court.

The Bureau of Economics rendered economic assistance on 86 cases, of which 68 involve mergers. It also recorded and assembled the basic data on 1,360 mergers.

Research was completed by the Bureau on another phase of the Commission's Inquiry into Food Marketing, namely, part II, Concentration and Integration in Frozen Fruits and Vegetables. In addition, it finished the processing of data collected in connection with part III, Concentration and Integration in Canned Fruits and Vegetables.

These are the highlights of the Commission's work in fiscal 1962 and perhaps, even more important, a resume of the policy decisions that will determine its effectiveness in the foreseeable future. Certainly its casework will be handled faster and more equitably as the staff becomes more expert in employing the new procedures. Then, by demonstrating a greater capacity to enforce the laws entrusted to it, the Commission can become a more useful partner to the reputable businessman for whom it was created to serve.

SCOPE OF AUTHORITY

Basic Functions of the FTC

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

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

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

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

¹ Excepted from the jurisdiction of the Commission under such section are "banks, common carriers subject to the acts to regulate commerce, air carriers and foreign air carriers subject to the Civil Aeronautics Administration Act of 1938, and persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 406 (b) of said act. * * *¹¹ Specific exemption from such provision against unfair methods of competition and unfair or deceptive acts or practices in commerce is provided for resale price maintenance contracts or agreements coming within the Federal Fair Trade Act approved July 14, 1952 (15 U. S. C. 47), also known as the McGuire Act.

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

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

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

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

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

³ Sec. 15, Federal Trade Commission Act.

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

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

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

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

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

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

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

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

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

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

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

The Clayton Act⁴

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

Pursuant to Public Law 86-107, approved July 23, 1959, 73 Stat. 243, cease and desist orders issued by the Commission for violations of the Clayton Act became final in the same manner as those under the Federal Trade Commission Act. However, orders under proceedings initiated before the date of such amendment continue to be governed by the provisions of the Clayton Act prior to amendment.

Section 2 of the Clayton Act, amended by the Robinson-Patman Act Discriminatory Pricing.⁵ Subject to specified justification and defenses, this section provides that it shall be illegal to discriminate in price between different purchasers of commodities of like grade and quality sold for use, consumption, or resale within the United States, where the effect of the discrimination "may be substantially to lessen competition or tend to create a monopoly in any line of com-

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

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

merce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefits of such discrimination, or with customers of either of them."

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

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

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

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

Tying or Exclusive Dealing Contracts.—Section 3 of the Clayton Act prohibits the lease or sale in the course of commerce of goods, wares, merchandise, machinery, supplies or other commodities, for use, consumption or resale within the jurisdiction of the United States on the condition, agreement or understanding that the lessee or purchaser shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodities of competitors of the lessor or seller, where the effect thereof "may be to substantially lessen competition or tend to create a monopoly in any line of commerce."

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

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

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

The Webb-Pomerene Export Trade Act of 1918⁷

This law authorizes limited cooperative activity among American exporters for the purpose of promoting export trade. Associations engaged solely in export trade are afforded exemption from the Sherman Act within certain strict boundaries set out in the act. To qualify for such exemption, an association must file with the Commission copies of its association papers or articles of incorporation and a complete description of its organizational structure, and bring this information up to date yearly. The Commission may require submission of additional information relating to the association's business activities at any time. A continuing surveillance of association activities is maintained by the Commission's Division of Export Trade.

Whenever the Commission concludes that an association is not operating within the limits of the antitrust exemption provided by the

⁶ 64 Stat. 1125.

⁷ 40 Stat. 516.

act, it may make recommendations to the association for readjustment of its practices. Upon failure of an association to comply with such recommendations, the Commission will refer the matter to the Attorney General for appropriate action.

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

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

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

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

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

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

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

lations are punishable also by misdemeanor proceedings, brought by the United States in the Federal district courts.

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

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

Flammable Fabrics Act, Approved June 30, 1953, effective July 1, 1954 ⁹

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

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

Manufacturers and distributors may guarantee their merchandise as having passed reasonable and representative tests for flammability. Members of the trade who rely in good faith upon these guaranties are afforded certain protection against prosecution. Willful violations of the act, whether in placing prohibited products on the market or in issuing a false guaranty, may be prosecuted by the Government as misdemeanors. Upon conviction, fines up to \$5,000 or 1 year's imprisonment, or both, may be imposed by the court.

⁹ 67 Stat. 111.

Regulation of Insurance—Public Law 15, 79th Congress¹⁰

This act was passed by Congress after the Supreme Court had ruled that the insurance business is subject to Federal jurisdiction under the commerce clause of the Constitution¹¹

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

Lanham Trade Clark Act, approved July 5, 1946¹²

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

Defense Production Act of 1950¹³ and Small Business Act of 1953¹⁴

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

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

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

¹² 60 Stat. 427.

¹³ 64 Stat. 798.

¹⁴ 67 Stat. 232.

EXECUTIVE DIRECTOR

The Executive Director is the Commission's chief operating official, within the framework of policies established by the Chairman and the Commission. He reviews agency operations for greater effectiveness; implements, through staff offices and operating bureaus, the policies and decisions of the Chairman and the Commission. The following units perform the primary responsibilities indicated:

PROGRAM REVIEW OFFICER

The Program Review Officer studies the various fields of business and economic activity in which the Commission might direct its regulatory efforts and recommends areas for action and ways and means of accomplishing the action. He is the Commission's chief planning officer with respect to the performance of its statutory duties.

OFFICE OF ADMINISTRATION

The Office of Administration carries out plans and programs of the Commission in areas of administrative and management advisory services, organization, personnel, progress reporting, and printing. It conceives and recommends long-range plans with regard to such matters. The Office of Administration includes the following units:

Division of Administrative Services

The Division of Administrative Services provides various administrative services for the entire agency, such as the printing of material under section 6 (f) of the Federal Trade Commission Act; manages space and property activities; procures and issues equipment and supplies; provides photographic and communication services; maintains the library facilities; provides repair, mail, messenger, telephone, and telegraph services for the Commission. The Division also is responsible for safety and fire prevention, and maintains liaison with General Services Administration.

Management Staff

The Management Staff provides management advisory services; conducts management surveys and analyses; prepares organization.

procedural and paperwork management recommendations for greater effectiveness of Commission operations; administers the Administrative Manual and Administrative Bulletin system of the Commission; and conducts liaison in civil defense matters.

Division of Personnel

The Division of Personnel conceives, recommends and administers personnel policies and programs with regard to recruitment, appointment, placement, training, position classification, performance evaluation, employee relations, welfare and health; and advises officials and employees on personnel procedures and requirements.

During fiscal year 1962, Commission employment increased by 271 hirings over fiscal year 1961, as reflected below:

	June 30, 1961	June 30, 1962
Headquarters Office (including the Washington Field Office, located in Arlington, Va.)	656	845
Field Office and Field Stations	199	281
Total employment	855	1,126

OFFICE OF THE COMPTROLLER

The Comptroller, as the Commission's director of financial operations, manages the Federal Trade Commission's financial programs and prepares the Commission's budget for presentation to appropriate governmental authorities. This office is responsible for the adherence by operating bureaus of the Commission to the allocations of funds made to these bureaus by the Commission.

As director of the Commission's finances, he formulates the accounting procedures and systems to be used in the everyday recording of financial transactions of the Commission, prepares reports required by executive management and institutes financial and management controls necessary to safeguard the assets of the Commission. In this office reports are prepared for submission to the Bureau of the Budget, the Treasury Department, the General Accounting Office and the Congress.

This office includes the Division of Budget and Finance and the Division of Machine Tabulation, thus placing all budget, fiscal and automatic data processing within one organization. Until June 1, 1962, the Division of Financial Statistics was part of the Office of the Comptroller. On that date the Division was transferred to the Bureau of Economics.

Division of Budget and Finance

This Division assists in the preparation of the Commission's budget justifications and is responsible for the maintenance of the fiscal.

records of the Commission. All records such as salary, savings bonds, taxes, social security, retirement, health benefits and annual and sick leave and other records pertaining to employees of the Commission both departmental and field operations are maintained in detail. This Division performs the audit, prior to payment of all vouchers covering payment of travel expense, communications, supplies and equipment, and maintains the fiscal records necessary to reflect the financial position of the Commission at all times.

Division of Machine Tabulation

This Division performs important services for the operating bureaus as well as services for other organizational units of the Commission and renders assistance to other Government agencies.

The overall functions of this Division include processing and tabulations of financial data for the Division of Financial Statistics, tabulations of data used as evidence in litigated casts, tabulation of marketing surveys in connection with the administration of the antimonopoly statutes, and basic data for management reports.

OFFICE OF INFORMATION

[The Office of Information plans and directs the Commission's public information and public relations program, including news announcements on all complaints, answers by respondents, initial decisions, orders, compliance actions, and reports; conducts educational programs designed to alert the public on how to identify false and misleading selling schemes and illegal business practices; consults with business and consumer organizations to evaluate the relative severity of problem areas wherein consumers are being victimized; maintains liaison with consumer education groups, colleges, better business bureaus, and Government agencies to gain proper distribution of consumer educational information; writes special news releases, features, continuity, and other material for use on radio and television; writes speeches; and directs the writing and editing of the Commission's Annual Report to the Congress.]

[During fiscal year 1962 the office issued a total of 972 press releases. In addition, many oral and written inquiries from the press and public were answered each day.]

FEDERAL TRADE COMMISSION

ORGANIZATIONAL CHART - SEE IMAGE

21

OFFICE OF THE SECRETARY

The Secretary is responsible for the minutes of Commission meetings and is the legal custodian of the Commission's seal, papers and records, including legal and public records. He is the Commission's Liaison Officer with Congress and with other Government agencies. He signs official documents and letters reflecting Commission action, supervises the assignment of matters to the Commission, the transmittal of Commission directions to the staff, the setting of oral argument; and serves as Deputy Employment Policy Officer of the Commission.

The Office Of the Secretary is also responsible for the

Division of Legal and Public Records

This Division, headed by the Assistant Secretary for Legal and Public Records, embraces the Formal Docket, Investigation Records, Correspondence, Public Reference and Distribution sections.

The Formal Docket and Investigation Records Sections are responsible for the establishment, management, safety, completeness, and uses and retirement of the legal and related records of the Commission.

The Correspondence Section receives, records and distributes incoming mail, including applications for complaint.

The Public Reference Section furnishes information and assistance to the public and to the staff of the Commission in relation to public, legal and court proceedings and rules of procedure.

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

OFFICE OF THE GENERAL COUNSEL

The General Counsel serves as the chief law officer and principal legal adviser of the Commission. He and his staff represent the Commission as its counsel in all cases advancing beyond the agency or otherwise arising in the courts. All litigation in the U.S. courts of appeals, or the Court of Customs and Patent Appeals, is handled by the Office of the General Counsel. Commission cases reaching the Supreme Court, however, devolve upon the Solicitor General of the United States, who represents the Government in that court. Such cases are prepared for presentation with the collaboration of the Office of General Counsel.

In addition to the above-mentioned court work, the Office of General Counsel passes upon all trade practice rules and "guides" prior to their approval and issuance by the Commission; the General Counsel also has charge of the review, analyses and preparation of reports of the Commission on new legislation. The General Counsel likewise provides legal supervision in cases involving court, enforcement of subpoenas, its well as cases of enforcement through actions in contempt of court for disobedience to decrees affirming Commission orders.

As a further duty, the General Counsel represents the Commission in hearings before congressional committees. The Office of General Counsel also contains the Division carrying forward the consent order program for the settlement of cases on cease and desist orders entered by consent of the parties.

The General Counsel's Office examines and reports upon industry voluntary agreements and programs utilized under the Defense Production Act, also small business production pools, research and development programs, and related agreements under the Small Business Act. Such agreements and programs under these statutes are made subject to consultation with the Chairman of the Commission prior to their being put into effect. Their review by the Office of the General Counsel is directed to such purposes as aiding small business, eliminating or minimizing anticompetitive effects that may run counter to the laws administered by the Commission, including antitrust provisions, and preventing undue concentration of economic power.

Legal memoranda and manuals for guidance of the Commission's professional staff are subject to the supervision of the General Counsel, and his Office has direction of the research and reporting unit which

prepares and publishes the Commission's Interoffice Reporter, a monthly bulletin covering court proceedings and cases in the fields of antitrust and trade regulation. The unit likewise compiles and indexes for publication the "Federal Trade Commission Decisions" and "Statutes and Court Decisions." It also edits for publication the official actions as carried in the Federal Register and the Code of Federal Regulations.

APPELLATE DIVISION

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

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

The Division represents the Commission in such litigation and in any other proceeding affecting the Commission's interest which may arise in the Federal courts. With the Office of the Solicitor General, the Division participates in the preparation and presentation of Commission cases in the U.S. Supreme Court.

In addition, the Division makes recommendations to the Commission and to the various bureaus on questions of substantive and administrative law arising in the internal conduct of the Commission's business and in court proceedings.

During fiscal 1962 the Division handled 86 cases. It completed litigation in 30 cases, 7 of which were restraint of trade matters, 15 involved deceptive business practices, 2 concerned the Commission's subpoena powers, 4 were injunction suits to restrain the Commission's actions, 1 involved a trademark cancellation proceeding and 1 concerned the enforcement of a Commission order calling for special reports in connection with an antimerger investigation.

There were 56 cases open for further action or pending final disposition at the close of the, fiscal year, an increase of 9 over the previous year. These included 7 in the Supreme Court, 44 in courts of appeals, and 5 in district courts. They included 23 restraint of trade and 18 deceptive practice cases, 6 subpoena enforcement actions, 8 injunction suits and miscellaneous matters, and 1 criminal contempt proceeding.

The Division filed 45 briefs and memoranda upon the merits, and assisted in the preparation of 16 other briefs filed on the Commis-

sion's, behalf by the Department of Justice. Forty arguments were made by the Division staff, and nine others by the Department of Justice. Proceedings to obtain court orders enforcing subpoenas were initiated in three cases. One petition for the institution of a criminal contempt proceeding was also filed. In addition, approximately 200 other papers were filed in cases in Federal litigation. The Division made numerous other court appearances, and participated in several conferences in chambers. It represented the Commission in 10 of the 11 U.S. courts of appeals, and in 6 U.S. district courts.

Restraint of Trade Cases

In the Supreme Court

Decision

There was one restraint of trade case pending at the start of the year which reached decision before its close: Henry Broch & Co., seller's broker's unlawful sharing of brokerage with customer in violation of section 2 (c) of the Clayton Act. The Seventh Circuit had modified the Commission's order, limiting it to transactions between the particular seller and buyer involved in the proved violation. The court reversed and remanded with direction to affirm.

Petition for certiorari granted

SunOilCo. Petition granted to review the Fifth Circuit's decision setting aside the Commission's order (see statement, *infra*).

Petitions for certiorari denied

Review of courts of appeals decisions favorable to the Commission was denied in the following three cases:

Mid-South Distributors, Inc., price discrimination in the "group" purchase of automotive parts and equipment. The Fifth Circuit had affirmed the Commission's order.

Swanee Paper Corp., discriminatory payments for the benefit of a food store chain in connection with the advertising and resale of petitioner's paper products. The Second Circuit had modified and, as modified, enforced the Commission's order.

Crown Zellerbach Corp., unlawful acquisition of competitor paper company. The Ninth Circuit had affirmed the Commission's order.

In addition, the court denied a petition filed on the Commission's behalf to review an unfavorable decision:

Exquisite Form Brassiere, Inc., The District of Columbia Circuit ad set aside the Commission's order and remanded the case to the Commission (see statement, *infra*)

Courts of Appeals

Decisions and other dispositions

Nine of the 17 restraint of trade cases pending decision at the beginning of the fiscal year were decided before its close:

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Asheville, Tobacco Board of Trade, Inc. (Fourth Circuit), conspiracy involving the allocation of selling time to warehousemen on the Asheville, N.C., tobacco market. The Commission's order was modified and, as modified, enforced.

Exquisite Form, Brassiere, Inc. (District of Columbia Circuit), furnishing promotional allowances and services to certain customers, in connection with the sale of brassieres, which were not made available on proportionally equal terms to all competing customers. That part of the Commission's order pertaining to the furnishing of services was affirmed and enforced. As to the furnishing of allowances, the Commission's order was set aside and the case was remanded to the Commission to afford the company opportunity to present a defense under the good faith meeting of competition proviso of section 2(b) of the Clayton Act.

Sun Oil Co. (Fifth Circuit), price discrimination in the sale of gasoline. The Commission's order was set aside, the court holding that a supplier's grant of a lower price to one customer to enable it to defend itself against competitive "price cutting" was lawful under section 2 (b) of the Clayton Act.

The American News Co. and the Union News Co. (Second Circuit), inducing and receiving discriminatory promotional allowances from publishers. The Commission's order was modified and, as modified, was enforced.

The Grand Union Co. (Second Circuit), inducing and receiving discriminatory advertising and promotional allowances from suppliers. The court affirmed the Commission's decision that this activity was unlawful, but modified the Commission's order by limiting it to the particular arrangement involved in the case.

Mytinger & Casselberry, Inc. (District of Columbia Circuit), violation of the Federal Trade Commission Act by misrepresenting the effect of a consent decree of injunction issued by a Federal district court in a suit filed by the Food and Drug Administration, and exclusive dealing agreements in violation of the Clayton Act in the distribution of vitamin supplements. The Commission's order was affirmed and enforced.

Scott Paper Co. (Third Circuit), unlawful acquisitions of other corporations. The Commission's order was set aside and the case remanded to the Commission for the purpose of adducing additional evidence.

A. G. Spalding & Bros., Inc. (Third Circuit), unlawful acquisition of a competitor company. The Commission's order was affirmed and enforced.

The Timken Roller Bearing Co. (Sixth Circuit), exclusive dealing arrangements in violation of the Clayton Act in the distribution of

tapered roller bearings. The Commission's order was set aside. The time for filing a petition for a writ of certiorari has not expired.

In addition to these decisions, petition for rehearing was denied in Crown Zellerbach Corp. (Ninth Circuit), unlawful acquisition of competitor paper company.

Two cases arose and were decided during the year:

Giant Food, Inc. (District of Columbia Circuit) inducing and receiving discriminatory advertising and promotional allowances from suppliers. The court affirmed the Commission's decision but held that the order should be modified. It has not yet issued its decree modifying the order.

Shulton, Inc. (Seventh Circuit), furnishing promotional payments to a particular customer which were not made available on proportionally equal terms to all competing customers. The court set aside the Commission's order and dismissed the complaint, holding that the "meeting competition" defense set forth under section 2 (b) of the Clayton Act should be available to the company to rebut this charge. The Commission has filed a petition for rehearing or in the alternative for modification of the opinion and judgment so as to remand the case to the Commission for the reception of additional evidence.

Cases previously pending which remained pending at the close of the year include:

Alhambra Motor Parts Co. (Ninth Circuit), price discrimination in the "group" purchase of automotive parts and equipment; Thomasville Chair Co. (Fifth Circuit), procurement of discriminatory advertising and promotional payments; Reynolds Metal, & Co. (District of Columbia Circuit), and Pillsbury Co. (Fifth Circuit), unlawful corporate acquisitions; Atlantic Refining Co. (Seventh Circuit), Firestone Tire & Rubber Co. (Fifth Circuit), Goodyear Tire & Rubber Co. (Seventh Circuit), and Shell Oil Co. (Fifth Circuit), marketing arrangements for promoting sales of tires, batteries and accessories in restraint of trade.

Pending cases which arose during the year include:

Sunshine Biscuits, Inc. (Seventh Circuit), price discrimination in the sale of potato chips: Whether the "meeting competition" defense is available to a seller in circumstances involving discriminations designed to acquire "new" customers, as opposed to the mere retention of "old" customers; Chemway Corp. (Second Circuit), and Mueller Co. (Seventh Circuit), price discriminations in the distribution of cosmetic products and waterworks parts and equipment respectively; Shreveport Macaroni Manufacturing Co. (Fifth Circuit), and Vanity Fair Paper Mills, Inc. (Second Circuit), price discriminations in the furnishing of promotional allowances; SnapOn Tools Corp. (Seventh Circuit), illegal restrictive agreements with

resale purchasers in the distribution of mechanics' service tools and related equipment; Union Carbide Corp. (Third Circuit), unlawful acquisition of the assets of a principal corporate customer.

Deceptive Practice Cases

In the Supreme Court

Petitions for certiorari denied

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

Clinton Watch Co. (Seventh Circuit), fictitious pricing of watches and misrepresenting guarantees.

Art National Manufacturers Distributing Co. (Second Circuit), fictitious pricing of watches.

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

Exposition Press, Inc. (Second Circuit), misrepresenting royalties in connection with subsidy book publishing.

In addition, in Evis Manufacturing Co. (Ninth Circuit), false advertising of a water conditioning device, the court denied a petition filed on the Commission's behalf to review a decision setting aside the Commission's order.

In Courts of Appeals

Decisions and other dispositions

All of the deceptive practice cases pending at the beginning of the fiscal year reached decision before its close. In eight of these the Commission's order was affirmed and enforced:

Samuel A. Cannon (District of Columbia Circuit), misrepresenting information concerning employment opportunities.

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

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

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

Exposition Press, Inc. (Second Circuit), misrepresenting royalties in connection with subsidy book publishing.

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

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

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

In Travelers Health Association (Eighth Circuit), misrepresenting insurance policies, the Commission's order was affirmed with the exception that it not apply to the states of Nebraska and Virginia. As thus modified, the order was enforced.

In Harry Carr (First Circuit), misbranding of wool products in violation of the Wool Products Labeling Act, the Commission's order was set aside. The court also denied the Commission's petition for rehearing.

In addition, the Seventh Circuit denied petition for rehearing filed by The Clinton Watch Co., fictitious pricing of watches and misrepresenting guarantees.

Eight cases arose and were decided or disposed of during the year. In six of these the Commission's order was affirmed and enforced:

Art National Manufacturers Distributing Co. (Second Circuit), fictitious pricing of watches.

Bakers Franchise Corp. (Third Circuit), misrepresenting the dietary qualities of bread.

Murray Space Shoe Corp. (Second Circuit), misrepresenting the therapeutic qualities of shoes.

National Trade Publications Service, Inc. (Eighth Circuit), deceptive practices in the solicitation and sale of magazine subscriptions.

Spencer Gifts, Inc. (Third Circuit), misrepresenting colognes as being perfumes.

United States Association of Credit Bureau, Inc. (Seventh Circuit), deceptive trade name and insignia and misrepresenting organization of business and methods of obtaining and collecting delinquent accounts.

In addition, two petitions for review were dismissed pursuant to stipulations of the parties:

Tuseck Enterprises Co. (Sixth Circuit), obtaining credit information through use of deceptive "skip-tracing" devices: and Nash, Inc. (Third Circuit), false advertising and fictitious pricing of leather billfolds.

Pending undecided cases which arose during the year include:

Ted Bates & Co. (First Circuit) ; Colgate-Palmolive Co. (First Circuit) ; and Carter Products, Inc. (Fifth Circuit), spurious demonstrations in television commercials in connection with the sale of shaving cream; Damar Products, Inc. (Third Circuit), false advertising of "cushion vibrator" device designed to effect weight reduction and the toning and firming of sagging muscles; Gimbel Bros., Inc. (Third Circuit), false advertising of fur products; Helbros Watch Co. (District of Columbia Circuit) fictitious pricing of watches; Korber Hats, Inc. (First Circuit), deceptive labeling of men's straw hats; Pati-Port, Inc. (Fourth Circuit), false advertising of patios and carports; Rayex Corp. (Second Circuit), fictitious pricing and false representations in

connection with the sale of sunglasses; and Grady L. Rushing (Fifth Circuit), deceptive representations in connection with the sale of a course of instruction purporting to prepare purchasers for Government jobs.

Subpoena Enforcement Cases

In the Supreme Court

Petition for certiorari denied

Elmer C. Adams, Sr., and Elmer C. Adams, Jr. Petition for certiorari to review Eighth Circuit decision (see statement, *infra*).

In Courts of Appeals

Decisions

Elmer C. Adams, Sr., and Elmer C. Adams, Jr. (Eighth Circuit). The court affirmed the district court's determination that it lacked jurisdiction to consider the sufficiency of the complaint and overruled the lower court's refusal to direct appropriate enforcement of the Commission's subpoenas.

St. Regis Paper Co., Intervenor (Seventh Circuit). The court affirmed the district court's enforcement of the Commission's subpoena to Horace G. Barden (see statement, *infra*).

Pending cases

Moore Business Forms (District of Columbia Circuit); Standard American, Inc. (Third Circuit); and John R. Harrell and Natalie E. Harrell (Seventh Circuit), on appeal from district court decisions (see statements, *infra*).

In District Courts

Decisions and other dispositions

Ace Books Inc. (Southern District of New York). The court ordered compliance with the Commission's subpoena but directed the hearing to be held at the company's place of business.

Horace G. Barden (Northern District of Illinois, Eastern Division). The court enforced a Commission subpoena to Mr. Barden issued in connection with an investigation of St. Regis Paper Co., stayed a temporary injunction issued by an Illinois State court in a suit by St. Regis 'against 'this party, and restrained St. Regis from further prosecution of that suit and from taking advantage of the temporary injunction it had obtained.

George A. Cooper (Southern District of New York), the Commission's application for enforcement of its subpoena was granted.

John B. Harrell and Natalie E. Harrell (Eastern District of Illinois). The Commission's application for an order requiring respondents to testify and produce documentary evidence in an investigation was denied. The court held that the Commission had no power

to issue subpoenas duces tecum to individuals and partnerships under section 9 of the Federal Trade Commission Act. Notice of appeal has been filed.

Moore Business Forms (District of Columbia). The court directed compliance with the Commission's subpoena.

Standard American, Inc. (Eastern District of Pennsylvania). The court directed compliance with the Commission's subpoenas, ordering respondents to testify and produce documents within 30 days at a time and place to be fixed by the Commission and authorizing the Commission to take such documents into custody and to remove them to Washington, D.C., for a 36-day period.

Miscellaneous Proceedings Against the Commission

In the Supreme Court

Pending cases

Texaco, Inc. Petition for certiorari filed to review Fifth Circuit's denial of application for leave to adduce additional evidence (see statement, *infra*).

Texaco, Inc. and The B. F. Goodrich Co. (District of Columbia Circuit). Petition filed for stay, injunction or other appropriate process to preserve the status quo pending conclusion of review proceedings in lower courts (see statements, *infra*).

In Courts of Appeals

Decisions

Texaco, Inc. Petition for leave to adduce additional evidence in an administrative proceeding pending before the Commission was denied by the Fifth Circuit.

Texaco Inc. and The B. F. Goodrich Co. Petition for injunction pending appeal was denied by the District of Columbia Circuit (see statements, *infra*)

Pending cases

Texaco, Inc. and The B. F. Goodrich Co. (District of Columbia Circuit). Appeal from the district court's denial of companies' motion for temporary restraining order and preliminary injunction (see statements, *infra*).

Texaco, Inc. and The B. F. Goodrich Co. (District of Columbia Circuit). Application for the allowance of an interlocutory appeal in connection with district court's certification (see statements, *infra*).

In District Courts

Decisions

The Procter & Gamble Co. (District of Columbia). Complaint for declaratory judgment and for injunction to restrain the taking of further evidence pursuant to the Commission's remand of an administrative proceeding to the hearing examiner. Prosecution was vol-

untarily discontinued and complaint dismissed without prejudice on praecipe of the company.

Texaco, Inc. and The B. F. Goodrich Co. (District of Columbia) Companies' motion for temporary restraining order and preliminary injunction was denied.

Pending cases

Texaco, Inc. and The B. F. Goodrich Co. (District of Columbia). Complaint for declaratory judgment and injunction to restrain the taking of further evidence pursuant to the Commission's remand of an administrative proceeding to the hearing examiner. The court refused to enjoin the hearing, thus permitting the taking of further evidence by the hearing examiner. The court continued the crossmotions of the parties for summary judgment until October 2, 1962, and certified the question of whether the Commission's remand order was unlawful and improper.

Grove Laboratories, Inc. (District of Columbia). Complaint for declaratory judgment and injunctive relief. The Commission's answer includes a counterclaim for mandatory injunction requiring the company to file a special report with the Commission.

Joseph B. Hall, official of the Kroger Co. (Northern District of Illinois, Eastern Division). Complaint for declaratory judgment and injunctive relief pending upon the Commission's supplemental motion to its alternative motion to dismiss or for summary judgment.

Contempt Proceeding

In Court of Appeals

Pending case

Holland Furnace, Co. (Seventh Circuit). Upon the Commission's petition, the court issued an order to show cause why this company should not be held in criminal contempt for willful violations of that court's order commanding obedience to the Commission's order to cease and desist from certain unfair and deceptive practices in the sale of furnaces and parts.

Proceeding for Enforcement of Commission Order

In the Supreme Court

Decision

St. Regis Paper Co., order to file special reports in connection with an antimerger investigation. The Court affirmed the Second Circuit's holding (1) that the Commission may compel production of retained copies of a company's reports to the Census Bureau, and (2) that when default in filing special reports to the Commission has been established, section 10 of the Federal Trade Commission Act requires the imposition of the \$100 per day penalty. On mandate, the District Court for the Southern District of New York entered its judgment requiring

payment of penalties in the amount of \$56,700 (subsequently satisfied by payment to the United States).

Pending Civil Penalty Case

In District Court

Colombia Southern Chemical Corp. (Northern District of Ohio) Complaint seeking civil penalties of \$1 million for violation of the Commission's cease and desist order prohibiting conspiracy to fix prices in the distribution of calcium chloride is currently being prosecuted by this Division.

DIVISION OF CONSENT ORDERS

As provided in part 3 of the Commission's revised Rules, a party against whom the Commission has determined to issue a complaint normally will be served with notice of the Commission's intention in that respect and receive a copy of the intended complaint and order. Parties served may file reply signifying willingness to have the proceeding disposed of by the entry of an agreement containing a consent order.

Upon such reply, the files are referred to the Division of Consent Orders, Office of the General Counsel. There, the parties served, their counsel and members of the staff may participate in the preparation and execution of an agreement containing a consent order looking to expeditious disposition of the proceeding. If it subsequently determines that the proposed executed agreement is appropriate and should be accepted, the Commission issues its complaint and simultaneously enters its decision and order.

During the year, the Division of Consent Orders transmitted 237 executed agreements containing consent orders to cease and desist to the Commission for its consideration. Included in the above were 45 signed agreements negotiated in a like number of cases in which the complaints had issued but wherein no adversary hearings had been held as of July 21, 1961, the effective date of the Commission's revised Rules governing consent order procedure.

Sixty-three matters were pending with the Division at the end of the fiscal year. This number included 21 matters in which notices of the Commission's determination to issue complaint were in course of being served but in which the 10 days allowed under the Rules for signifying willingness to utilize the consent order procedure had not expired and the parties had not replied in that respect.

LEGISLATION

The Assistant General Counsel for Legislation advises and assists the Commission upon legislative matters.

There are several legislative proposals pending in Congress on which the Commission has sought favorable action.

The Commission continues to urge enactment of bills to require that notification of proposed mergers by corporations of significant size engaged in inter state commerce be made to the Commission, and that the Commission be authorized, following hearings and opportunity for judicial review, to issue preliminary injunctions or restraining orders against proposed mergers pending determination as to violation of section 7 of the Clayton Act.

Another series of pending bills would empower the Commission to issue temporary cease and desist orders to restrain certain acts and practices violative of statutes over which the Commission has jurisdiction pending completion of the adjudicative proceedings before the Commission. The proposals assure due process through adequate hearings and judicial review.

A significant legislative trend noted during the fiscal year has been the tendency on the part of various congressional committees in considering new legislative proposals of a regulatory nature to express desires to designate the Commission as the agency to administer such programs. This has been evidenced in congressional hearings on false and deceptive packaging of consumer goods, "truth in lending" proposals, and hardwood lumber and cigarette labeling bills.

In the course of legislative work during the fiscal year 1962, the Commission reported on 65 bills and legislative proposals. In addition, oral presentations and participation were made with regard to 17 bills or items of congressional committee consideration.

BUREAU OF INDUSTRY GUIDANCE

This Bureau administers the program for obtaining voluntary industrywide compliance with laws administered by the Commission. The objective of this program is to obtain the maximum amount of law observance quickly and inexpensively. Because the action is industrywide in scope competitive inequities are minimized.

Until the last month of the fiscal year the principal procedures administered by the Bureau were those for promulgating Trade Practice Rules and Guides. On June 1, 1962 the Bureau was given two new functions: (1) The administration of the new Trade Regulation Rule procedure, and (2) the preparation of advisory opinions which are binding upon the Commission. A description of these new functions, together with a statement of the accomplishments of the Bureau during the fiscal year, follows.

DIVISION OF TRADE REGULATION RULES

This Division administers the newly established Trade Regulation Rule procedure. Rules promulgated under this procedure express the experience and judgment of the Commission, based on facts of which it has knowledge derived from studies, reports, investigations, hearings and other proceedings, or within official notice, concerning the substantive requirements of the statutes it administers. Trade Regulation Rules may cover all applications of a particular statutory provision and may be nationwide in effect or they may be limited to particular areas or industries or to particular products or geographic markets, as may be appropriate. Where a rule is related to all issue in an adjudicative proceeding thereafter instituted, the Commission may rely upon such rule, provided that the respondent shall have been given a fair hearing on the legality and propriety of applying the rule to the particular case.

Industry members may apply for rules and participate in the proceedings for their establishment. They are thus fully informed as to the legal requirements on the subject and are made aware that a violation of the rule is an invitation to litigation. Such awareness of the consequences of unlawful conduct constitutes a compelling factor in obtaining voluntary law observance.

Where litigation is unavoidable, the availability of a Trade Regulation Rule on the subject saves both time and the expenditure of funds in proceeding against the unlawful practice in question. In such a case, it would only be necessary to present proof that the alleged violator had engaged in the banned practice. It would not be necessary to present evidence that the practice itself was violative of law since the respondent could not challenge the validity of the rule, as such.

Finally, the promulgation of rules applicable to all members of an industry serves to place industry members on an equal competitive footing and avoid inequities which might have been created had the Commission taken action against one or several industry members for engaging in a widespread industry practice.

During the first month of its operation, the final month of the fiscal year the Division received several requests from industry members for the initiation of Trade Regulation Rule proceedings. At the close of the fiscal year these requests, together with several other prospective proceedings, were being studied before making recommendations to the Commission as to whether the institution of proceedings for the establishment of Trade Regulation Rules would be appropriate.

DIVISION OF ADVISORY OPINIONS AND GUIDES

This Division performs a dual function. It prepares advisory opinions for the Commission which represent its official views; it also prepares and recommends the adoption of Guides to aid businessmen in complying voluntarily with the law. The two phases of the work of this Division will be presented separately in order to give a clearer picture of its mission and accomplishments.

Advisory opinions

In an effort to give the businessman something "more than the menace of legal process," the Commission on June 1, 1962, initiated the practice of rendering advisory opinions. Heretofore, such advice was given at the staff level but this advice was not binding upon the Commission.

The Commission is of the opinion that businessmen who, in good faith, seek the advice and counsel of the Commission in regard to a proposed course of business conduct are entitled to the benefit of the Commission's views. Whenever it is practicable to do so, the Commission will render its advisory opinion, subject only to the right to reconsider its advice should such reconsideration be in the public interest. Information submitted, however, will not be used as the basis for a proceeding against the requesting party without prior notice and opportunity afforded for such party to discontinue the course of action pursued in good faith in reliance upon the Commission's advice.

The response to this new program has been overwhelming, as shown by the large number of requests for opinions received. Problems presented to date encompass almost the entire spectrum of laws administered by the Commission. For example, requests were received for opinions concerning the legality of proposed quantity discounts, exclusive dealing contracts, payment of advertising allowances, the furnishing of services or facilities, proposed corporate mergers, brokerage payments or payments in lieu of brokerage, and questions involving possible restraints of trade under section 5 of the FTC Act, as well as advertising copy of a myriad of products.

A considerable amount of time was spent by members of the staff in conferences with persons seeking information concerning the advisability of requesting formal, binding opinions. In many instances, such informal conferences have either satisfactorily disposed of the problem or have provided the means whereby a more complete and detailed submission of facts would be forthcoming when the written request was later received.

Guides

Stated briefly, guides are a restatement in layman's language of the law as previously decided by the Commission and the courts. They are interpretive rules which serve to:

- (1) Spell out the legal boundaries of trade practices subject to regulation by the Commission;
- (2) Aid in obtaining a maximum degree of compliance which the law through administration of the Guides on an industrywide basis;
- (3) Prevent consumers from being deceived and competitors from being injured through preventing unfair trade practices from ever being used in the first instance; and
- (4) Spotlight persistent violations which warrant the application of the Commission's mandatory processes.

Generally speaking, guides may be issued in one of two forms: (1) Guides which apply to specific practices in a particular industry, such as the Cigarette and Tire Advertising Guides; (2) Guides which apply to business practices common to many industries, such as Deceptive Pricing, Bait Advertising, Guarantees, and Guides for Advertising Allowances.

Accomplishments during fiscal 1962

Fiscal 1962 proved to be an extremely active year in obtaining compliance and giving interpretations under the various Guides. The following statistical summary indicates the accomplishments under the guide program for fiscal 1962:

Individual complaints disposed of	853
Guide interpretations	310
 Total	 1,163
Number of guides distributed upon request	90,118

During fiscal 1962 two new guides were issued, substantial progress was made in the revision or formulation of four additional guides, and the administration of existing guides continued at a high level. The two new guides approved and issued by the Commission were the Guides for Advertising Fallout Shelters and the Guides for Advertising Shell Homes.

The Guides for Advertising Fallout Shelters were prepared at the request of and in close cooperation with the Office of Civil Defense of the Department of Defense. Immediately after their issuance on December 5, 1961, there was considerable activity in their administration. Several months later, however, the construction of fallout shelters declined materially with the result that activity in the administration of these guides during the last quarter of fiscal 1962 was on a somewhat limited basis.

On April 25, 1962, the Commission adopted Guides for Advertising Shell Homes. Because this is a relatively young industry and because its principal market is the low-income group, industrywide Commission action concerning deceptive practices in the industry was considered necessary in the public interest. Copies of the guides were sent to all known shell home builders in an effort to acquaint them with the requirements of the guides and to ascertain whether their advertising complied therewith.

These guides have also elicited interesting responses from industries faced with problems similar to those covered by the guides, such as interest rates, guarantees and bait advertising. The Federal Housing Administration has distributed copies of these guides to each of its field offices, requesting that they be used in appraising the accuracy of claims made by conventional home builders who use the insured loan facilities of that agency. Also of interest is the fact that for the 2-month period following the issuance of the guides approximately 6,800 copies were distributed to interested parties requesting same.

On April 9, 1962, proposed Guides for Shoe Content Labeling and Advertising were sent to industry members and Other interested parties for their comments and suggestions. Comments and helpful suggestions were received from many members of the industry, which is composed of approximately 900 shoe manufacturers doing a\$2 billion business. At the close of the fiscal year the Division was in process of preparing guides incorporating such of these suggestions as were deemed appropriate, for submission to the Commission.

As usual, the Guides Against Deceptive Pricing were responsible for the greater volume of compliance and interpretive work. Along

with 104 interpretive matters, 375 compliance matters were disposed of under the administration of these guides. Administration of the Cigarette Advertising Guides, Tire Guides, Guarantee Guides and the Bait Advertising Guides also required considerable attention and correspondence during fiscal 1962.

DIVISION OF TRADE PRACTICE CONFERENCES

This Division is responsible for administering the Commission's trade practice conference program. Its primary objective is to obtain expeditious and simultaneous industrywide voluntary compliance with laws administered by the Commission. This work, as has been demonstrated through the years, reduces materially the necessity for resort to mandatory processes and the expense and competitive inequities incident thereto. The work falls into three main categories: (1) The establishment (and revision) of trade practice rules, (2) furnishing advice and guidance concerning the requirements and applicability of rules, and (3) obtaining through continuous administration of the rules the greatest possible degree of voluntary compliance with the rule provisions.

Rulemaking work

Proceedings to establish trade practice rules may be authorized by the Commission on its own motion. However, in a majority of instances they are authorized as a result of applications received from industries. Applications are considered from the standpoint of whether the requested proceedings would likely result in substantial improvement in law observance by members of the industry. The Commission normally authorizes proceedings when it appears that the best interests of the industry and the public will be constructively advanced on sound competitive principles in consonance with public policy and result in more adequate and equitable law observance.

Upon authorization, the first step in the proceeding is usually an industry conference at which all industry members are afforded opportunity to propose and discuss appropriate trade practice rules for their industry. After consideration of all information and other relevant facts developed at the conference, a draft of proposed rules is prepared and submitted to the Commission. When authorized by the Commission, a public hearing is held to afford interested persons an opportunity to submit their views concerning the proposed rules. Thereafter, final rules are submitted to the Commission with the recommendation that they be approved and issued.

Accomplishments during fiscal 1962

New rules were promulgated for the pleasure boat industry; residential aluminum siding industry; stationers industry; metal watch

band industry; and the rebuilt, reconditioned and other used automotive parts industry. In addition, existing trade practice rules for the mirror industry; luggage and related products industry; optical products industry; wall coverings industry; and tobacco distributing industry were revised. With the promulgation of rules for these 10 industries, having an estimated aggregate annual sales volume of several billion dollars, there are presently 166 industries operating under trade practice rules.

As a result of an application filed by industry representatives, trade practice proceedings were initiated and conferences held for the wire rope industry and the kosher foods industry.

Among other applications for trade practice proceedings received and given attention during the year were those for the major electrical appliances industry; metal-clad door and accessories industry; catalog industry; phonograph records industry; and the alcoholic beverage industry.

Other pending proceedings which were advanced during the year include those for the Florida fresh citrus fruit industry; household furniture industry; and the fresh fruit and vegetable industry.

Rule administration

The Division's rule administration work is directed toward obtaining and maintaining industrywide voluntary compliance with the various provisions of the rules for 166 industries. This entails a close working liaison with industry members and their trade associations, furnishing rule interpretations and advice to industry members, issuing warnings on courses of business conduct which would contravene rule provisions, conducting discussions on subjects covered by rules, and effecting voluntary discontinuance of practices found to violate rule requirements. During the year satisfactory disposition was effected in 684 rule-compliance matters.

Concurrently with its regular compliance work, the Division completed several special projects, having as their objective the elimination of various widespread unfair trade practices, one of which had to do with effecting discontinuance of false and misleading representations by firms engaged in the purchase of precious metals from the public. In all, 329 firms were contacted, with the result that all known violations were corrected.

An industry-wide survey of guarantees and guarantee advertising used by manufacturers of water heaters was conducted, as a result of which needed correction was effected on the part of 32 such manufacturers. This project continues in fiscal 1963.

In another project, the Division sent letters to all known manufacturers of television antennas to ascertain whether, as had been indicated they were misrepresenting the prices of their products. As

a result of this survey, approximately 40 rule-compliance matters were initiated and voluntary compliance obtained in each instance.

Industrywide action was undertaken to require members of the cosmetic and toilet preparations industry to disclose the domestic manufacture, compounding, mixing, or blending of products compounded or otherwise manufactured in this country and sold under various names implying foreign origin. This project continues in fiscal 1963.

Statistics relating to rule compliance activities during fiscal 1962 are as follows:

Compliance matters pending July 1, 1961	418
New compliance matters initiated during the year	533
Total for disposition	951
Disposed of during year	684
Pending June 30, 1962	267

Statistics relating to rule interpretation work during fiscal 1962 are as follows:

Rule interpretation matters pending July 1, 1961	17
Rule interpretations received during fiscal 1962	171
Total for disposition	188
Rule interpretations completed during fiscal 1962	177
Rule interpretation matters on hand June 30, 1962	11

HEARING EXAMINERS

When a formal complaint is issued by the Commission, it is assigned to a hearing examiner who has the responsibility of taking testimony in support of and in opposition to the allegations of the complaint. During the year, a staff of 22 hearing examiners served the Commission.

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

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

When a hearing examiner has completed the taking of testimony in any case, he allows the attorneys for both parties to file proposed findings of fact and draft of order. Thereafter he prepares and files an initial decision which, under the Administrative Procedure Act and the Commission's rules, becomes the decision of the Commission if no petition for review is granted or if the Commission itself does not put the case on its own docket for review. In any event, the decision of the hearing examiner becomes a part of the formal record and is taken into consideration by the Federal courts in any review of the case. The Commission may adopt, in whole or in part, the decision of the hearing examiner or may set it aside completely, in which case the Commission either rewrites the decision or remands it to the hearing examiner for the taking of further testimony.

As a result of procedural changes and the employment of six additional hearing examiners, the backlog of cases pending before hearing examiners was reduced from 380 at the beginning of fiscal 1962 to 159 at the end of the year.

BUREAU OF RESTRAINT OF TRADE

The Bureau of Restraint of Trade consolidated the previous antimonopoly trial work of the Bureau of Litigation and of the previously existing antimonopoly activities of the Bureau of Investigation.

In addition to litigation activities, this Bureau makes all preliminary investigations in the antimonopoly field which includes general trade restraints under section 5 of the Federal Trade Commission Act and violations of sections 2, 3, 7 and 8 of the Clayton Act. All correspondence relating to these matters and all preliminary applications for complaint are received and processed in this Bureau and decisions are made on matters which warrant investigation.

Several techniques are used in conducting these investigations: (1) In some instances memoranda are forwarded to the Bureau of Field Operations outlining in detail the scope and area of investigations; (2) the Bureau of Restraint of Trade conducts field investigations for the purpose of interviewing and ascertaining the availability of prospective witnesses and obtaining documentary material; (3) it also conducts investigations by informal questionnaires and correspondence; (4) it conducts investigations by the use of investigational hearings, under the subpoena power of section 9 of the Federal Trade Commission Act or requires the filing of special reports under section 6 (b) of that act.

This Bureau secures compliance with restraint of trade orders to cease and desist. In this function, this Bureau passes upon reports of compliance filed initially and later, followup work for the purpose of assuring the continuance of compliance or initiates penalty proceedings.

On March 23, 1961, the Attorney General of the United States forwarded to the Commission a list of 56 cases in which decrees had been obtained by the Department of Justice under the Sherman Act. The Commission was requested to conduct appropriate investigations and report on whether the defendants were in compliance with these decrees. The judgments, in most instances, involved multiple corporate defendants of major size. Many of such investigations have been completed and recommendations have been forwarded to the Department of Justice. Others are still in progress.

Antimonopoly Workload

The Commission's task of handling the increasing flow of potential cases in antimonopoly work is becoming greater, as attested to by the

increase in the number of applications received by this Bureau. During the fiscal year, 1,451 complaints were received, compared to 1,159 in fiscal year 1961 and 1,042 in fiscal year 1960.

Pending restraint of trade investigations increased from 1,484 as of June 30, 1961, to 1,694 as of June 30, 1962) despite a substantial increase in the number of completed restraint of trade investigations. In the fiscal year 1962, 531 restraint of trade investigations were completed, as compared to 331 in fiscal 1961.

The number of restraint of trade orders to cease and desist issued during fiscal year 1962 was substantially in excess of any recent year with the single exception of 1961. This record resulted from a successful drive to clear the docket of many of the older formal cases. During the same period there was a substantial reduction in the number of new complaints issued as compared with recent years. Several factors contributed to this reduction, not the least of which was the high rate of turnover among attorneys. In this fiscal year 17 experienced trial attorneys and 19 attorneys in this Bureau's Compliance Division left to engage in private practice or to accept far more lucrative positions in the legal departments of large corporations. Also in keeping with announced Commission policy the bureau engaged in conducting industrywide investigations principally through the use of section 6(b) reports. Inquiries of this nature in the wearing apparel, antibiotic and food distribution fields have required the issuance of hundreds of questionnaires, the processing of which has placed a heavy drain on the professional manpower of the Bureau.

Prior to the last fiscal year complaints were issued when the Commission had sufficient facts to provide reason to believe that a respondent had been or was engaged in a violation of its statutes. In the more important restraint of trade cases which were contested, hearings were held at intervals and in a large measure were investigational in character. The change in the Commission's rules of practice which became effective July 21, 1961, requires that investigations be completed before complaint is issued, that the matter be set down promptly for hearing and that the hearings continue without suspension until the record is completed.

The above were the principal reasons for the decline in the number of complaints issued in this fiscal year.

Statistical summary and comparison fiscal years 1958-62

	1958	1959	1960	1961	1962
Complaints issued	86	79	157	120	49
Orders to cease and desist	45	64	57	103	91

The scope and variety of the Bureau's responsibility is indicated by the summaries of activities within its various divisions:

DIVISION OF MERGERS

The function of this Division, is to analyze all acquisitions and mergers which come to its attention and which are within the jurisdiction of the Commission, to fully investigate and to litigate those which appear to be unlawful.

In its fiscal year 1962, the Commission recorded 1,633 acquisitions and mergers. After preliminary investigation of these acquisitions and mergers, consisting principally of accumulating and analyzing published financial, economic and industrial data, and communicating by letter or otherwise with the corporations involved, the Commission initiated 26 formal investigations. Compared to fiscal 1961, approximately 1,032 acquisitions and mergers were recorded and the Commission initiated 55 formal investigations.

The 26 formal investigations initiated during fiscal year 1962 were added to the 105 investigations pending at the beginning of the year. Due to its limited staff, the Division of Mergers has a backlog of 73 formal investigations. One complaint and eight orders for divestiture were issued in fiscal year 1962. At the end of fiscal 1962, there were 24 section 7 complaint matters in various stages of trial.

Of the 24 section 7 complaints pending at the end of fiscal 1962, 10 were issued in fiscal 1960, 5 in fiscal 1961 and 1 in fiscal 1962. The following is a brief resume of some of the outstanding complaints.

Kaiser Steel Corp., of Oakland, Calif., acquired a substantial portion of the voting stock of a competitor, Allison Manufacturing Co., Phoenix, Ariz. Originally issued in 1960, the complaint charged a violation with regard to steel and steel products. The complaint was issued without complete investigation. It was dismissed and a new complaint issued, Kaiser Industries Corp., in March 1961, charging an additional violation with regard to aluminum and aluminum products. It is anticipated that the case in chief will be closed after a survey, being conducted by the Bureau of Economics, is completed in the fall, and respondent is expected to present a lengthy defense.

Union Bag-Camp Paper Corp., New York City, consummated five acquisitions in various segments of the paper industry. This complaint was issued on June 15, 1960. The original complaint was amended in order to include other acquisitions in violation of section 7. Three attorneys and two economists were assigned to this case. A considerable amount of overtime on the part of the staff assigned to this case has accounted for the virtual completion of the investigation. The Bureau of Economics was authorized to conduct a survey in the shipping and sack industry.

American Marietta Co., Chicago, Ill., acquired at least 46 companies engaged in the manufacture and sale of concrete pipe, cement, lime and other products. Because of a merger with the Martin Co. of Baltimore, Md., the original complaint was amended—Martin-Mari-

etta Co. Two attorneys were assigned to this case and one economist. During fiscal year 1962 and due to the resignation of the two attorneys originally assigned to this case, two new attorneys have been assigned. A full investigation will have to be conducted before this case can go to trial. A subpoena is returnable in August 1962. It is anticipated that the initial hearings will be held in October 1962.

The Borden Co. acquired 80 dairy concerns. The complaint was issued in October 1956. Investigation was necessary to develop the market structure in many of the markets involved. With present manpower, two attorneys are assigned part time to this matter. Complaint counsel anticipates the filing of proposed findings in August 1962. In a related case, National Dairy Products Corp., which involved 40 acquisitions, the complaint was also issued in October 1956 and further hearings are anticipated in September 1962.

Kroger Co. acquired a number of grocery chains. Complaint was issued in April 1959. This matter requires full investigation before trial. A return under a subpoena duces tecum has been pending.

The Grand Union Co., involved a number of acquisitions of grocery chains. After a full investigation, in accordance with the Commission's Rules of Practice, complaint issued January 12, 1962. The proceeding was immediately set down for trial and the case in chief all but completed. Interlocutory appeals for rulings of the hearing examiner have been filed by complaint counsel and counsel for respondent.

DIVISION OF GENERAL TRADE RESTRAINTS

This Division has responsibility for all matters in the field of restraint of trade within the scope of section 5 of the Federal Trade Commission Act.

A development affecting the efforts of the Division during the fiscal year 1962 concerns the adoption by the Commission and the courts of the views of the staff regarding the scope of section 5 of the Federal Trade Commission Act as being applicable to practices which are related to, but not within the purview of the practices which have been specifically prohibited by the amended Clayton Act.

The following are representative examples of the cases being handled by this Division.

In the case of *The Grand Union Company v. FTC*, the U.S. Court of Appeals for the Second Circuit decided, on February 7, 1962, that the knowing inducement and receipt of discriminatory advertising allowances, granted in violation of section 2 (a) of the Robinson-Patman Act, constitutes a violation of section 5 of the Federal Trade Commission Act. Subsequently, the Commission entered its final order *In the Matter of R. H. Macy & Co., Inc.*, modifying the conclusions of the hearing examiner and holding that the solicitation by its buyers from supplying companies, and consequent receipt of contributions

from such suppliers towards the Macy 100th anniversary sale, constituted an unfair practice. These cases will provide the guidelines for the Commission in the antimonopoly field.

The decisions of the Commission in the cases of the Sandura Co. and Snap-On Tools Corp. related to restraints on competition in the distribution systems of the respondent companies through resale price maintenance, exclusive territories, and restrictions on customers. These cases will provide the guidelines for the work of the Commission in the antimonopoly field.

Principal cases of this Division, considered as a group, for they are designed to litigate practices being utilized on an industry-wide basis, concern the distribution of gasoline products and other petroleum products. The groundwork in this area has been established by virtue of the first Sun Oil Company case, now pending review in the Supreme Court of the United States. The issue involves the availability to a wholesaler who sells to an exclusive, franchised service station outlet of a "good-faith meeting competition" defense under section 2(b) of the Robinson-Patman Act.

Another matter pending having far-reaching importance is the second Sun Oil Co. proceeding, now before the Commission for review of the initial decision. This decision held a consignment arrangement between the respondent and its unnamed conspirators, entered into it for the purpose of enabling the respondent and its service station dealers to meet a competitive situation in a limited geographic area, to be an unlawful combination or conspiracy in restraint of trade.

These two cases involving Sun Oil Co. illustrates just two of the active cases initiated by this Division against the gasoline industry. There are 5 cases in litigation at various stages. In addition, investigations have been initiated against 14 other companies in this field. Most of these have been returned to the Division and are now under review.

During the fiscal year 1962, 52 formal investigations, relating to section 5 of the Federal Trade Commission Act, were initiated. Seven complaints were issued charging section 5 violations and 209 formal investigations were closed. At the beginning of fiscal 1962, there were 551 section 5 formal investigations pending; and at the close of the fiscal year there were 387 section 5 formal investigations pending. Although a substantial number of pending formal investigations have been disposed of during the fiscal year, an even larger backlog confronts this Division.

In fiscal year 1962, 8 complaints charging section 5 violations and 9 orders to cease and desist involving section 5 violations were issued. During fiscal year 1962, the Division received and assigned to its staff more than 925 separate letters of complaint. In many instances, the facts developed by extensive correspondence disclosed the necessity to initiate full field investigations.

DIVISION OF DISCRIMINATORY PRACTICES

This Division is responsible for the investigation and trial of cases involving violations of sections 2 and 3 of the Clayton Act, and cases brought under section 5 of the Federal Trade Commission Act against buyers for knowingly inducing and receiving discriminatory allowances from suppliers.

The following are representative of some of the pending section 2 cases in various stage of litigation.

General Electric Company is charged with violation of section 2 (d) of the Clayton Act and section 5 of the Federal Trade Commission Act, in connection with the sale of electric household appliances, such as toasters, irons, clocks, blankets, light bulbs and other products. The section 2 (d) charge is based on discrimination between customers in the payment of allowances for cooperatively advertising appliances; the section 5 charge alleges that the allowances are paid on conditions which restrict and eliminate price competition between dealers participating in the advertising program.

A complaint is pending against McKesson & Robbins, Inc., one of the country's largest manufacturers and wholesalers of drugs, alleging that the company induced and received substantial cash payments from suppliers for advertising their products in its catalogs. The complaint alleges that the company knew or had reason to know that the suppliers making such payments discriminated in favor of McKesson & Robbins and against competing wholesalers in violation of section 2(d). The payments received per year ranged from \$300 to \$4,700.

Druggists' Service Council, Inc. (a nonprofit organization composed of drug manufacturers and wholesalers), and its wholesaler members, are charged with inducing and receiving substantial cash payments from suppliers for advertising and other services. The complaint alleges that Druggists' Service Council, Inc., and its members knew or should have known that the suppliers making such payments violated section 2 (d) for failing to make the same payments available to competing wholesalers. The payments received in one year ranged from \$1,500 to \$1,800.

Complaints charging violation of section 2(d) are pending against 18 suppliers who made payments to McKesson & Robbins, Inc., and Druggists' Service Council, Inc., and failed to offer or make available similar payments to competing customers.

Quaker Oats Co., with annual sales in excess of \$3 hundred million, is charged with discriminating in price between customers in the sale of oat flour which is used primarily in the manufacture of baby foods. The company is also charged with selling oat flour at prices which are below cost in violation of section 5 of the Federal Trade Commission Act.

American Motors Corp., a leading manufacturer and distributor of refrigerators, ranges, home freezers, washing machines and dryers, is charged with selling these products to B. F. Goodrich and other large buyers, including utility companies, for resale, at prices substantially lower than the prices at which these products are sold to competing dealers. It is alleged that the price discriminations substantially lessen competition between the dealers paying the higher prices and the favored dealers paying the lower prices.

Westinghouse Electric Corp., with annual gross sales in excess of \$1½ billion is charged with discriminating in price in favor of General Motors and certain other large volume buyers in connection with the sale of automotive miniature and sealed lamps. The company sells lamps to the favored buyers at prices which are substantially lower than the prices at which lamps are sold to competing buyers, the maximum differential being 29.2 percent.

American Bakeries Co., one of the large national baking concerns with multiple plants throughout the United States, is charged with discriminating in price and in the payment of advertising allowances and in the furnishing of services and facilities. The company allegedly sells its products to large chains, such as The Kroger Co. and F. W. Woolworth, at varying discounts ranging up to 7 percent off the net prices at which nonfavored competing dealers purchase. In addition the company favors Food Fair Stores, Inc., with advertising allowances and services which are not available to competing dealers.

In fiscal 1962, the staff expended a substantial number of man-hours, and five trial attorneys, in particular devoted almost full time to investigations and litigated cases involving discriminatory pricing in the sale of fluid milk by national dairies, large regional dairies and retail grocery chains. At present, proceedings are pending against nine national and large regional dairies, including National Dairy Co., Inc., The Borden Co., Beatrice Foods, Inc., H. P. Hood & Sons, Inc., Dean Milk Co., and others. In addition, 27 milk matters are under investigation. An investigational hearing, entailing considerable time, was conducted to develop the facts relating to a milk price war in Indianapolis, Ind.

During the year, special emphasis was placed on investigations and proceedings where it appeared that violations existed on an industry-wide scale. This approach was considered necessary in order to achieve maximum compliance in these industries and, at the same time, avoid inequities which result when corrective action is taken against a few members, leaving competitors to continue the illegal practices. Industries in which concentrated enforcement activities were directed involve (1) men's, women's and children's wearing apparel, (2) groceries, (3) magazines and books, (4) fresh fruits and vegetables.

Investigations in the wearing apparel industry disclosed that a very large number of manufacturers discriminated between competing customers in the payment of allowances for cooperative advertising and promotional services in violation of section 2 (d) of the act. Pursuant to the Commission's revised rules of practice, 154 complaints charging wearing apparel manufacturers with violation of section 2 (d) were forwarded to the Commission, together with proposed consent agreements and orders for approval and service. As of June 30, 1962, a substantial number of companies executed consent agreements which were forwarded to the Commission for approval.

A large number of national and regional chain grocery stores were investigated to determine whether they violated section 5 of the Federal Trade Commission Act, through inducing and receiving discriminatory advertising and promotional allowances from suppliers, and where they knew or should have known that the suppliers in granting such allowances violated section 2 (d) of the Clayton Act, as amended. The investigations disclosed the existence of possible violations on the part of both chains and suppliers. Approximately 323 suppliers are currently under investigation for the purpose of obtaining additional evidence required to establish both types of violations.

The Commission's activity in the book and magazine publishing industry resulted in the issuance of complaints against four publishers charging violation of section 2(d) by virtue of the payment of substantial allowances to certain large dealers and failure to make similar allowances available to competing dealers. Complaints citing 36 publishers for similar violations were referred to the Commission, together with proposed consent agreements and orders, for approval and service under the revised rules. Orders enjoining violations of section 2 (d) were issued against the following publishers: Golden Press, Inc.; Grosset & Dunlop, Inc.; Holt, Rinehart and Winston, Inc.; H.S.D. Publications, Inc.; National Police Gazette; and Williams Press, Inc.

Concentrated activity in the fresh citrus fruit; and vegetable industry resulted in the issuance of 12 complaints charging violation of section 2(c) through the illegal payment or receipt of brokerage commissions or discounts in lieu thereof. In addition, 12 complaints containing similar charges were forwarded to the Commission for approval and service under the revised rules. Orders enjoining violation of section 2(c) were entered in 35 cases. Some of the companies enjoined in these cases are: Yankee Brokerage Co., et al.; Florida Citrus Distributors, Inc.; Eidson Produce Co., et al.; George C. Palmer Brokerage Co., Inc.; Eustis Fruit Company, Inc.; Lake Region Fruit Packing Association; Minute Maid Corp., et al.; and California Fruit Exchange.

The present staff of this Division consists of 32 trial attorneys whose duties have been greatly expanded as a result of the reorganization plan of July 1, 1961.

The current section 2 and section 3 workload is tremendous and continues to increase. On July 1, 1961, 810 section 2 and 13 section 3 investigations were pending. On June 30, 1962, 1,198 section 2 and 12 section 3 investigations were pending. This is an increase of 387, or approximately 32.3 percent. During the fiscal year 1962, 647 section 2 investigations were instituted, as compared with 549 section 2 and 7 section 3 investigations instituted in the previous year. This was an increase of 98, or approximately 15 percent.

In fiscal year 1961, 100 section 2 and two section 3 complaints were issued. During fiscal 1962, 42 section 2 complaints were issued and, in addition, 206 complaints were forwarded to the Division of Consent Orders, under the revised rules, for approval and service, together with proposed orders and consent settlement agreements. Consent settlement agreements disposing of many of the complaints have been successfully negotiated; and upon approval by the Commission, cease and desist orders will be issued. Thus, during the fiscal year 1962, 248 section 2 complaints were either issued or were being processed under the new consent settlement rules. This was an increase of 148, or 148 percent.

During fiscal year 1962, 74 section 2 and 1 section 3 orders were issued, as compared with 91 section 2 and 2 section 3 orders issued in fiscal year 1961. The reduction of orders in 1962 is due primarily to personnel changes resulting from the reorganization and the large number of vigorously contested cases. In fiscal year 1962, 3 section 2 complaints were dismissed.

On June 30, 1962, 124 section 2 complaints in contested cases were pending. As noted above, 206 section 2 complaints have been forwarded for processing under the revised consent settlement rules. While many of the latter complaints will be disposed of by consent settlement agreements, it is anticipated that many others will be the subject of litigation. Thus, at the close of fiscal year 1962, 330 section 2 complaints were pending, as compared with 162 section 2 and three section 3 cases pending as of June 30, 1961. This is an increase of 165, or 50 percent.

DIVISION OF ACCOUNTING

The Division of Accounting furnishes accounting services in connection with the investigation and trial of legal cases and in general economic investigations. From time to time the services of the Division are also utilized in connection with hearings by congressional committees.

The Division prepares accounting analyses and studies of the pricing policies of respondents or proposed respondents in connection with the Commission's law enforcement work in regard to (1) alleged price

discrimination under section 2 of the Clayton Act as amended by the Robinson-Patman Act; (2) cost data submitted by respondents in justification of alleged price discrimination under the Robinson-Patman Act; (3) alleged price fixing in cases arising under section 5 of the Federal Trade Commission Act; and (4) alleged sales below cost in violation of section 5 of the Federal Trade Commission Act.

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

During the last fiscal year the Division of Accounting furnished accounting services in 112 legal cases and investigations. These included 78 Robinson-Patman Act cases, 18 section 7 Clayton Act cases, 14 section 5 Federal Trade Commission Act cases, and 2 Department of Justice cases. In addition, the Division of Accounting prepared a report on "Rates of Return for Identical Companies in Selected Manufacturing Industries--1940, 1947-60". This report is a continuation of a series of reports which are in demand by professional economists and business concerns. Also, the profit data for companies in the various industries have been and are used extensively in hearings by the Subcommittee on Antitrust and Monopoly, Senate Committee on the Judiciary. For a time the Division was also engaged in the analysis and verification of financial statements submitted by canners and packers of food products in connection with the Commission's economic inquiry on food marketing, conducted by the Bureau of Economics.

COMPLIANCE DIVISION

Fiscal year 1962 comprised the first full year of operation by this Division. The workload was divided between Commission cases, of which there were some 350 active compliance matters under consideration, and Department of Justice cases, in connection with which some 40 separate field investigations were initiated.

With respect to Department of Justice matters, 56 antitrust cases were forwarded to the Commission by letter from the Attorney General dated March 24, 1961 requesting that the Commission investigate the manner in which judgments in these cases have been and are being complied with. These judgments are for the most part based on violations of sections 1 and 2 of the Sherman Act. They involve, in most instances, multiple corporate defendants of major size. During fiscal year 1962, field investigation was begun on 40 of these cases by the staff of the Compliance Division, or by personnel in the several Commission field offices under supervision of the Compliance Division. Eleven of such investigations have been completed and rec-

ommendations have gone forward to the Justice Department in seven of these matters.

With respect to Commission compliance matters, particularly heavy demands have been made on the staff and resources of this Division since its organization July 1, 1961. During fiscal year 1962 a peak of 15 attorneys only were available for restraint of trade compliance work. Seventy orders in the section 5 restraint of trade area were under active compliance consideration. In addition, there was undertaken a review of all outstanding orders issued under section 5 of the Federal Trade Commission Act for establishment of a random spot check investigation procedure to determine whether violations are occurring even though no complaints have been brought to the attention of the Commission. Fifteen matters were in the process of investigation in the field during fiscal year 1962. Two hundred and eighty Clayton Act matters were under active compliance consideration, divided as follows: 47 under section 2 (a) of the act, 104 under section 2(c), 69 under sections 2(d) and 2(e), 10 under section 2(f) and 23 involving violation of a combination of sections. Nine section 3 exclusive dealing matters involving questions as to compliance with outstanding Commission orders, were in an active status, including three matters under investigation in the field. Eighteen section 7 orders, compliance with which requires divestiture of a variety of illegally acquired properties, were pending during fiscal year 1962.

Reports of compliance submitted in connection with restraint of trade orders to cease and desist are frequently technical in nature, complicated in form and bring to issue a complex of legal considerations. For example, reports relative to divestiture orders in section 7 matters, are oftentimes particularly involved. In addition to the task of assuring compliance with current orders of the Commission, however, this Division faces a backlog of major proportions, involving compliance consideration as to orders issued in past years.

The undertaking of new and more vigorous and direct investigative and enforcement measures both as to Clayton Act and restraint of trade matters under section 5 of the Federal Trade Commission Act, has created additional drains on the manpower resources of the staff. The use of investigational hearings, for example, although requiring the special detailing of headquarters Compliance staff personnel, was found to provide an effective, direct and efficient method of securing necessary information in a number of compliance matters. In fiscal year 1962, 32 investigation subpoena hearings were conducted by the staff of the Compliance Division.

During fiscal year 1962, the Commission's first civil penalty actions were developed and brought under the 1959 amendment to the Clayton Act. On April 14, 1962, U.S. v. Time, Inc., et al. (62 Civil 1364), was filed in the District Court for the Southern District of New York.

This action seeks civil penalties of \$110,000 from defendants for a violation of a Commission order issued under section 2(d) of the Clayton Act. In a similar action filed against the Hearst Corp. (U.S. v. The Hearst Corporation, S.D.N.Y. 62 Civil 2057) on June 11, 1962, the Government is asking for civil penalties of \$75,000. Several other actions of this nature are now pending Commission approval and certification to the Attorney General for enforcement.

EXPORT TRADE

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

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

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

During 1961, 32 export associations were registered with the Commission. Their total exports, in terms of dollar values, were approximately 966,500,000.

DECEPTIVE PRACTICES

The Bureau of Deceptive Practices is responsible for the investigation and trial of all cases involving acts or practices alleged to be deceptive in violation of sections 5 and 12 of the Federal Trade Commission Act, and for obtaining and maintaining compliance with cease-and-desist orders entered in such cases. The actions under section 12 are directed at preventing false advertising of food, drugs, cosmetics and therapeutic devices. Under section 5 the Bureau's responsibilities extend, with few exceptions, to all types of goods and services sold in commerce, and to all forms of possible deception, including false advertising, misbranding, oral misrepresentation, and deceptive sales schemes. The Bureau also monitors published and broadcast advertising, on a sampling basis, to detect advertisements which may be questionable. Much of the Bureau's work arises through letters of complaint from businessmen or consumers who feel that they have been injured or deceived by unfair trade practices.

To maintain high levels of employment and income in our mass production economy, it is imperative that consumers be given only truthful information about the availability and properties of the hundreds of goods and services offered for sale. The consumer armed with truthful information is best able to make the choices which direct the forces of production in our competitive free enterprise system. To the extent that the consumer's choices are dulled or frustrated by his being deceived in the marketplace, the system fails to achieve maximum success.

Deception practiced on a consumer not only injures him in his health or his pocketbook; it may destroy his confidence in advertising generally, and it injures the honest businessman, by diverting trade from him. Just as truthful, informative advertising lubricates the wheels of trade, so it may be said that deceptive advertising is sand in the gears. Thus the Bureau's activity to prevent deceptive trade practices serves simultaneously to benefit both businessmen and consumers.

Investigation and trial work in the various types of cases are carried on by three divisions of the Bureau, that is, the Division of Food and Drug Advertising, the Division of General Advertising, and the Division of General Practices. Obtaining and maintaining com-

pliance with deceptive practice cease-and-desist orders is the function of the Division of Compliance; and the Division of Scientific Opinions furnishes the other divisions with information and advice in matters involving medical and scientific questions.

INVESTIGATION

Investigations of alleged or suspected deceptive practices are initiated on the basis of applications for complaint received from outside sources or on the basis of information otherwise coming to the attention of the Commission or its staff.

Information indicative of possible violation is first subjected to preliminary study by a Bureau attorney in one of the investigation and trial divisions, to determine whether the requisite elements of jurisdiction, public interest and probable deception appear to be present. Investigation if decided upon may be conducted by ordinary correspondence, or by demand for a corporation to file special report under section 6 (b) of the Federal Trade Commission Act, or by referral to the Bureau of Field Operations with request for field investigation. The Bureau attorney may, as a result of the investigation, recommend that the file be closed, that an informal assurance of discontinuance be accepted in disposition of the matter, or that formal order to cease and desist be sought. The same attorney is responsible for a matter from its inception until final disposition. A matter may at any stage be referred to the Bureau of Industry Guidance when it appears that the procedures of that Bureau would be appropriate and efficacious.

If issuance of complaint is decided upon, the Bureau attorney participates in consent settlement negotiations or pretrial conferences, and engages in trial work to present evidence, proposed findings, briefs and arguments in support of the complaint before a hearing examiner or the Commission.

Deceptive practice applications for complaint received during fiscal year 1962 numbered 5,519, representing a 48 percent increase over the 3,727 received during the previous year, and an increase of 55 percent when compared with the average of 3,557 received during the preceding 5 years. This increase is believed to reflect a growing public awareness of the service which the Commission is prepared to render in the important area of promoting nondeceptive competition.

The Bureau initiated 897 investigations during fiscal year 1962, and completed 725. The number completed compares with 904 in fiscal 1961 and 655 in fiscal 1960. A total of 1,202 were pending on June 30, 1962.

The investigations completed in fiscal 1962 included 92 in which complaints issued, plus 40 in which complaints had been approved by the Commission but were pending consent settlement negotiations at

the year end. A total of 278 other investigations were disposed of during the year on the basis of informal assurances that questioned practices had been discontinued without intent to resume. Twenty-three of those assurances were in the form of stipulations to cease and desist.

A number of the investigations were referred to the Bureau of Industry Guidance for use in the drafting or administration of rules or guides designed to prevent deceptive practices on a voluntary and industrywide basis. The investigations thus referred included matters of possible deception in regard to manufacturer list prices, foreign origin disclosures, labeling of furniture, and advertising of room air conditioners. The Bureau during the year cooperated with the Bureau of Industry Guidance in the drafting of rules and guides, and aided in the rendering of advisory opinions by that Bureau.

Of the investigations instituted during the year, 204 involved allegedly deceptive advertising of food, drugs, cosmetics or therapeutic devices in violation of section 12.

Using the authority of section 6 (b) to demand special reports from corporations, broad-scale investigations were instituted to ascertain whether false advertising is being used to promote sales of cough and cold treatments, pain relievers, vibratory massage devices offered for use in weight reduction, and devices advertised to clean and purify the air. The Bureau also was evaluating at the year end information developed in a similar investigation with regard to advertising of treatments for hemorrhoids.

The Bureau was also investigating the advertising of mineral preparations offered for iron deficiency anemia, under circumstances which might mislead the public into delaying treatment of serious underlying diseases or disorders.

During the year, considerable interstate activity in the sale of real estate in vacation areas, sometimes called the Sun Land States, came to the attention of the Commission, and several investigations of possibly deceptive advertising in the sale of such real estate were begun.

The decision in Travelers Health Association, Eighth Circuit No. 15743, April 24, 1962 (F.T.C. Docket 6252), clarified the Commission's jurisdiction over mail-order insurance companies who use the mails to sell insurance and do not have agents within the States in which the insurance is sold. Investigations, arising from complaints from the public and on the Commission's own cognizance, have since been instituted in a number of such matters.

The Bureau had pending at the year end a number of investigations to determine whether plastic metal menders were deceptively labeled by reason of nondisclosure of potential danger in use.

Investigations were being conducted to determine whether certain concerns engaged in rating the popularity of radio and television

programs had misrepresented the accuracy of their survey results.

Advertising of toys was given attention during the year, to prevent false claims as to performance, safety and components, especially in television advertisements which might be misleading to children.

The Berlin crisis and other international disturbances provided the launching pad for the use of "scare" tactics and other methods of false and deceptive advertising to promote the sale of fall-out shelters, shelter equipment and radiation protection devices. Numerous complaints were received as a result of a wide and intensive, although short-lived advertising program promoting the sale of fall-out shelters. As a result of investigations in this field, most of these matters have been settled on an informal basis, while some others are still pending in this Bureau.

A project involving more than 200 vendors of antibiotics used in the treatment of mastitis in cattle has been concluded. This Bureau's goal, successfully attained, was to obtain assurances that advertising for such products would contain warning of possible milk contamination following their use.

Several car-rental agencies are the subject of pending investigations. The alleged deception is that odometers used on rented cars register more miles than actually traveled by the vehicle, and the customer is charged rental on the odometer reading.

Numerous other investigations concerned hard-core cases which are perennial in the field of deceptive practices. Some of the investigations related to deceptive advertising of correspondence schools. In these cases, the usual misrepresentation is that employment and job opportunities are readily available. Business opportunity matters relating to misleading assurances of the ease and sureness of profits to be gained represented a great number of cases investigated; lottery schemes and gaming devices, used as a means of distributing merchandise, were proceeded against.

Additional investigations involved misuse of the word "free"; delivery of unordered merchandise; improper use of Government insignia; failure to disclose book abridgment; misrepresentations as to food-freezer plans; false advertisements of preparations to prevent baldness or regrow hair; and bait advertising techniques.

LITIGATION

The more important investigations completed during the year resulted in the issuance of formal complaints. Fifty-eight of the complaints were accompanied by simultaneously issued consent orders, pursuant to procedures adopted in July 1962, requiring respondents to cease and desist from use of the acts and practices charged in the complaints to be deceptive. The entry of such an order does not constitute a finding or an admission that respondents

have violated the law. Orders in this type of case prohibited the use of such unlawful practices as:

Advertising of a drug preparation as a cure for rheumatism, arthritis, insomnia, constipation or blindness (C-11).

Advertising of vitamin or mineral preparations for tiredness, poor appetite, or weakened resistance without disclosing that most persons who experience such symptoms will not derive benefit from the use of such a preparation (C-123).

False advertising as to efficacy of a bed-wetting preventive (C-12).

False advertising as to health benefits of children's shoes (C-20).

False advertising of tests purporting to show superiority of "Crest" toothpaste in preventing tooth decay (C-84).

Bait advertising and deceptive quality, price and guarantee claims in selling storm windows, house paint, floor tile, and other home improvement products (C-17, C-27, C-30).

False claims as to safety, and failure to disclose potential danger to health of users, in selling plastic metal menders and toys (C-77, C-141, C-152).

Misrepresentation of correspondence courses and vending machines, through false claims of employment and of earnings (C-34, C-40, C-62, C-86, C-97, C-119, C-130).

Misrepresentation of the durability of burial vaults (C-47).

Misrepresentation of the leather content of shoes, wallets and brief cases (C-98, C-100, C-105, C-117).

Misrepresentation of the savings to be achieved through purchase of food-freezer plans (C-94, C-103, C-112).

Misrepresenting the country of origin and fictitious pricing of perfume (C-2).

Deceptive pricing of clothing, electrical appliances, housewares, auto seat covers, and other merchandising (C-15, C-53, C-87, C-104, C-114, C-135).

Misrepresentation of vendor as owner or operator of a "mill" or manufacturing plant (C-42, C-106, C-111, C-115, C-126).

Deceptive use of term "guaranteed" usually in conjunction with other charges (numerous cases).

Misrepresenting size and usual price of sleeping bags (C-51).

Selling previously used lubricating oil or auto parts without disclosing the used or second-hand character thereof (C-80, C-92).

Formal complaints which were issued during the year in contested cases included such charges as misleading use of term "wholesale" or "wholesale prices" by mail-order houses (Docket Nos. 8428, 8449, 8517); misrepresentation of advertiser's own usual price or usual price of goods in the advertiser's trade area (8455, 8460, 8466, 8472); mis-

representing or deceptively concealing the country of origin of merchandise (8154, 8182); misrepresenting vendor as manufacturer of product (8476, 8484); misrepresenting the usefulness of legal forms in a "do-it-yourself" will kit sold by mail (8480); use of deceptive advertising and threats of legal action against children to sell "Cloverine Salve" (8474); use of bait advertising and deceptive price, quality and guarantee claims to sell storm windows, paint, awnings, and other home improvement products (8459, 8483, 8486, 8518); use of deceptive packaging to misrepresent the size of wrapping paper (8489); false advertising as to optical properties of sunglass lenses (8465); and false advertising as to efficacy of a treatment for ingrown toenails (8478).

Cease-and-desist orders were issued during the year in 213 cases as a result of work by attorneys of the Bureau of Deceptive Practices. This included 176 cases under section 5 or 12 of the FTC Act (137 under section 5 and 39 under section 12), and 37 wool, fur or textile cases which were pending with this Bureau's attorneys at the time of the reorganization on July 1, 1962. As previously indicated, 58 of the section 5 or 12 orders were under the simultaneous complaint-and-order procedure adopted in July 1962. The Bureau's attorneys also completed supplemental litigation in 20 cases during the year, involving matters such as petitions for modification of cease-and-desist orders.

Consent orders obtained during the year under procedures which were applicable to cases pending on July 1, 1962, and orders obtained during the year in contested cases, included the following:

Richardson-Merrell, Inc., formerly known as Vick Chemical Co., Docket 8392, consented to an order prohibiting claims that the product designated "Vicks Double-Buffered Cold Tablets" will cure a common cold or shorten its duration.

Zenith Laboratories, Inc., Docket 8426, consented to an order prohibiting use of the term "quality control" and misdescription of its laboratory facilities and procedures, in advertising drugs.

False claims respecting savings to be realized through purchase of drugs by mail were prohibited in consent orders accepted from National Drug Plan, Inc., Docket 8099, and from Nutri-Health, Inc., Docket 8178.

Claims that a drug preparation will cure alcoholism were prohibited in consent order accepted from Soberin Aids Co., Docket 8366.

Claims of sedatives being harmless and safe to take were prohibited by consent orders accepted from Thompson Medical Co., Inc., Docket 8399, and from Sedaquil, Inc., Docket 8400.

Murray Space Shoe Corp., Docket 7476, was prohibited from claiming that its shoes will correct, prevent or relieve arthritis, high blood pressure, indigestion, or stomach ulcers.

Preticketing and other fictitious pricing of merchandise was prohibited by order issued against Rayex Corp., Docket 7346, and against George's Radio and Television Co., Inc., Docket 8134.

Use of term "Milan", implying Italian manufacture, was prohibited respecting hats made in Japan, by order against Korber Hats, Inc., Docket 8190.

Use of deceptive television demonstrations as to the performance of shaving creams was prohibited by orders issued against Colgate-Palmolive Co. and its advertising agency, Docket 7736, and against Carter Products, Inc., and its advertising agency, Docket 7943.

An order entered against Bakers Franchise Corp., Docket 7472, prohibits use of misleading statements to designate the caloric content or weight-reducing properties of bread.

Order against Damar Products, Inc., Docket 7769, prohibits claims that a vibratory massage device will be of benefit to effect weight reduction.

Bait advertising and other deceptive practices in the sale of houses and home improvements were prohibited by orders entered against Lifetime, Inc., Docket 7616; Pati-Port, Inc., Docket 7665; Luxury Industries Inc., Docket 7728; Celtic Construction Co., Inc., Docket 8349; and Crawford Industries, Inc., Docket 8423.

Misrepresentation of imported clocks as having been made by the old and well-known Waltham Watch Co., of Waltham, Mass., was prohibited by order against Waltham Watch Co., of Chicago, Docket 7997.

DIVISION OF COMPLIANCE

This Division has the continuing responsibility of obtaining and maintaining compliance with cease and desist orders against deceptive trade practices under the Federal Trade Commission Act.

Each respondent is required, upon the entry of an order, to submit a written report supported by relevant documentary material demonstrating the manner and form of compliance with the order. These reports are carefully scrutinized by the Division and where necessary are augmented by conferences, supplemental reports, or investigations.

The Division also maintains continuing surveillance of all orders involving false and deceptive practices issued under the FTC Act since the creation of the Commission, to discover areas of noncompliance with orders as they occur and to take prompt corrective action.

The surveillance of orders is accomplished in several ways. First, the Division maintains close cooperation with various agencies throughout the Nation, such as better business bureaus, which report possible violations. Second, from time to time selected respondents are required to file supplemental compliance reports reflective of their current practices. Third, the monitoring staff may be asked to watch

for particular types of advertising. Lastly, field investigation may be requested, to determine whether an order is being violated and, if so, to gather evidence for an enforcement action. On June 30, 1962, 69 compliance investigations were in progress.

When an investigation discloses violations of an order, the Division prepares for certification to the Attorney General of a suit seeking civil penalties of up to \$5,000 for each violation or each day of violation as provided by the statute; or the Division may prepare papers for the institution of criminal contempt proceedings if the violations involve an order that was reviewed by a court of appeals which commanded compliance.

In forwarding civil penalty cases to the Attorney General for filing in the U.S. District Court, the Division prepares all the necessary pleadings and a trial memorandum, and attorneys of the Division usually participate in and often conduct the trials. They usually prepare any needed further pleadings and briefs for filing with the court, which include requests for admissions, interrogatories, objections, motions, and court findings, and arrange and take oral depositions.

Penalty proceedings during fiscal 1962

Penalties totaling \$100,400 were recovered during fiscal 1962. This is the highest figure obtained during any fiscal year in the history of the Commission.

Pending July 1, 1961	22
Filed during year	18
	40
Total for disposition	40
Disposed of during year	14
	26
Pending June 30, 1962	26
	6
Certified, not yet filed	6

Civil penalty cases concluded

Vulcanized Rubber & Plastic Company (E.D. Pa.) Misrepresentation of the rubber content of combs designed for use on human hair. Judgment for \$6,000. This judgment was affirmed by the Third Circuit and the Supreme Court denied certiorari.

National Educators, Inc. (D.C.) Misrepresentations made in connection with the sale of encyclopedias. Judgment for \$8,000.

Empire Press, Inc. (N.D. Ill.) Sale of lottery devices. Injunction entered compelling future obedience to order.

Sterling Materials Co., Inc., Ohmlac Paint & Refining Co. and Carbozite Protective Coatings, Inc. (E.D. N.Y.) Misrepresentations

made in connection with the sale of roofing and foundation paints. Judgments totaling \$28,000 were entered in the three cases.

Sun Vacuum Cleaner Co. (Md.) Bait and switch advertising of vacuum cleaners. Judgment for \$3,000 and injunction compelling future obedience to the order.

George's Radio & Television Co., Inc. (D.C.) Fictitious pricing of television sets. Judgment for \$6,000.

National Toilet Co. (W.D. Tenn.) Misrepresentations as to the efficacy of a cosmetic preparation. Judgment for \$5,000.

Personal Drug Co. (E.D. N.Y.) Misrepresentation of a drug preparation. Judgment for \$2,000 and injunction compelling future obedience to the order.

Fong Poy (N.D. Calif.) Misrepresentation of herbs and drugs sold for use in the treatment of various diseases. Judgment for \$1,300.

Parfums Corday, Inc. (S.D. N.Y.) Misrepresentation of origin of perfumes. Judgment for \$13,000.

Fire Safety Services, Inc. (Md.) Use of scare tactics and misrepresentations in connection with the sale of fire-detection equipment. Judgment for \$28,100.

Magic-Weave, Inc. (Mass.) Misrepresentation of earnings, etc., in connection with the sale of a course of instruction in reweaving. Injunction compelling future obedience to the order.

Civil penalty cases pending

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

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

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

United States Printing & Novelty Company, et al. (S.D. N.Y.) Interstate sale and distribution of lottery devices.

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

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

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

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

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

Gene J. Davidson (E.D. Pa.) Misrepresentation in connection with the sale of vending machines.

American Album, Inc., et al. (N.D. Ohio) Misrepresentations of photographic albums and certificates for photographs.

Jacob Hauptmann (E.D. Pa.) Misrepresentations as to regular price of rugs and other merchandise.

American Candle Co., Inc. (E.D. N.Y.) Misrepresentations as to the composition of candles.

Wilson Chemical Co., Inc. (M.D. Pa.) Misrepresentations in connection with the sale of salves and other merchandise.

Charles C. Bennett (N.D. Tex.) Selling and distributing lottery devices.

Velox Service, Inc. (S.D. N.Y.) Misrepresenting price, value and performance of certain merchandise.

Murray Epstein, et al. (S.D. Cal.) Misrepresenting the manufacturer and country of origin of sewing machines.

Coty, Inc. (Del.) Misrepresenting the country of origin of perfumes.

The Great Minneapolis Surplus Store, Inc., et al. (Minn.) Misrepresenting the usual and regular retail price of commodities.

Parfumerie Lido, Inc., et al. (E.D. N.Y.) Misrepresenting the usual and customary regular price and country of origin of perfume.

Sydco Industries, Inc. (S.D. N.Y.) Misrepresenting regular and usual retail price of certain products.

Radio-Television Training School, Inc. (S.D. Cal.) Misrepresentations in connection with the sale of a correspondence course in the field of radio and television.

Post-Graduate School of Nursing, Inc. (N.D. Ill.) Misrepresentations in connection with a correspondence course designed to qualify purchasers in the field of practical nursing.

William T. Loesch (S.D. Tex.) Misrepresentations in connection with sale of preparations for treatment of the hair and scalp.

Mick Dalton, et al. (Nebr.) Misrepresentations of photographic albums and certificates for photographs.

Statistics on matters and cases handled in fiscal 1962

"Matters" consist of (a) reports of compliance for processing; (b) complaints of alleged violation of orders; (c) conferences and opinions regarding compliance; and (d) initiating and processing preliminary inquiries into compliance. Each category of these "matters" is a distinct operation requiring substantial man-hours. In other words, the same case often requires handling several times, as is apparent from the following table showing the number of "matters" and the number of "cases" handled, and disclosing that of 1,138 "matters" handled involved but 680 cases.

Matters	Fiscal 1962
Total pending July 1, 1961	1,213
Received during year	973
	<hr/>
Total for disposition during year	2,186
Disposed of during year	1,138
	<hr/>
Total pending June 30, 1962	1,048
Cases	
Cases pending July 1, 1961	382
Received during year	298
	<hr/>
Total for disposition during year	680
Disposed of during year	304
	<hr/>
Cases pending June 30, 1962	376

DIVISION OF SCIENTIFIC OPINIONS

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

Fiscal year ended June 30, 1962:

Number of products covered in written opinions	474
Number of oral opinions	423
Number of analyses and tests	6
Number of hearings attended	26
Number of prehearing conferences attended	4
Number of expert witnesses secured	15

The subject matter of the written opinions was as follows:

Foods	50
Drugs	207
Cosmetics	34
Devices	82
Economic poisons	20
Miscellaneous	81

On July 1, 1961, there were 70 requests for written scientific opinions awaiting study and report in the Division, and on June 30, 1962, the number pending had increased to 79. On June 30, 1962, there were outstanding or in preparation 17 complaints in which this Division

is expected to obtain expert or other scientific witnesses, and act as scientific advisor to Commission attorneys prior to and during hearings.

The opinions rendered dealt with foods and beverages, analgesics, skin preparations, hair and nail preparations, dentifrices, trusses, shoes and wearing apparel for which health claims were made, medical books advertised to the public, insecticides and other economic poisons, bleaching and cleansing products, contact lenses, veterinary food and drug products, and many other preparations and devices. Continued attention was given to preparations offered for the treatment of arthritis and rheumatism. Special attention on a project basis was given to the advertising of cough and cold preparations, hemorrhoid preparations and to reducing devices. Continued attention was also given to the claims of adequate quality control appearing in the advertising used by certain manufacturers of generic-named drugs.

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

MONITORING OF ADVERTISING

One of the functions of the Division of Food and Drug Advertising is to monitor radio and television commercials, newspapers, magazines and other printed material. In reviewing radio and television scripts, all networks submit commercials disseminated during 1 week of each month and each individual television station submits scripts covering a 24-hour period each 3 months. Individual radio stations are requested to submit scripts covering a broadcast day once, twice or four times each year, based on coverage of the individual station.

Newspapers are requested according to a schedule permitting a daily sampling typical of those published throughout the Nation, considering geographical location, metropolitan and rural areas and

other appropriate factors. Similarly, magazines are obtained on a basis which provides a representative spot checking.

In addition to broadcasting networks, individual stations submitted continuities as follows:

Radio stations:

Group I (4 times yearly)	463
Group II (2 times yearly)	850
Group III (1 time yearly)	3,467
	<hr/>
Total stations	4,780

Television stations 657

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

Radio-television	419,265 scripts
Newspaper-magazine	278,741 pages

The monitoring function serves the various Bureaus and Divisions of the Commission and in some instances, other Government agencies. During the year, approximately 43,880 advertisements were furnished to operating Divisions of the Commission. Additionally, 8,828 advertisements for alcoholic beverages were forwarded to the Internal Revenue Service, the Federal agency having primary responsibility for such advertising.

Spot check monitoring of radio and television commercials disseminated in the Washington and Baltimore areas is maintained. This includes visual monitoring in the case of television commercials. Sound kinescope recordings of television commercials are made when they can be of assistance to the Commission's work.

BUREAU OF TEXTILES AND FURS

The Bureau of Textiles and Furs was established in July 1961, as the successor of the Division of Textiles and Furs, Bureau of Investigation. The Bureau of Textiles and Furs administers and enforces the Wool Products Labeling Act of 1939, the Fur Products Labeling Act, the Flammable Fabrics Act and the Textile Fiber Products Identification Act. It consists of the Office of the Director and two divisions; the Division of Regulation and the Division of Enforcement.

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

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

Through the Division of Regulation the Bureau counsels the textile and fur industries concerning the requirements of the said acts and regulations and from time to time makes recommendations to the Commission with respect to amendments to the regulations. This Division conducts routine inspections of manufacturers of manmade fibers, dealers in natural and synthetic fibers, yarn, weaving and finishing mills, fabric jobbers and wholesalers and retail stores. In addition, similar inspections are made of fur auctions, fur dealers, fur dyers and manufacturers, wholesalers and retail furriers. The

Division of Regulation, through its counseling services, effects correction of minor deficiencies.

Through the Division of Enforcement, the Bureau of Textiles and Furs prosecutes major violations of the aforesaid acts and regulations. Through the Bureau of Field Operations, investigations are made of violations of the acts and regulations. The investigation reports are analyzed by the trial attorneys of the Division and considered recommendations are made to the Commission. The trial attorneys participate in consent settlement negotiations and try the cases not so settled. Trial attorneys also handle any appeals to the Commission from initial decisions of the hearing examiners.

The Compliance Section of the Division of Enforcement is assigned the duty of policing the cease and desist orders of the Commission covering violations of the Wool Products Labeling Act, the Fur Products Labeling Act, the Flammable Fabrics Act and the Textile Fiber Products Identification Act. This policing includes administrative counseling by mail, inspections of the firms and individuals under order, and formal investigations of the respondents where such procedure is deemed appropriate. In cases where there has been a violation of the Commission's orders, the Compliance Section collaborates with the Department of Justice and the United States Attorneys in the prosecution of the violations.

The Division of Enforcement also maintains a screening laboratory where tests of fibers, yarns, fabrics and furs are made to determine if these products are truthfully labeled, invoiced and advertised.

DIVISION OF ENFORCEMENT

This Division initiates formal corrective action against responsible parties to enforce the four separate pieces of consumer legislation administered by the Bureau of Textiles and Furs, when voluntary compliance cannot be obtained.

Operating for the first full year as a division of the newly created Bureau of Textiles and Furs, the Division of Enforcement, with its staff of only 10 attorneys had handled all of the litigation and compliance work involved in enforcing the four acts mentioned above.

Three hundred fifty-one initial investigations were handled during fiscal year 1962. Two hundred six were on hand at the beginning of the year and 145 new investigations were undertaken during the year. One hundred seventy are being continued into fiscal year 1963.

One chief, one review attorney and 5 trial attorneys of the 10 assigned to this Division are responsible for the initiation and direction of investigations of unfair and deceptive practices occurring within the scope of the acts administered by the Division.

The results of such investigations are analyzed by these same trial attorneys who also are responsible for the preparation and trial of

the cases from the drafting of complaints to the briefing and argument of such cases before the Commission. Thus the practice in this Division is for the same attorney to handle a case from the time of its inception as a formal action until the completion of that case either by issuance of an order or by dismissal.

The remaining three attorneys of this Division handle all of the compliance matters pertaining to the acts administered by the Bureau of Textiles and Furs. During fiscal year 1962, they handled 306 matters. One hundred and forty cases were on hand at the start of the year and 166 additional cases were added during the year. One hundred and twenty cases were disposed of and 186 active cases are being carried over into fiscal year 1963.

The compliance attorneys receive cases following the issuance of cease and desist orders by the Commission and undertake such action as may be necessary to insure that the respondents comply with the order, including the initiation of compliance investigations and the preparation of civil penalty and criminal actions in the case of recalcitrant respondents.

This Division also operated a laboratory wherein tests were made on textile fabrics and woolen fabrics to determine the character and constituency of fibers contained in the fabrics; on fabrics considered to be flammable, to determine the rapidity of ignition and burning; and on fur products to determine the type furs and character of animal hairs and whether or not such furs are dyed or bleached. This laboratory was operated by one permanent technologist, augmented part of the year by a chemist.

Significant areas in which this Division moved to stop violations of the various acts are:

(a) The Wool Products Labeling Act of 1939

The practice of wool fabric manufacturers upgrading reprocessed or reused wool by including a significant percentage of reprocessed or reused wool fibers with virgin wool fibers and then labeling the resultant product as all wool was investigated. The services of a microscopist were used to establish such practices. A complaint was issued against Allentown Mills Inc., et al., Docket 8451, and hearings were held in which the microscopist appeared as the principal witness for the Commission, testifying as to a mechanical damage to reworked fibers. The position taken by the Bureau was upheld by the hearing examiner and by the Commission and on May 24, 1962, the initial decision was adopted and a cease and desist order was issued by the Commission.

The Division has also taken action against misrepresentations as to the country of origin of wool products.

(b) The Fur Products Labeling Act

Intensive concentration has been made under this Act against the practice of using false and deceptive comparative prices and fictitious prices, and failure to disclose tip-dyeing of furs.

Also under the Fur Products Labeling Act, a complaint was issued against an advertising copywriter who wrote advertisements for fur retailers. Although the advertising agent did not own or operate a fur store, his relation to the products which were falsely and deceptively advertised was so close that he was made a respondent. This case is presently pending before the Commission upon respondent's petition for review of the initial decision.

(c) Textile Fiber Products Identification Act

In the enforcement of this act considerable emphasis has been placed on violations occurring as regards the name and amount of constituent fibers in the fabric. Many of these violations involve the upgrading or downgrading of the amount of constituent fibers and the use of a fiber trademark in place of the generic name of the fibers. Additional attention has been given to the use of deceptive trademarks and trade name or symbol of fur-bearing animals to describe textile fabrics.

The Division has also given attention to the improper use of the name or symbol of fur-bearing animals to describe textile fabrics.

Additionally, the Division has incorporated charges under section 5 of the Federal Trade Commission Act relative to pricing and savings claims into Textile Act complaints where the facts merited the same.

(d) Flammable Fabrics Act

Emphasis in this field has been placed upon speed in the removal of the dangerously flammable products from the market. Efforts are made in the initial investigation to get the proposed respondent to sign an affidavit that such dangerously flammable articles will be withdrawn from sale. Should the investigator be unable to obtain the affidavit the initial investigation is made with a view toward seeking a preliminary injunction. Thus far injunctive action has not been required.

One case, arising under the Flammable Fabrics Act, was opened on March 29, 1962. The case was investigated and complaint drawn. A completed consent agreement was forwarded to the Commission on June 25, 1962, or a total 88 days after the opening of the investigation.

Workload statistics of the Division of Enforcement during fiscal year 1962
are as follows

	Wool	Fur	Flam- mable fabrics	Textile	section 5	Total
Investigations initiated	14	103	10	18	-----	145
Formal complaints recommended	15	68	17	17	1	118
Cease and desist orders issued	26	89	12	18	-----	144
Investigations closed	20	32	4	14	2	72
Compliance cases opened:						
New	26	89	12	17	-----	144
Reopened	10	10	-----	2	-----	22
Formal compliance investigations initiated	15	28	-----	2	-----	45
Compliance reports received and filed	25	78	6	9	2	120
Laboratory tests performed	287	594	173	149	22	1,225

DIVISION OF REGULATION

This Division is charged with inspection and industry counseling covering the four separate acts administered by the Bureau of Textiles and Furs. The investigational personnel of this Division, through the direction of the Bureau of Field Operations, is also responsible for the investigation of numbered cases.

The Rules and Regulations under the Fur Act contain a Fur Products Name Guide, which sets out the true English name of the animal producing the fur. This name guide was provided for in the act and it was prepared by the Commission with the assistance and cooperation of the Department of Agriculture and the Department of the Interior.

The regulations under the Textile Act contain a list of 16 generic names for manmade fibers, many of which have individual trademarks, used by the fiber producer. The Division also maintains a public register of continuing guaranties filed with the Commission under the four acts. These guaranties protect subsequent sellers of wool, fur, and textile products when relied upon in good faith. The Division also issues registered identification numbers to companies which do not wish to reveal their identity or whose customers do not wish to reveal their sources of supply to competitors. The Division also prepares amendments to the regulations under the various acts which are submitted to the Commission.

In the administration of the inspections mentioned above, the Division plans and supervises nation-wide industry counseling and compliance inspection programs. Through industry counseling, the Division attempts to secure voluntary compliance with the laws from all branches of industry. Full-time textile and fur investigators conducting general compliance inspections point out violations to the responsible parties, and, where possible, effect immediate on-the-spot corrections of minor deficiencies. Some additional personnel has been added to our staff permitting an increase in industry counseling and

compliance inspection work, which is reflected in the chart shown below.

The Textile Act continues to be the most important casewise of those handled by this Division. A sampling technique is used, and during the fiscal year increased from slightly under 31 million textile products for labeling, invoicing, and advertising deficiencies to nearly 55 ½ million. Public acceptance and industry compliance with the Textile Act continues to be very good.

Division of Regulation Workload statistics—fiscal 1962

	Textile	Wool	Fur	Flammable fabrics
Number of inspections made	3,235	2,025	942	2,967
Products inspected (sampling method, except furs)	55,459,940	4,894,100	86,721	51,866,536
Deficiencies noted	1,801,941	147,609	12,466	-----
Registered numbers issued	1,641	337	189	-----
Continuing guaranties filed	470	918	540	1,002
Advertisements examined	250,714	3,147	25,057	-----
Assurances of discontinuance	-----	1,425	-----	-----
Incoming correspondence	-----	11,971	-----	-----
Outgoing correspondence	-----	14,954	-----	-----
Interpretations and opinions	26,572	13,916	9,396	1,584

BUREAU OF FIELD OPERATIONS

Under the reorganization effectuated July 1, 1961, the Bureau of Field Operations was created to take over the field investigative activities of the former Bureau of Investigation. The investigative work of the Commission falls into three major categories, namely, restraints of trade and monopolies; unfair and deceptive acts and practices; and misbranding of textiles and furs and the sale of flammable fabrics.

In the gathering of facts and evidence which provide the basis for the corrective, as well as other, actions of the Commission, the Bureau of Field Operations utilizes the services of staff attorneys assigned to ten field offices, and two suboffices. During the fiscal year, the Bureau of Field Operations completed investigations involving 1,329 matters, of which 530 were restraint of trade cases, including 5 compliance investigations referred to the Commission by the Antitrust Division, Department of Justice; 749 deceptive practice matters; and 50 textile and fur cases.

At the close of fiscal 1961, there were pending in the field offices 991 investigations. During the fiscal year 1962, an additional 1,177 matters were referred to the field offices for investigation, making a total caseload of 2,168 cases. There were pending as of June 30, 1962 in the field offices 839 matters, which reduces the backlog of cases by 152 as compared to the number pending at the end of fiscal 1961.

Area price wars in the milk, bread and gasoline industries were rather numerous during the year and required extensive investigations in numerous areas of the country by the investigative staff of the Commission. One of the outstanding developments during the year in the investigative techniques employed by the Commission was the use of public hearings for purposes of developing evidence as to the pricing practices of various members of the milk industry in connection with area price wars.

During the year pilot tests were successfully undertaken in using the attorneys in the field offices for the preparation of proposed complaints and orders and for negotiating consent settlements. These pilot tests resulted in the adoption by the Commission of rules of procedure under which the field office staff will be actively used in these capacities, as well as the conducting of hearings in the field in connection with litigated cases.

BUREAU OF ECONOMICS

The function of this Bureau is to give economic and statistical assistance to the Commission in its investigation and trial work, to make economic studies for publication in response to requests by the President, by Congress, or by the Commission, and to carry on a continuing program of quarterly financial statistics.

DIVISION OF ECONOMIC EVIDENCE

The Division of Economic Evidence has primary responsibility for providing economic assistance to the legal bureaus and divisions in connection with the investigation and trial of cases. In addition, the division is responsible for identifying, recording, and developing information regarding mergers and acquisitions. The division also reviews section 6 surveys initiated by the legal bureaus and assists with the processing of such surveys.

During fiscal 1962, economists in the division rendered economic assistance on 86 cases and investigations, 68 of which involved mergers. Twenty-five of these 68 cases and investigations were merger cases where complaint had been issued, while 43 were formal cases in various stages of investigation. The division also recorded and assembled the basic available data on 1,360 mergers during fiscal 1962. In addition to economic assistance on mergers, the division assisted on 4 investigations by the Compliance Division; 12 investigations involving false and deceptive practices; and 7 cases and investigations involving price discriminations or unfair methods of competition.

Further economic assistance on casework was provided to the legal divisions by some economists assigned to the Division of Economic Reports. This was necessary because the relatively small number of economists in the Division of Economic Evidence could not supply even the most urgent demands for assistance by the legal bureaus. During fiscal 1962 about 36.50 percent (\$51,375) of the expenditures of the Division of Economic Reports was devoted to assistance in economic evidence work. Because of the continuing heavy demand for assistance in economic evidence matters, seven persons and \$60,000 of the 1963 budget of the Division of Economic Reports were transferred to the Division of Economic Evidence.

DIVISION OF ECONOMIC REPORTS

The primary responsibility of this Division is to conduct economic studies at the request of the President, the Congress or the Commission, and to provide economic advice and assistance in the program planning and development of the Commission. The Commission has broad powers under section 6 of the FTC Act to require corporations to file with it essential information on their organization, conduct and trade practices, and their relations with other corporations engaged in commerce. Such information as is deemed expedient in the public interest shall be made public in the form of economic reports.

The Division of Economic Reports prepared recommendations, which have been presented to the Commission by the Bureau of Economics, for a series of economic reports involving some of the more concentrated sectors of American industry. The compilation of data secured under section 6 powers and its presentation in report form will absorb the energies of the small staff in this division during the next fiscal year.

In addition, the Division of Economic Reports has made other proposals to the Commission designed to improve the quantity and quality of the economic data currently available to the antitrust agencies on the country's largest corporations. Many of today's concepts on the structure, organization and practices of American industry stem from the notable contributions to knowledge resulting from the work of the Temporary National Economic Committee in the late thirties; however, significant transformations have occurred in many of our more important industries in the last 25 years, particularly in those areas where there has been rapid technologic advance. Clearly, if the Commission is to carry out the statutory responsibilities entrusted to it respecting the maintenance of competitive business conditions on our economy, its work must be grounded on an understanding of industry structure and practices as they exist today.

During fiscal 1962 research was completed on the Commission's Inquiry into Food Marketing, part II, Concentration and Integration in Frozen Fruits and Vegetables. This report will be published in the fall of 1962. The Division also completed processing data collected in connection with the Commission's inquiry into food marketing, part III, Concentration and Integration in Canned Fruits and Vegetables. Analysis of these data will be completed during the next fiscal year.

During fiscal 1962 about one-third of this Division's resources was devoted to economic assistance in casework.

DIVISION OF FINANCIAL STATISTICS

The Division of Financial Statistics has been responsible since 1947 for summarizing, for each calendar quarter, uniform, confidential financial statements collected from a probability sample of all enterprises classified as manufacturers, except newspapers, which are required to file U.S. Corporation Income Tax Form 1120. The quarterly summaries, entitled Quarterly Financial Report for Manufacturing Corporations, are for sale by subscription by the Superintendent of Documents.

The purpose of this sample survey is to produce, each calendar quarter, an income statement and balance sheet for all manufacturing corporations, classified by both industry and asset size. (Corporations account for more than 96 percent of total receipts from all manufacturing activity in the United States; more than one-fourth of the national income originates in corporate manufacturing; manufacturing corporations account for more than half of all corporate profits.)

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

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

The quarterly summaries are also used by 15,000 non-Government subscribers to measure efficiency and appraise costs by comparing a company's operating results with the average performance of companies of similar size or in the same line of business, to determine whether to undertake new ventures by comparing the profitability of various types of business activity, and as a guide to the relative movement of sales and profits in order to reduce controversies in wage negotiations.

APPROPRIATIONS AND FINANCIAL OBLIGATIONS

FUNDS AVAILABLE FOR THE FISCAL YEAR 1962

Funds available to the Commission for the fiscal year 1962 amounted to \$10,314,582. Public Law 87-141, 87th Congress, approved August 17, 1961, provided \$10,345,000 of which \$30,418 was transferred to the General Services Administration for additional space rental costs.

Obligations by activities, fiscal year 1962

1. Antimonopoly:	
Investigation and litigation	\$4,003,200
Economic and financial reports	669,400
Trade practice conferences industry guides, and small business	148,500
Compliance investigations for Attorney General	650,700
2. Deceptive practices:	
Investigation and litigation	2,528,600
Trade practice conferences, industry guides, and small business	297,000
Textile and fur enforcement	881,900
3. Executive direction and management	268,900
4. Administration	565,500
Total	10,013,700

Settlements made under Federal Tort Claims Act

During the fiscal year 1962 the Commission paid no claims nor were any claims pending.

APPENDIXES

Federal Trade Commissioners—1915-62

Name	State from which appointed	Period of service
Joseph E. Davies	Wisconsin	Mar. 16, 1915-Mar. 18, 1918.
Edward N. Hurley	Illinois	Mar. 16, 1915-Jan. 31, 1917.
William J. Harris	Georgia	Mar. 16, 1915-May 31, 1918.
Will H. Parry	Washington	Mar. 16, 1915-Apr. 21, 1917.
George Rublee	New Hampshire	Mar. 16, 1915-May 14, 1916.
William B. Colver	Minnesota	Mar. 16, 1917-Sept. 25, 1920.
John Franklin Fort	New Jersey	Mar. 16, 1917-Nov. 30, 1919.
Victor Murdock	Kansas	Sept. 4, 1917-Jan. 31, 1924.
Huston Thompson	Colorado	Jan. 17, 1919-Sept. 25, 1926.
Nelson B. Gaskill	New Jersey	Feb. 1, 1920-Feb. 24, 1925.
John Garland Pollard	Virginia	Mar. 6, 1920-Sept. 25, 1921
John F. Nugent	Idaho	Jan. 15, 1921-Sept. 25, 1927.
Vernon W. Van Fleet	Indiana	June 26, 1922-July 31, 1926.
Charles W. Hunt	Iowa	June 16, 1924-Sept. 25, 1932.
William E. Humphrey	Washington	Feb. 25, 1925-Oct. 7, 1933.
Abram F. Myers	Iowa	Aug. 2, 1926-Jan. 15, 1929.
Edgar A. McCulloch	Arkansas	Feb. 11, 1927-Jan. 23, 1933.
Garland S. Ferguson	North Carolina	Nov. 14, 1927-Nov. 15, 1949.
Charles H. March	Minnesota	Feb. 1, 1929-Aug. 28, 1945.
Ewin L. Davis	Tennessee	May 26, 1933-Oct. 23, 1949.
Raymond B. Stevens	New Hampshire	June 26, 1933-Sept. 25, 1933.
James M. Landis	Massachusetts	Oct. 10, 1933-June 30, 1934.
George C. Mathews	Wisconsin	Oct. 27, 1933-June 30, 1934.
William A. Ayres	Kansas	Aug. 23, 1934-Feb. 17, 1952.
Robert E. Freer	Ohio	Aug. 27, 1935-Dec. 31, 1948.
Lowell B. Mason	Illinois	Oct. 15, 1945-Oct. 31, 1956.
John Carson	Michigan	Sept. 28, 1949-March 31, 1953.
James M. Mead	New York	Nov. 16, 1949-Sept. 25, 1955.
Stephen J. Spingarn	New York	Oct. 25, 1950-Sept. 25, 1953.
Albert A. Carretta	Virginia	June 18, 1952-Sept. 25, 1954
Edward F. Howrey	Virginia	April 1, 1953-Sept. 12, 1955.
John W. Gwynne	Iowa	Sept. 26, 1953-May 31, 1959.
Robert T. Secrest	Ohio	Sept. 26, 1954-Sept. 25, 1961.
Sigurd Anderson	South Dakota	Sept. 12, 1955-.
William C. Kern	Indiana	Sept. 26, 1955-.
Edward T. Tait	Pennsylvania	Nov. 2, 1956-Oct. 31, 1960.
Earl W. Kintner	Indiana	June 9, 1959-Mar. 20, 1961.
Paul Rand Dixon	Tennessee	Mar. 21, 1961-.
Philip Elman	Maryland	April 21, 1961-.
Everette MacIntyre	North Carolina	Sept. 26, 1961-.

Statutes Pertaining to the Federal Trade Commission

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

1. Federal Trade Commission Act, approved September 26, 1914 (38 Stat. 717), and subsequently amended as indicated below.
2. Clayton Act, sections 2, 3, 7, 8 and 11, approved October 15, 1914 (38 Stat. 730, 731, 732), amended as indicated below.
3. Webb-Pomerene Export Trade Act, approved April 10, 1918 (40 Stat. 516).
4. Wheeler-Lea Act, approved March 21, 1938 (52 Stat. 111), amending the Federal Trade Commission Act.
5. Robinson-Patman Act, approved June 19, 1936, and amendment thereto approved May 26, 1938 (49 Stat. 1526; 52 Stat. 446), revising and extending section 2 of the Clayton Act.
6. Wool Products Labeling Act of 1939, approved October 14, 1940 (54 Stat. 1128).
7. Public Law 15, 79th Congress, approved March 9, 1945, "An Act to express the intent of the Congress with reference to the regulation of the business of Insurance" (59 Stat. 33).
8. Lanham Trade Mark Act, approved July 5, 1946 (60 Stat. 427).
9. Oleomargarine Act, approved March 16, 1950, amending Section 5 of the Federal Trade Commission Act respecting civil penalties, and section 15 respecting misleading advertisement of oleomargarine or margarine (64 Stat. 20).
10. Public Law 899, 81st Congress, approved December 29, 1950, the so-called antimerger legislation, amending and extending section 7 of the Clayton Act (64 Stat. 1125).
11. Fur Products Labeling Act, approved August 8, 1951 (65 Stat. 175).
12. Flammable Fabrics Act, approved June 30, 1953, and amendment thereto approved August 23, 1954 (67 Stat. 111; 68 Stat. 770).
13. Packers and Stockyards Act Public Law 85-909, 85th Congress, approved September 2, 1958 (72 Stat. 1749).
14. Textile Fiber Products Identification Act, approved September 2, 1958 (72 Stat. 1717).
15. Public Law 86-107, 86th Congress, approved July 23, 1959 (73 Stat. 1749).

Federal Trade Commission Act

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

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

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

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

¹ The act is published as also amended by Public No. 706, 75th Cong. (see footnote 7), and as further amended, as above noted, by Public No. 459, 81st Cong., ch. 61, 2d session, H.R. 2023 (An Act to regulate oleomargarine, etc.), approved Mar. 16, 1950, and effective July 1, 1950 (see footnotes 9, 12, and 13).

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

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

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

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

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

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

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

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

⁵See preceding footnote.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Theretofores, by subsection (f) of sec. 1107 of the "Civil Aeronautics Act of 1938," approved June 23, 1938, Public No. 706, 75th Cong., ch. 601, 3d sess., S. 3845, 52 Stat. 1028, the language of former sec. 5(a) was amended by inserting Immediately following the words "to regulate commerce," the words "air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938, 11 as above set out in sec. 5 (a) (6).

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

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

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

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

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

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

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

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

* * * * *

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

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

(c) Any person, partnership, or corporation required by an order of the Commission to cease and desist from using any method of competition or act or practice may obtain a review of such order in the circuit court of appeals of the United States, within any circuit where the method of competition or the act or practice in question was used or where such person, partnership, or corporation resides or carries on business, by filing in the court, within sixty days⁹ from the date of the service of such order, a written petition praying that the order of the Commission be set aside. A Copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission, and thereupon the Commission shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon such filing of the petition the court shall have jurisdiction of the proceeding and of the question determined therein concurrently with the Commission until the filing of the record and shall have power to make and enter a decree affirming, modifying, or setting aside the order of the Commission, and enforcing the same to the extent that such order is affirmed and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors *pendente lite*.¹⁰ The findings of the Commission as to the facts, if supported by evidence, shall be conclusive. To the extent that the order of the Commission is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the Commission. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) If the Supreme Court orders a rehearing; or if the case is remanded by the circuit court of appeals to the Commission for a rehearing, and if (1) the time allowed for filing a petition for certiorari has expired, and no such petition has been duly filed, or (2) the petition for certiorari has been

denied, or (3) the decision of the court has been affirmed by the Supreme Court, then the order of the Commission rendered upon such rehearing shall become final in the same manner as though no prior order of the Commission had been rendered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 15. For the purposes of sections 12, 13, and 14—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Original approved September 26, 1914.

Amended and approved March 21, 1938.¹⁷

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

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

¹⁷ See footnote. 1.

Packers and Stockyards Act

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

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

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

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

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

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

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

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

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

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

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

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

“(e) The Secretary of Agriculture and the Federal Trade Commission shall include in their respective annual reports information with respect to the administration of subsections (b) and (d) of this section.”
Sec. 2. Said Act is further amended—

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

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

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

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

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

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

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

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

Approved September 2, 1958.

Clayton Act

[Public—No. 212—63d Congress, As Amended by Public—No. 692—74th Congress,¹ and Public—No. 899—81st Congress and Public Law 86-107, 86th Congress]

[H.R. 15657]

An Act To supplement existing laws against unlawful restraints and monopolies, and for other purposes
Sec. 1. Definitions. (38 Stat. 730; 15 U.S.C.A., sec. 12.)

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

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

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

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

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

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

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

³ This section of the Clayton Act contains the provisions of the Robinson-Patman Anti-Discrimination Act, approved June 19, 1936, amending Section 2 of the original Clayton Act, approved Oct. 15, 1914.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 7.⁴ That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital and no corporation subject to the jurisdiction of the Federal Trade Commission shall acquire the whole or any part of the assets of another corporation engaged also in commerce, where in any line of commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

That from and after two years from the date of the approval of this Act no person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than \$1,000,000, engaged in whole or in part in commerce, other than banks, banking associations, trust companies, and common carriers subject to the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination, of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this Act it shall be lawful for him to continue as such for one year thereafter.

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 11 (a).⁶ That authority to enforce compliance with sections 2, 3, 7, and 8 of this Act by the persons respectively subject thereto is hereby vested in the Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act, as amended; in the Federal Communications Commission where applicable to common carriers engaged in wire or radio communication or radio transmission of energy; in the Civil Aeronautics Board where applicable to air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938; in the Federal Reserve Board where applicable to

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

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

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

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

⁷ Parts of paragraphs two, three, four and five of this section were amended by Public Law 85-79.1, 86th Cong., H.R. 6788, approved August 28, 1958, 72 Stat. 943.

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

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

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

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

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

(f) Complaints, orders, and other processes of the commission or board under this section may be served by anyone duly authorized by the commission or board, either (1) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (2) by leaving a copy thereof at the residence or the principal office or place of business of such person; or (3) by mailing by registered or certified mail a copy thereof addressed to such person at his or its residence or principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post office receipt for said complaint, order, or other process mailed by registered or certified mail as aforesaid shall be proof of the service of the same.

(g) Any order issued under subsection (b) shall become final—

(1) upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; but the commission or

board may thereafter modify or set aside its order to the extent provided in the last sentence of subsection (b); or

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

(3) upon the denial of a petition for certiorari, if the order of the commission or board has been affirmed or the petition for review has been dismissed by the court of appeals; or

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 14. That whenever a corporation shall violate any of the penal provisions of the antitrust laws, such violation shall be deemed to be also that of the individual directors, officers, or agents of such corporation who shall have authorized, ordered, or done any of the acts constituting in whole or in part such violation, and such violation shall be deemed a misdemeanor, and upon conviction therefor of any such director, officer, or agent he shall be punished by a fine of not exceeding \$5,000 or by imprisonment for not exceeding one year, or by both, in the discretion of the court.

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

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

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

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

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

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

Sec. 17.⁸ That no preliminary injunction shall be issued without notice to the opposite party.

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

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

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

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

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

⁸ See second paragraph of footnote 13.

⁹ See second paragraph of footnote 13.

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

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

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

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

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

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

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

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

¹⁰ Ibid.

¹¹ See footnote 18.

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

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

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

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

¹² Ibid.

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

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

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

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

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

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

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

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

Approved, October 15, 1914.*

¹³Sections 21 to 25, inclusive, were repealed by Act of June 25, 1948, c. 645 (62 Stat. 683), which revised, codified and enacted into "positive law," Title 18 of the Code (Crimes and Criminal Procedure). Said act reenacted said matter, excluding Section 23, as to substance, as 18 U.S.C., Section 402 (as amended by Public Law 72, May 21, 1949, 81st Congress), 18 U.S.C., Section 3285 and 18 U.S.C., Section 3691. Section 23 was omitted as no longer required in view of the civil and criminal rules promulgated by the Supreme Court.

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

¹⁴ See footnote 13.

¹⁵ See footnote 13.

*Original act.

Export Trade Act

[Public—No. 126—65th Congress]

[H.R. 2316]

An Act To promote export trade, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the words "export trade" wherever used in this Act means solely trade or commerce in goods, wares, or merchandise exported, or in the course of being exported from the United States or any Territory thereof to any foreign nation; but the words "export trade" shall not be deemed to include the production, manufacture, or selling for consumption or for resale, within the United States or any Territory thereof, of such goods, wares, or merchandise, or any act in the course of such production, manufacture, or selling for consumption or for resale.

That the words "trade within the United States" wherever used in this Act mean trade or commerce among the several States 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 or Territories and any State or States or the District of Columbia, or between the District of Columbia and any State or States.

That the word "association" wherever used in this Act means any corporation or combination, by contract or otherwise, of two or more persons, partnerships, or corporations.

Sec. 2. That nothing contained in the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies." approved July second, eighteen hundred and ninety, shall be construed as declaring to be illegal an association entered into for the sole purpose of engaging in export trade and actually engaged solely in such export trade, or an agreement made or act done in the course of export trade by such association, provided such association, agreement, or act is not in restraint of trade within the United States, and is not in restraint of the export trade of any domestic competitor of such association: and provided further, That such association does not, either in the United States or elsewhere, enter into any agreement, understanding, or conspiracy, or do any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein.

Sec. 3. That nothing contained in section seven of the Act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October fifteenth, nineteen hundred and fourteen, shall be construed to forbid the acquisition or ownership by any corporation of the whole or any part of the stock or other capital of any corporation organized solely for the purpose of engaging in export trade, and actually engaged solely in such export trade, unless the effect of such acquisition or ownership may be to restrain trade or substantially lessen competition within the United States.

Sec. 4. That the prohibition against "unfair methods of competition" and the remedies provided for enforcing said prohibition contained in the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September twenty-sixth, nineteen hundred and fourteen, shall be construed as extending to unfair methods of competition used in export trade against competitors engaged in export trade, even though

the acts constituting such unfair methods are done without the territorial jurisdiction of the United States.

Sec. 5. That every association now engaged solely in export trade, within sixty days after the passage of this Act, and every association entered into hereafter which engages solely in export trade, within thirty days after its creation, shall file with the Federal Trade Commission a verified written statement setting forth the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members, and if a corporation, a copy of its certificate or articles of incorporation, and by-laws, and if unincorporated, a copy of its articles or contract of association, and on the first day of January of each year thereafter it shall make a like statement of the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members and of all amendments to and changes in its articles or certificate of incorporation or in its articles or contract of association. It shall also furnish to the commission such information as the commission may require as to its organization, business, conduct, practices, management, and relation to other associations, corporations, partnerships, and individuals. Any association which shall fail so to do shall not have the benefit of the provisions of section two and section three of this Act, and it shall also 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 association 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 the forfeiture. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Whenever the Federal Trade Commission shall have reason to believe that an association or any agreement made or act done by such association is in restraint of trade within the United States or in restraint of the export trade of any domestic competitor of such association, or that an association either in the United States or elsewhere has entered into any agreement, understanding, or conspiracy, or done any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein, it shall summon such association, its offices, and agents to appear before it, and thereafter conduct an investigation into the alleged violations of law. Upon investigation, if it shall conclude that the law has been violated, it may make to such association recommendations for the readjustment of its business, in order that it may thereafter maintain its organization and management and conduct its business in accordance with law. If such association falls to comply with the recommendations of the Federal Trade Commission, said commission shall refer its findings and recommendations to the Attorney General of the United States for such action thereon as he may deem proper.

For the purpose of enforcing these provisions the Federal Trade Commission shall have all the powers, so far as applicable, given it in "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

Approved, April 10, 1918.

Wool Products Labeling Act of 1939

[Public—No. 850—76th Congress—3d Session]

[S. 162]

[54 Stat. 1128; 15 U.S.C.A., § 68]

An Act to protect producers, manufacturers, distributors, and consumers from the unrevealed presence of substitutes and mixtures in spun, woven, knitted, felted, or otherwise manufactured wool products, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wool Products Labeling Act of 1939."

DEFINITIONS

Sec. 2. As used in this Act—

(a) The term "person" means an individual, partnership, corporation, association, or any other form of business enterprise, plural or singular, as the case demands.

(b) The term "wool" means the fiber from the fleece of the sheep or lamb or hair of the Angora or Cashmere goat (and may include the so-called specialty fibers from the hair of the camel, alpaca, llama, and vicuna) which has never been reclaimed from any woven or felted wool product.

(c) The term "reprocessed wool" means the resulting fiber when wool has been woven or felted into a wool product which, without ever having been utilized in any way by the ultimate consumer, subsequently has been made into a fibrous state.

(d) The term "reused wool" means the resulting fiber when wool or reprocessed wool has been spun, woven, knitted, or felted into a wool product which, after having been used in any way by the ultimate consumer, subsequently has been made into a fibrous state.

(e) The term "wool product" means any product, or any portion of a product, which contains, purports to contain, or in any way is represented as containing wool, reprocessed wool, or reused wool.

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

(g) The term "Federal Trade Commission Act" means the Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, as amended, and the Federal Trade Commission Act approved March 21, 1938.

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

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

MISBRANDING DECLARED UNLAWFUL

Sec. 3. The introduction, or manufacture for introduction, into commerce, or the sale, transportation, or distribution, in commerce, of any wool product which is misbranded within the meaning of this Act or the rules and regulations hereunder, is unlawful and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act; and any person who shall manufacture or deliver for shipment or ship or

sell or offer for sale in commerce, any such wool product which is misbranded within the meaning of this Act and the rules and regulations hereunder is guilty of an unfair method of competition, and an unfair and deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

This section shall not apply—

(a) To any common carrier or contract carrier in respect to a wool product shipped or delivered for shipment in commerce in the ordinary course of its business; or

(b) To any person manufacturing, delivering for shipment, shipping, selling, or offering for sale, for exportation from the United States to any foreign country a wool product branded in accordance with the specifications of the purchaser and in accordance with the laws of such country.

MISBRANDED WOOL PRODUCTS

Sec. 4 (a) A wool product shall be misbranded—

(1) If it is falsely or deceptively stamped, tagged, labeled, or otherwise identified.

(2) If a stamp, tag, label, or other means of identification, or substitute therefor under section 5, is not on or affixed to the wool product and does not show—

(A) the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight, of (1) wool; (2) reprocessed wool; (3) reused wool; (4) each fiber other than wool if said percentage by weight of such fiber is 5 per centum or more; and (5) the aggregate of all other fibers: Provided, That deviation of the fiber contents of the wool product from percentages stated on the stamp, tag, label, or other means of identification, shall not be misbranding under this section if the person charged with misbranding proves such deviation resulted from unavoidable variations in manufacture and despite the exercise of due care to make accurate the statements on such stamp, tag, label, or other means of identification.

(B) the maximum percentage of the total weight of the wool product, of any nonfibrous loading, filling, or adulterating matter.

(C) the name of the manufacturer of the wool product and/or the name of one or more persons subject to section 3 with respect to such wool product.

(3) In the case of a wool product containing a fiber other than wool, if the percentages by weight of the wool contents thereof are not shown in words and figures plainly legible.

(4) In the case of a wool product represented as wool, if the percentages by weight of the wool content thereof are not shown in words and figures plainly legible, or if the total fiber weight of such wool product is not 100 per centum wool exclusive of ornamentation not exceeding 5 per centum of such total fiber weight.

(b) In addition to information required in this section, the stamp, tag, label, or other means of identification, or substitute therefor under section 5, may contain other information not violating the provisions of this Act or the rules and regulations of the Commission.

(c) If any person subject to section 3 with respect to a wool product finds or has reasonable cause to believe its stamp, tag, label, or other means of identification, or substitute therefor under section 5, does not contain the information required by this Act, he may replace same with a substitute containing the information so required.

(d) This section shall not be construed as requiring designation on garments or articles of apparel of fiber content of any linings, paddings, stiffening, trim-

mings, or facings, except those concerning which express or implied representations of fiber content are customarily made, nor as requiring designation of fiber content of products which have an insignificant or inconsequential textile content: Provided, That if any such article or product purports to contain or in any manner is represented as containing wool, this section shall be applicable thereto and the information required shall be separately set forth and segregated.

The Commission, after giving due notice and opportunity to be heard to interested persons, may determine and publicly announce the classes of such articles concerning which express or implied representations of fiber content are customarily made, and those products which have an insignificant or inconsequential textile content.

AFFIXING OF STAMP, TAG, LABEL, OR OTHER IDENTIFICATION

Sec. 5. Any person manufacturing for introduction, or first introducing into commerce a wool product shall affix thereto the stamp, tag, label, or other means of identification required by this Act, and the same, or substitutes therefor containing identical information with respect to content of the wool product or any other products contained therein in an amount of 5 per centum or more by weight and other information required under section 4, shall be and remain affixed to such wool product, whether it remains in its original state or is contained in garments or other articles made in whole or in part therefrom, until sold to the consumer: Provided, That the name of the manufacturer of the wool product need not appear on the substitute stamp, tag, or label if the name of the person who affixes the substitute appears thereon.

Any person who shall cause or participate in the removal or mutilation of any stamp, tag, label, or other means of identification affixed to a wool product with intent to violate the provisions of this Act, is guilty of an unfair method of competition, and an unfair and deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

ENFORCEMENT OF THE ACT

Sec. 6. (a) Except as otherwise specifically provided herein, this Act shall be enforced by the Federal Trade Commission under rules, regulations, and procedure provided for in the Federal Trade Commission Act.

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

The Commission is authorized and directed to make rules and regulations for the manner and form of disclosing information required by this Act, and for segregation of such information for different portions of a wool product as may be necessary to avoid deception or confusion, and to make such further rules and regulations under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement.

The Commission is also authorized to cause inspections, analyses, tests, and examinations to be made of any wool products subject to this Act; and to cooperate with any department or agency of the Government, with any State,

Territory, or possession, or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

(b) Every manufacturer of wool products shall maintain proper records showing the fiber content as required by this Act of all wool products made by him, and shall preserve such records for at least three years.

The neglect or refusal to maintain and so preserve such records is unlawful, and any such manufacturer who neglects or refuses to maintain and so preserve such records shall forfeit to the United States the sum of \$100 for each day of such failure, which shall accrue to the United States and be recoverable in a civil action.

CONDEMNATION AND INJUNCTION PROCEEDINGS

Sec. 7. (a) Any wool products shall be liable to be proceeded against in the district court of the United States for the district in which found, and to be seized for confiscation by process of libel for condemnation, if the Commission has reasonable cause to believe such wool products are being manufactured or held for shipment, or shipped, or held for sale or exchange after shipment, in commerce in violation of the provisions of this Act, and if after notice from the Commission the provisions of this Act with respect to said products are not shown to be complied with. Proceedings in such libel cases shall conform as nearly as may be to suits in rem in admiralty, and may be brought by the Commission.

If such wool products are condemned by the court, they shall be disposed of, in the discretion of the court, by destruction; by sale; by delivery to the owner or claimant thereof upon payment of legal costs and charges and upon execution of good and sufficient bond to the effect that such wool products will not be disposed of until properly stamped, tagged, labeled, or otherwise identified under the provisions of this Act; or by such charitable disposition as the court may deem proper. If such wool products are disposed of by sale, the proceeds, less legal costs and charges, shall be paid into the Treasury of the United States.

(b) Whenever the Commission has reason to believe that—

(1) Any person is violating, or is about to violate, sections 3, 5 8, or 9 of this Act, and that

(2) It would be to the public interest to enjoin such violation until complaint is issued by the Commission under the Federal Trade Commission Act and such complaint dismissed by the Commission or set aside by the court on review, or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act,

the Commission may bring suit in the district court of the United States or in the United States court of any Territory, for the district or Territory in which such person resides or transacts business, to enjoin such violation, and upon proper showing a temporary injunction or restraining order shall be granted without bond.

EXCLUSION OF MISBRANDED WOOL PRODUCTS

Sec. 8. All wool products imported into the United States, except those made more than twenty years prior to such importation, shall be stamped, tagged, labeled, or otherwise identified, in accordance with the provisions of this Act, and all invoices of such wool products required under the Act of June 17, 1930 (c. 497, title IV, 46 Stat. 719), shall set forth, in addition to the matter therein specified, the information with respect to said wool products required under the provisions of this Act, which information shall be in the invoices prior to their certification under said Act of June 17, 1930.

The falsification of, or failure to set forth, said information in said invoices, or the falsification or perjury of the consignee's declaration provided for in said Act of June 17, 1930, insofar as it relates to said information, shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act; and any person who falsifies, or fails to set forth, said information in said invoices, or who falsifies or perjures said consignee's declaration insofar as it relates to said information, may thenceforth be prohibited by the Commission from importing, or participating in the importation of, any wool products into the United States except upon filing bond with the Secretary of the Treasury in a sum double the value of said wool products and any duty thereon, conditioned upon compliance with the provisions of this Act.

A verified statement from the manufacturer or producer of such wool products showing their fiber content as required under the provisions of this Act may be required under regulations prescribed by the Secretary of the Treasury.

GUARANTY

Sec. 9. (a) No person shall be guilty under section 3 if he establishes a guaranty received in good faith signed by and containing the name and address of the person residing in the United States by whom the wool product guaranteed was manufactured and/or from whom it was received, that said wool product is not misbranded under the provisions of this Act.

Said guaranty shall be either (1) a separate guaranty specifically designating the wool product guaranteed, in which case it may be on the invoice or other paper relating to said wool product; or (2) a continuing guaranty filed with the Commission applicable to all wool products handled by a guarantor in such form as the Commission by rules and regulations may prescribe.

(b) Any person who furnishes a false guaranty, except a person relying upon a guaranty to the same effect received in good faith signed by and containing the name and address of the person residing in the United States by whom the wool product guaranteed was manufactured and/or from whom it was received, with reason to believe the wool product falsely guaranteed may be introduced, sold, transported, or distributed in commerce, is guilty of an unfair method of competition, and an unfair and deceptive act or practice, in commerce within the meaning of the Federal Trade Commission Act.

CRIMINAL PENALTY

Sec. 10. Any person who willfully violates sections 3, 5, 8, or 9 (b) of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$5,000, or be imprisoned not more than one year, or both, in the discretion of the court: Provided, That nothing herein shall limit other provisions of this Act.

Whenever the Commission has reason to believe any person is guilty of a misdemeanor under this section, it shall certify all pertinent facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of this section against such person.

APPLICATION OF EXISTING LAWS

Sec. 11. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other Act of the United States.

EFFECTIVE DATE

Sec. 12. This Act shall take effect nine months after the date of its passage.

SEPARABILITY CLAUSE

Sec. 13. 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.

EXCEPTIONS

Sec. 14. None of the provisions of this Act shall be construed to apply to the manufacture, delivery for shipment, shipment, sale, or offering for sale any carpets, rugs, mats, or upholsteries, nor to any person manufacturing, delivering for shipment, shipping, selling, or offering for sale any carpets, rugs, mats, or upholsteries.

Approved, October 14, 1940.

Insurance Act

[Public Law 15, 79th Congress,¹ Chapter 20, 1st Session]
[S. 340]

An Act To express the Intent of the Congress with reference to the regulation of the business of insurance

Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby declares that the continued regulation and taxation by the several States of the business of insurance is in the public interest, and that silence on the part of the Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the several States.

Sec. 2. (a) The business of insurance, and every person engaged therein, shall be subject to the laws of the several States which relate to the regulation or taxation of such business.

(b) No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of Insurance: Provided, That after June 30, 1948, the Act of July 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, shall be applicable to the business of insurance to the extent that such business is not regulated by State law.

Sec. 3. (a) Until June 30, 1948, the Act of July 2, 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, and the Act of June 19, 1936, known as the Robinson-Patman Antidiscrimination Act, shall not apply to the business of insurance or to acts in the conduct thereof.

(b) Nothing contained in this Act shall render the said Sherman Act inapplicable to any agreement to boycott, coerce, or intimidate, or act of boycott, coercion, or intimidation.

Sec. 4. Nothing contained in this Act shall be construed to affect in any manner the application to the business of insurance of the Act of July 5, 1935, as amended, known as the National Labor Relations Act, or the Act of June 25, 1938, as

¹ As amended by Public Law 238, 80th Cong., 1st Sess., July 25, 1947.

amended, known as the Fair Labor Standards Act of 1938, or the Act of June 5, 1920, known as the Merchant Marine Act, 1920.

Sec. 5. As used in this Act, the term "State" includes the several States, Alaska, Hawaii, Puerto Rico, and the District of Columbia.

Sec. 6. If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected.

Approved March 9, 1945.

Lanham Trade-Mark Act

[Public Law 489, 79th Congress, Chapter 540, 2d Session]

[H.R. 1654]

An Act To provide for the registration and protection of trade-mark used in commerce, to carry out the provisions of certain international conventions, and for other purposes

CANCELLATION

Sec. 14. Any person who believes that he is or will be damaged by the registration of a mark on the principal register established by this Act, or under the Act of March 3, 1881, or the Act of February 20, 1905, may upon the payment of the prescribed fee, apply to cancel said registration—

(a) within five years from the date of the registration of the mark under this Act; or

(b) within five years from the date of the publication under section 12 (c) hereof of a mark registered under the Act of March 3, 1881, or the Act of February 20, 1905; or

(c) at any time if the registered mark becomes the common descriptive name of an article or substance on which the patent has expired, or has been abandoned or its registration was obtained fraudulently or contrary to the provisions of section 4 or of subsections (a), (b), or (c) of section 2 of this Act for a registration hereunder, or contrary to similar prohibitory provisions of said prior Acts for a registration thereunder, or if the registered mark has been assigned and is being used by, or with the permission of, the assignee so as to misrepresent the source of the goods or services in connection with which the mark is used, or if the mark was registered under the Act of March 3, 1881, or the Act of February 20, 1905, and has not been published under the provisions of subsection (e) of section 12 of this Act; or

(d) at any time in the case of a certification mark on the ground that the registrant (1) does not control, or is not able legitimately to exercise control over, the use of such mark, or (2) engages in the production or marketing of any goods or services to which the mark is applied, or (3) permits the use of such mark for other purposes than as a certification mark, or (4) discriminately refuses to certify, or to continue to certify the goods or services of any person who maintains the standards or conditions which such mark certifies.

Provided, That the Federal Trade Commission may apply to cancel on the grounds specified in subsections (e) and (d) of this section any mark registered on the principal register established by this Act, and the prescribed fee shall not be required.

Approved July 5, 1946.

Fur Products Labeling Act

[Public Law 110, 82d Congress, Chapter 298, 1st Session]

[H.R. 2321]

[65 Stat. 179; 15 U.S.C.A. § 69]

An Act To protect consumers and others against misbranding, false advertising, and false invoicing of fur products and furs

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

Sec. 2. As used in this Act—

(a) The term "Person" means an individual, partnership, corporation, association, business trust, or any organized group of any of the foregoing.

(b) The term "fur" means any animal skin or part thereof with hair, fleece, or fur fibers attached thereto, either in its raw or processed state, but shall not include such skins as are to be converted into leather or which in processing shall have the hair, fleece, or fur fiber completely removed.

(c) The term "used fur" means fur in any form which has been worn or used by an ultimate consumer.

(d) The term "fur product" means any article of wearing apparel made in whole or in part of fur or used fur; except that such term shall not include such articles as the Commission shall exempt by reason of the relatively small quantity or value of the fur or used fur contained therein.

(e) The term "waste fur" means the ears, throats, or scrap pieces which have been severed from the animal pelt, and shall include mats or plates made therefrom.

(f) The term "invoice" means a written account, memorandum, list, or catalog, which is issued in connection with any commercial dealing in fur products or furs, and describes the particulars of any fur products or furs, transported or delivered to a purchaser, consignee, factor, bailee, correspondent, or agent, or any other person who is engaged in dealing commercially in fur products or furs.

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

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

(i) The term "Fur Products Name Guide" means the register issued by the Commission pursuant to section 7 of this Act.

(j) The term "commerce" means commerce between any State, Territory, or possession of the United States, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession or the District of Columbia.

(k) The term "United States" means the several States, the District of Columbia, and the Territories and possessions of the United States.

MISBRANDING, FALSE ADVERTISING, AND INVOICING DECLARED UNLAWFUL

Sec. 3. (a) The introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product which is misbranded or falsely or deceptively advertised or invoiced, within the meaning of this Act

or the rules and regulations prescribed under section 8 (b), is unlawful and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act.

(b) The manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, and which is misbranded or falsely or deceptively advertised or invoiced, within the meaning of this Act or the rules and regulations prescribed under section 8(b), is unlawful and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act.

(c) The introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur which is falsely or deceptively advertised or falsely or deceptively invoiced, within the meaning of this Act or the rules and regulations prescribed under section 8(b), is unlawful and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act.

(d) Except as provided in subsection (c) of this section, it shall be unlawful to remove or mutilate, or cause or participate in the removal or mutilation of, prior to the time any fur product is sold and delivered to the ultimate consumer, any label required by this Act to be affixed to such fur product, and any person violating this subsection is guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce under the Federal Trade Commission Act.

(e) Any person introducing, selling, advertising, or offering for sale, in commerce, or processing for commerce, a fur product, or any person selling, advertising, offering for sale or processing a fur product which has been shipped and received in commerce, may substitute for the label affixed to such product pursuant to section 4 of this Act, a label conforming to the requirements of such section, and such label may show in lieu of the name or other identification shown pursuant to section 4 (2) (E) on the label so removed, the name or other identification of the person making the substitution. Any person substituting a label shall keep such records as will show the information set forth on the label that he removed and the name or names of the person or persons from whom such fur product was received, and shall preserve such records for at least three years. Neglect or refusal to maintain and preserve such records is unlawful, and any person who shall fail to maintain and preserve such records shall forfeit to the United States the sum of \$100 for each day of such a failure which shall accrue to the United States and be recoverable by a civil action. Any person substituting a label who shall fail to keep and preserve such records, or who shall by such substitution misbrand a fur product, shall be guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce under the Federal Trade Commission Act.

(f) Subsections (a), (b), and (c) of this section shall not apply to any common carrier, contract carrier or freight forwarder in respect of a fur product or fur shipped, transported, or delivered for shipment in commerce in the ordinary course of business.

MISBRANDED FUR PRODUCTS

Sec. 4. For the purposes of this Act, a fur product shall be considered to be misbranded—

(1) if it is falsely or deceptively labeled or otherwise falsely or deceptively identified, or if the label contains any form of misrepresentation or deception, directly or by implication, with respect to such fur product;

- (2) if there is not affixed to the fur product a label showing in words and figures plainly legible—
- (A) the name or names (as set forth in the Fur Products Name Guide) of the animal or animals that produced the fur, and such qualifying statement as may be required pursuant to section 7(c) of this Act;
 - (B) that the fur product contains or is composed of used fur, when such is the fact;
 - (C) that the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;
 - (D) that the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;
 - (E) the name, or other identification issued and registered by the Commission, of one or more of the persons who manufacture such fur product for introduction into commerce, introduce it into commerce, sell it in commerce, advertise or offer it for sale in commerce, or transport or distribute it in commerce;
 - (F) the name of the country of origin of any imported furs used in the fur product;
- (3) if the label required by paragraph (2) (A) of this section sets forth the name or names of any animal or animals other than the name or names provided for in such paragraph.

FALSE ADVERTISING AND INVOICING OF FUR PRODUCTS AND FURS

Sec. 5. (a) For the purposes of this Act, a fur product or fur shall be considered to be falsely or deceptively advertised if any advertisement, representation, public announcement, or notice which is intended to aid, promote, or assist directly or indirectly in the sale or offering for sale of such fur product or fur—

(1) does not show the name or names (as set forth in the Fur Products Name Guide) of the animal or animals that produced the fur, and such qualifying statement as may be required pursuant to section 7(c) of this Act;

(2) does not show that the fur is used fur or that the fur product contains used fur, when such is the fact;

(3) does not show that the fur product or fur is bleached, dyed, or otherwise artificially colored fur when such is the fact;

(4) does not show that the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(5) contains the name or names of any animal or animals other than the name or names specified in paragraph (1) of this subsection, or contains any form of misrepresentation or deception, directly or by implication, with respect to such fur product or fur;

(6) does not show the name of the country of origin of any imported furs or those contained in a fur product.

(b) For the purposes of this Act, a fur product or fur shall be considered to be falsely or deceptively invoiced—

(1) if such fur product or fur is not invoiced to show—

(A) the name or names (as set forth in the Fur Products Name Guide) of the animal or animals that produced the fur, and such qualifying statements as may be required pursuant to section 7 (c) of this Act;

(B) that the fur product contains or is composed of used fur, when such is the fact;

(C) that the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

- (D) that the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;
- (E) the name and addresses of the person issuing such invoice;
- (F) the name of the country of origin of any imported furs or those contained in a fur product;
- (2) if such invoice contains the name or names of any animal or animals other than the name or names specified in paragraph (1) (A) of this subsection, or contains any form of misrepresentation or deception, directly or by implication, with respect to such fur product or fur.

EXCLUSION OF MISBRANDED OR FALSELY INVOICED FUR PRODUCTS OR FURS

Sec. 6. (a) Fur products imported into the United States shall be labeled so as not to be misbranded within the meaning of section 4 of this Act; and all invoices of fur products and furs required under title IV of the Tariff Act of 1930, as amended, shall set forth, in addition to the matters therein specified, information conforming with the requirements of section 5 (b) of this Act, which information shall be included in the invoices prior to their certification under the Tariff Act of 1930, as amended.

(b) The falsification of, or failure to set forth, said information in said invoices, or the falsification or perjury of the consignee's declaration provided for in the Tariff Act of 1930, as amended, insofar as it relates to said information, shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act; and any person who falsifies, or fails to set forth, said information in said invoices, or who falsifies or perjures said consignee's declaration insofar as it relates to said information, may thenceforth be prohibited by the Commission from importing, or participating in the importation of, any fur products or furs into the United States except upon filing bond with the Secretary of the Treasury in a sum double the value of said fur products and furs, and any duty thereon, conditioned upon compliance with the provisions of this section.

(c) A verified statement from the manufacturer, producer of, or dealer in, imported fur products and furs showing information required under the provisions of this Act may be required under regulations prescribed by the Secretary of the Treasury.

NAME GUIDE FOR FUR PRODUCTS

Sec 7. (a) The Commission shall, with the assistance and cooperation of the Department of Agriculture and the Department of the Interior, within six months after the date of the enactment of this Act, issue, after holding public hearings, a register setting forth the names of hair, fleece, and fur-bearing animals, which shall be known as the Fur Products Name Guide. The names used shall be the true English names for the animals in question, or in the absence of a true English name for an animal, the name by which such animal can be properly identified in the United States.

(b) The Commission may, from time to time, with the assistance and cooperation of the Department of Agriculture and Department of the Interior, after holding public hearings, add to or delete from such register the name of any hair, fleece, or fur-bearing animal.

(c) If the name of an animal (as set forth in the Fur Products Name Guide) connotes a geographical origin or significance other than the true country or place of origin of such animal, the Commission may require whenever such name is used in setting forth the information required by this Act, such qualifying statement as it may deem necessary to prevent confusion or deception.

ENFORCEMENT OF THE ACT

Sec. 8. (a) (1) Except as otherwise specifically provided in this Act, sections 3, 6, and 10 (b) of this Act shall be enforced by the Federal Trade Commission under rules, regulations, and procedure provided for in the Federal Trade Commission Act.

(2) The Commission is authorized and directed to prevent any person from violating the provisions of sections 3, 6, and 10(b) of this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act; and any such person violating any provision of section 3, 6, or 10(b) of this Act shall be subject to the penalties and entitled to the privileges and immunities provided in said Federal Trade Commission Act as though the applicable terms and provisions of the said Federal Trade Commission Act were incorporated into and made a part of this Act.

(b) The Commission is authorized and directed to prescribe rules and regulations governing the manner and form of disclosing information required by this Act, and such further rules and regulations as may be necessary and proper for purposes of administration and enforcement of this Act.

(c) The Commission is authorized (1) to cause inspections, analyses, tests, examinations to be made of any fur product or fur subject to this Act; and (2) to cooperate, on matters related to the purposes of this Act, with any department or agency of the Government; with any State, Territory, or possession, or with the District of Columbia; or with any department, agency, or political subdivision thereof; or with any person.

(d) (1) Every manufacturer or dealer in fur products or furs shall maintain proper records showing the information required by this Act with respect to all fur products or furs handled by him, and shall preserve such records for at least three years.

(2) The neglect or refusal to maintain and preserve such records is unlawful, and any such manufacturer or dealer who neglects or refuses to maintain and preserve such records shall forfeit to the United States the sum of \$100 for each day of such failure which shall accrue to the United States and be recoverable by a civil action.

CONDEMNATION AND INJUNCTION PROCEEDINGS

Sec. 9. (a) (1) Any fur product or fur shall be liable to be proceeded against in the district court of the United States for the district in which found, and to be seized for confiscation by process of libel for condemnation, if the Commission has reasonable cause to believe such fur product or fur is being manufactured or held for shipment, or shipped, or held for sale or exchange after shipment, in commerce, in violation of the provisions of this Act, and if after notice from the Commission the provisions of this Act with respect to such fur product or fur are not shown to be complied with. Proceedings in such Libel cases shall conform as nearly as may be to suits in rem in admiralty, and may be brought by the Commission.

(2) If such fur products or furs are condemned by the court, they shall be disposed of, in the discretion of the court, by destruction, by sale, by delivery to the owner or claimant thereof upon payment of legal costs and charges and upon execution of good and sufficient bond to the effect that such fur or fur products will not be disposed of until properly marked, advertised, and invoiced as required under the provisions of this Act; or by such charitable disposition as the court may deem proper. If such furs or fur products are disposed of by sale, the proceeds, less legal costs and charges, shall be paid into the Treasury of the United States as miscellaneous receipts.

(b) Whenever the Commission has reason to believe that—

(1) any person is violating, or is about to violate, section 3, 6, or 10 (b), of this Act; and

(2) it would be to the public interest to enjoin such violation until complaint is issued by the Commission under the Federal Trade Commission Act and such complaint dismissed by the Commission or set aside by the court on review, or until order to cease and desist made thereon by the Commission has become final within the meaning of the Federal Trade Commission Act.

the Commission may bring suit in the district court of the United States or in the United States court of any Territory, for the district or Territory in which such person resides or transacts business, to enjoin such violation, and upon proper showing a temporary injunction or restraining order shall be granted without bond.

GUARANTY

Sec. 10. (a) No person shall be guilty under section 3 if he establishes a guaranty received in good faith signed by and containing the name and address of the person residing in the United States by whom the fur product or fur guaranteed was manufactured or from whom it was received, that said fur product is not misbranded or that said fur product or fur is not falsely advertised or invoiced under the provisions of this Act. Such guaranty shall be either (1) a separate guaranty specifically designating the fur product or fur guaranteed, in which case it may be on the invoice or other paper relating to such fur product or fur; or (2) a continuing guaranty filed with the Commission applicable to any fur product or fur handled by a guarantor, in such form as the Commission by rules and regulations may prescribe.

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

CRIMINAL PENALTY

Sec. 11. (a) Any person who wilfully violates section 3, 6, or 10 (b) of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$5,000, or be imprisoned not more than one year, or both, in the discretion of the court.

(b) Whenever the Commission has reason to believe any person is guilty of a misdemeanor under this section, it shall certify all pertinent facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of this section against such person.

APPLICATION OF EXISTING LAWS

Sec. 12. the provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other Act of Congress.

SEPARABILITY OF PROVISIONS

Sec. 13. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

Sec. 14. This Act, except section 7, shall take effect one year after the date of its enactment.

Approved August 8, 1951.

Flammable Fabrics Act

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

[Public—No. 88—83D CONGRESS, CH. 164—1ST Sess.]

[H.R. 5069]

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

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

SHORT TITLE

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

DEFINITIONS

Sec. 2. As used in this Act—

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

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

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

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

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

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

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

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

PROHIBITED TRANSACTIONS

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

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

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

STANDARD OF FLAMMABILITY

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

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

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

ADMINISTRATION AND ENFORCEMENT

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

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

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

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

(d) The Commission is authorized to—

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

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

INJUNCTION AND CONDEMNATION PROCEEDINGS

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

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

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

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

PENALTIES

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

GUARANTY

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

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

SHIPMENTS FROM FOREIGN COUNTRIES

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

INTERPRETATION AND SEPARABILITY

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

EXCLUSIONS

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

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

EFFECTIVE DATE

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

AUTHORIZATION OF NECESSARY APPROPRIATIONS

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

Approved June 30, 1953.

Textile Fiber Products Identification Act

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

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

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

DEFINITIONS

Sec. 2. As used in this Act—

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

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

(c) The term "natural fiber" means any fiber that exists as such in the natural state.

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

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

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

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

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

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

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

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

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

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

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

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

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

MISBRANDING AND FALSE ADVERTISING DECLARED UNLAWFUL

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

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

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

(d) This section shall not apply—

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

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

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

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

distributor, or seller of the textile fiber product to which the false or deceptive advertisement relates, if such publisher or other advertising agency or medium furnishes to the Commission, upon request, the name and post office address of the manufacturer, distributor, seller, or other person residing in the United States, who caused the dissemination of the advertising material; or

(5) to any textile fiber product until such product has been produced by the manufacturer or processor in the form intended for sale or delivery to, or for use by, the ultimate consumer: Provided, That this exemption shall apply only if such textile fiber product is covered by an invoice or other paper relating to the marketing or handling of the textile fiber product and such invoice or paper correctly discloses the information with respect to the textile fiber product which would otherwise be required under section 4 of this Act to be on the stamp, tag, label, or other identification and the name and address of the person issuing the invoice or paper.

MISBRANDING AND FALSE ADVERTISING OF TEXTILE FIBER PRODUCTS

Sec. 4. (a) Except as otherwise provided in this Act, a textile fiber product shall be misbranded if it is falsely or deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

(b) Except as otherwise provided in this Act, a textile fiber product shall be misbranded if a stamp, tag, label, or other means of identification, or substitute therefor authorized by section 5, is not on or affixed to the product showing in words and figures plainly legible, the following:

(1) The constituent fiber or combination of fibers in the textile fiber product, designating with equal prominence each natural or manufactured fiber in the textile fiber product by its generic name in the order of predominance by the weight thereof if the weight of such fiber is 5 per centum or more of the total fiber weight of the product, but nothing in this section shall be construed as prohibiting the use of a nondeceptive trademark in conjunction with a designated generic name: Provided, That exclusive of permissible ornamentation, any fiber or group of fibers present in an amount of 5 per centum or less by weight of the total fiber content shall not be designated by the generic name or the trademark of such fiber or fibers, but shall be designated only as "other fiber" or "other fibers" as the case may be.

(2) The percentage of each fiber present, by weight, in the total fiber content of the textile fiber product, exclusive of ornamentation not exceeding 5 per centum by weight of the total fiber content: Provided, That, exclusive of permissible ornamentation, any fiber or group of fibers present in an amount of 5 per centum or less by weight of the total fiber content shall not be designated by the generic name or trademark of such fiber or fibers, but shall be designated only as "other fiber" or "other fibers" as the case may be: Provided further, That in the case of a textile fiber product which contains more than one kind of fiber, deviation in the fiber content of any fiber in such product from the amount stated on the stamp, tag, label, or other identification shall not be a misbranding under this section unless such deviation is in excess of reasonable tolerances which shall be established by the Commission: And provided further, That any such deviation which exceeds said tolerances shall not be a misbranding if the person charged proves that the deviation resulted from unavoidable variations in manufacture and despite due care to make accurate the statements on the tag, stamp, label, or other identification.

(3) The name, or other identification issued and registered by the Commission, of the manufacturer of the product or one or more persons subject to section 3 with respect to such product.

(4) If it is an imported textile fiber product the name of the country where processed or manufactured.

(c) For the purposes of this Act, a textile fiber product shall be considered to be falsely or deceptively advertised if any disclosure or implication of fiber content is made in any written advertisement which is used to aid, promote, or assist directly or indirectly in the sale or offering for sale of such textile fiber product, unless the same information as that required to be shown on the stamp, tag, label, or other Identification under section 4(b) (1) and (2) is contained in the heading, body, or other part of such written advertisement, except that the percentages of the fiber present in the textile fiber product need not be stated.

(d) In addition to the information required in this section, the stamp, tag, label, or other means of identification, or advertisement may contain other information not violating the provisions of this Act.

(e) This section shall not be construed as requiring the affixing of a stamp, tag, label, or other means of identification to each textile fiber product contained in a package if (1) such textile fiber products are intended for sale to the ultimate consumer in such package (2) such package has affixed to it a stamp, tag, label, or other means of identification bearing, with respect to the textile fiber products contained therein, the information required by subsection (b), and (3) the information on the stamp, tag, label, or other means of identification affixed to such package is equally applicable with respect to each textile fiber product contained therein.

(f) This section shall not be construed as requiring designation of the fiber content of any portion of fabric, when sold at retail, which is severed from bolts, pieces, or rolls of fabric labeled in accordance with the provisions of this section at the time of such sale: Provided, That if any portion of fabric severed from a bolt, piece, or roll of fabric is in any manner represented as containing percentages of natural or manufactured fibers, other than that which is set forth on the labeled bolt, piece, or roll, this section shall be applicable thereto, and the information required shall be separately set forth and segregated as required by this section.

(g) For the purposes of this Act, a textile fiber product shall be considered to be falsely or deceptively advertised if the name or symbol of any fur-bearing animal is used in the advertisement of such product unless such product, or the part thereof in connection with which the name or symbol of a fur-bearing animal is used, is a fur or fur product within the meaning of the Fur Products Labeling Act: Provided, however, That where a textile fiber product contains the hair or fiber of a fur-bearing animal, the name of such animal, in conjunction with the word "fiber", "hair", or "blend", may be used.

(h) For the purposes of this Act, a textile fiber product shall be misbranded if it is used as stuffing in any upholstered product, mattress, or cushion after having been previously used as stuffing in any other upholstered product, mattress, or cushion, unless the upholstered product, mattress, or cushion containing such textile fiber product bears a stamp, tag, or label approved by the Commission indicating in words plainly legible that it contains reused stuffing.

REMOVAL OF STAMP, TAG, LABEL, OR OTHER IDENTIFICATION

Sec. 5. (a) After shipment of a textile fiber product in commerce it shall be unlawful, except as provided in this Act, to remove or mutilate, or cause or participate in the removal or mutilation of, prior to the time any textile fiber product is sold and delivered to the ultimate consumer, any stamp, tag, label, or other identification required by this Act to be affixed to such textile fiber product, and any person violating this section shall be guilty of an unfair method of competition, and an unfair or deceptive act or practice, under the Federal Trade Commission Act.

(b) Any person—

(1) introducing, selling, advertising, or offering for sale, in commerce, or importing into the United States, a textile fiber product subject to the provisions of this Act, or

(2) selling, advertising, or offering for sale a textile fiber product whether in its original state or contained in other textile fiber products, which has been shipped, advertised, or offered for sale, in commerce.

may substitute for the stamp tag, label, or other means of identification required to be affixed to such textile product pursuant to section 4 (b), a stamp, tag, label, or other means of identification conforming to the requirements of section 4(b), and such substituted stamp, tag, label, or other means of identification shall show the name or other identification issued and registered by the Commission of the person making the substitution.

(e) If any person other than the ultimate consumer breaks a package which bears a stamp, tag, label, or other means of identification conforming to the requirements of section 4, and if such package contains one or more units of a textile fiber product to which a stamp, tag, label, or other identification conforming to the requirements of section 4 is not affixed, such person shall affix a stamp, tag, label, or other identification bearing the information on the stamp, tag, label, or other means of identification attached to such broken package to each unit of textile fiber product taken from such broken package.

RECORDS

Sec. 6. (a) Every manufacturer of textile fiber products subject to this Act shall maintain proper records showing the fiber content as required by this Act of all such products made by him, and shall preserve such records for at least three years.

(b) Any person substituting a stamp, tag, label, or other identification pursuant to section 5(b) shall keep such records as will show the information set forth on the stamp, tag, label, or other identification that he removed and the name or names of the person or persons from whom such textile fiber product was received, and shall preserve such records for at least three years.

(c) The neglect or refusal to maintain or preserve the records required by this section is unlawful, and any person neglecting or refusing to maintain such records shall be guilty of an unfair method of competition, and an unfair or deceptive act or practice, in commerce, under the Federal Trade Commission Act.

ENFORCEMENT OF THE ACT

Sec. 7. (a) Except as otherwise specifically provided herein, this Act shall be enforced by the Federal Trade Commission under rules, regulations, and procedure provided for in the Federal Trade Commission Act.

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

(c) The Commission is authorized and directed to make such rules and regulations, including the establishment of generic names of manufactured fibers, under and in pursuance of the terms of this Act as may be necessary and proper for administration and enforcement.

(d) The Commission is authorized to cause inspections, analyses, tests, and examinations to be made of any product subject to this Act.

INJUNCTION PROCEEDINGS

Sec. 8. Whenever the Commission has reason to believe—

(a) that any person is doing, or is about to do, an act which by section 3, 5, 6, 9, or 10 (b) is declared to be unlawful; and

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

EXCLUSION OF MISBRANDED TEXTILE FIBER PRODUCTS

Sec. 9. All textile fiber products imported into the United States shall be stamped, tagged, labeled, or otherwise identified in accordance with the provisions of section 4 of this Act, and all invoices of such products required pursuant to section 484 of the Tariff Act of 1930, shall set forth, in addition to the matter therein specified, the information with respect to said products required under the provisions of section 4(b) of this Act, which information shall be in the invoices prior to their certification, if such certification is required pursuant to section 484 of the Tariff Act of 1930. The falsification of, or failure to set forth the required information in such invoices, or the falsification or perjury of the consignee's declaration provided for in section 485 of the Tariff Act of 1930, insofar as it relates to such information, is unlawful, and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act; and any person who falsifies, or perjures the consignee's declaration insofar as it relates to such information, may thenceforth be prohibited by the Commission from importing, or participating in the importation of, any textile fiber product into the United States except upon filing bond with the Secretary of the Treasury in a sum double the value of said products and any duty thereon, conditioned upon compliance with the provisions of this Act. A verified statement from the manufacturer or producer of such products showing their fiber content as required under the provisions of this Act may be required under regulation prescribed by the Secretary of the Treasury.

GUARANTY

Sec. 10. (a) No person shall be guilty of an unlawful act under section 3 if he establishes a guaranty received in good faith, signed by and containing the name and address of the person residing in the United States by whom the textile fiber product guaranteed was manufactured or from whom it was received, that said product is not misbranded or falsely invoiced under the provisions of this Act. Said guaranty shall be (1) a separate guaranty specifically designating the textile fiber product guaranteed, in which case it may be on the invoice or other paper relating to said product; or (2) a continuing guaranty given by seller to the buyer applicable to all textile fiber products sold to or

to be sold to buyer by seller in a form as the Commission, by rules and regulations, may prescribe; or (3) a continuing guaranty filed with the Commission applicable to all textile fiber products handled by a guarantor in such form as the Commission by rules and regulations may prescribe.

(b) The furnishing of a false guaranty, except where the person furnishing such false guaranty relies on a guaranty to the same effect received in good faith signed by and containing the name and address of the person residing in the United States by whom the product guaranteed was manufactured or from whom it was received, is unlawful, and shall be an unfair method of competition, and an unfair and deceptive act or practice, in commerce, within the meaning of the Federal Trade Commission Act.

CRIMINAL PENALTY

Sec. 11. (a) Any person who willfully does an act which by section 3, 5, 6, 9, or 10 (b) is declared to be unlawful shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$5,000 or be imprisoned not more than one year, or both, in the discretion of the court: Provided, That nothing in this section shall limit any other provision of this Act.

(b) Whenever the Commission has reason to believe that any person is guilty of a misdemeanor under this section, it may certify all pertinent facts to the Attorney General. If, on the basis of the facts certified, the Attorney General concurs in such belief, it shall be his duty to cause appropriate proceedings to be brought for the enforcement of the provisions of this section against such person.

EXEMPTIONS

Sec. 12. (a) None of the provisions of this Act shall be construed to apply to—

- (1) upholstery stuffing, except as provided in section 4(h);
- (2) outer coverings of furniture, mattresses, and box springs;
- (3) linings or interlinings incorporated primarily for structural purposes and not for warmth;
- (4) filling or padding incorporated primarily for structural purposes and not for warmth;
- (5) stiffenings, trimmings, facings, or interfacings;
- (6) backings of, and paddings or cushions to be used under, floor coverings;
- (7) sewing and handicraft threads;
- (8) bandages, surgical dressings, and other textile fiber products, the labeling of which is subject to the requirements of the Federal Food, Drug and Cosmetic Act of 1938, as amended;
- (9) waste materials not intended for use in a textile fiber product;
- (10) textile fiber products incorporated in shoes or overshoes or similar outer footwear;
- (11) textile fiber products incorporated in headwear, handbags, luggage, brushes, lampshades, or toys, catamenial devices, adhesive tapes and adhesive sheets, cleaning cloths impregnated with chemicals, or diapers.

The exemption provided for any article by paragraph (3) or (4) of this subsection shall not be applicable if any representation as to fiber content of such article is made in any advertisement, label, or other means of identification covered by section 4 of this Act.

(b) The Commission may exclude from the provisions of this Act other textile fiber products (1) which have an insignificant or inconsequential textile fiber content, or (2) with respect to which the disclosure of textile fiber content is not necessary for the protection of the ultimate consumer.

SEPARABILITY CLAUSE

Sec. 13. If any provision of this Act, or the application thereof to any person, as that term is herein defined, is held invalid, the remainder of the Act and the application of the remaining provisions to any person shall not be affected thereby.

APPLICATION OF EXISTING LAWS

Sec. 14. The provisions of this Act shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other Act of the United States.

EFFECTIVE DATE

Sec. 15. This Act shall take effect eighteen months after enactment, except for the promulgation of rules and regulations by the Commission, which shall be promulgated within nine months after the enactment of this Act. The Commission shall provide for the exception of any textile fiber product acquired prior to the effective date of this Act.

Approved September 2, 1958.

General Investigations by the Commission, since 1915

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

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

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

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

Accounting Systems—See *Distribution Cost Accounting*.

Advertising as a Factor in Distribution.—See *Distribution Methods and Costs*.

Agricultural Implements—See *Farm Implements and Distribution Methods and Costs*.

Agricultural Implements and Machinery (Congress).³—Prices of farm products reached record lows in 1932 but prices of many farm implements, machines, and repair parts maintained high levels resulting in widespread complaints in the next few years. The Commission investigated the situation (Public Res. 130, 74th, 6/24/36) and, following submission of its report, *Agricultural Implement and Machinery Industry* (H. Doc. 702, 75th, 1,176 p., 6/6/38, o. p.), the industry made substantial price reductions. The report criticized certain competitive practices on the part of the dominant companies which the companies later promised to remedy. It showed, among other things, that a few major companies had maintained a concentration of control which resulted in large part from their acquisition of the capital stock or assets of competitors prior to enactment of the Clayton Antitrust Act in 1914 and thereafter from their purchase of assets of

¹ The wartime cost-finding inquiries, 1917-18 (p. 122), include approximately 870 separate investigations.

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

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

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

Agricultural Income (Congress).—Investigating a decline in agricultural income and increases or decreases in the income of corporations manufacturing and distributing wheat, cotton, tobacco, livestock, milk, and potato products (Public Res. 61, 74th, 8/27/35), and table and juice grapes, fresh fruits and vegetables (Public Res. 112, 74th, 6/20/36), the Commission made recommendations concerning, among other things, the marketing of commodities covered by the inquiry; corporate consolidations and mergers;⁵ unbalanced agricultural-industrial relations; cooperative associations; production financing; transportation; and terminal markets. Its recommendations for improvement of the Perishable Agricultural Commodities Act were adopted by Congress in amending that act (Public, 328, 75th) in 1937. [Report of the F. T. C. on Agricultural Income Inquiry, Part I, Principal Farm Products, 1,134 p., o. p. 3/2/37 (summary, conclusions, and recommendations, S. Doc. 54, 75th, 40 p., o. p.); Part II, Fruits, Vegetables, and Grapes, 906 p., 6/10/37, o. p.; Part III, Supplementary Report, 154 p., 11/8/37; and interim reports of 12/26/35 (H. Doc. 380, 74th, 6 p.), and 2/1/37 (S. Doc. 17, 75th, 16 p., o. p.).]

Agricultural Prices—See Price Deflation.

Antibiotics Manufacture (F. T. C.).—Because of the rising importance and the cost of antibiotic drugs, and the lack of published information on their production, a Commission resolution of July 13, 1956, authorized the study which appeared as Economic Report on Antibiotics Manufacture (361 p., 6/27/58). This volume covered the origin and history of the industry, the companies manufacturing antibiotics, production processes, marketing, prices, costs, profits, patents and trademarks, and public health aspects.

Automobiles.—See Distribution Methods and Costs, and Motor Vehicles.

Bakeries and Bread.—See under Food.

Beet Sugar.—See under Food—Sugar.

Building Materials.—See Distribution Methods and Costs.

Calcium Arsenate (Senate).—High prices of calcium arsenate, a poison used to destroy the cotton boll weevil (S. Res. 417, 67th, 1/23/23), appeared to be due to sudden increased demand rather than trade restraints (Calcium Arsenate Industry, S. Doc. 345, 67th, 21 p., o. p., 3/3/23).

Cartels—See paragraphs headed Copper Industry, International Phosphate Cartels, Sulphur Industry, International Electrical Equipment Cartel, International Steel Cartels, Fertilizer (F. T. C.), International Petroleum Cartels, and International Alkali Cartels.

Cement (Senate).—Inquiry into the cement industry's competitive conditions and distributing processes (S. Res. 448, 71st, 2/16/31) showed that rigid application of the multiple basing-point price system⁶ tended to lessen price competition and destroy the value of sealed bids; concerted activities of manufacturers and dealers strengthened the system's price effectiveness; and dealer associations' practices were designed to restrict sales to recognized "legitimate" dealers (Cement industry, S. Doc. 71, 73d, 160 p., o. p., 6/9/33).

⁴Conditions With Respect to the Sale and Distribution of Milk and Dairy Products (H. Doc. 94, 75th, 1/4/37), p. 88; Report of the P. P. C. on Agricultural Income Inquiry, Part I (8/2/37), P. 26; Agricultural Implement and Machinery Industry (H. Doc. 702, 75th, 6/6/89), P. 1038, The Present Trend of Corporate Mergers and Acquisitions 3/7/47; The Merger Movement: A Summary Report (1948); and F. T. C. Annual Reports: 1988, pp. 19 and 29; 1939, p. 14; 1940, p. 12; 1941, p. 19; 1942, p. 9; 1943, p. 9; 1944, p. 7; 1945, p. 8; 1946, p. 12; 1947, p. 12; and 1948, p. 11.

⁵ See footnote 4 above.

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

Chain Stores (Senate).—Practically every phase of chain-store operation was covered (S. Res. 224, 70th, 5/5/28), including cooperative chains, chain-store manufacturing and wholesale business, leaders and loss leaders, private brands, short weighing and overweighing and sales, costs, profits, wages, special discounts and allowances, and prices and margins of chain and independent grocery and drug distributors in selected cities. (For subtitles of 33 reports published under the general title, Chain Stores, 1931-33, see F. T. C. Annual Report, 1941, p. 201.)

In the Final Report on the Chain-Store investigation (S. Doc. 4, 74th, 110 p., o. p., 12/14/34), legal remedies available to combat monopolistic tendencies in chain-store development were discussed.⁷ The Commission's recommendations pointed the way to subsequent enactment of the Robinson-Patman Act (1936) prohibiting price and other discriminations, and the Wheeler-Lea Act (1938) which amended the Federal Trade Commission Act so as to broaden the prohibition of unfair methods of competition in section 5 to include unfair or deceptive acts or practices in interstate commerce.

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

Coal (Congress and F. T. C.), Wartime, 1917-18, Etc.—From 1916 through the first World War period and afterward, the Commission at different times investigated anthracite and bituminous coal prices and the coal industry's financial condition. Resulting cost and price reports are believed to have substantially benefited the consumer. Among the published reports were: Anthracite Coal Prices, preliminary (S. Doc. 19, 65th, 4 p., o. p., 5/4/17); Preliminary Report by the F. T. C. on the Production and Distribution of Bituminous Coal (11. Doc. 152, 35th, 8 p., o. p., 5/19/17); Anthracite and Bituminous Coal Situation, summary (H. Doc. 193, 65th, 29 p., o. p., 6/19/17); and Anthracite and Bituminous Coal (S. Doc. 50, 65th, 420 p., o. p., 6/19/17) pursuant to S. Res. 217, 64th 2/22/16; H. Res. 352, 64th, 8/18/16, and S. Res. 51, 65th, 5/1/17; Washington, D. C., Retail Coal Situation (5 p., release, processed, o. p., 8/11/17) pursuant to F. T. C. motion; Investment and Profit in Soft-Coal Mining (two parts, 5/31/22 and 7/6/22, 218 p., o. p., S. Doc. 207, 65th)—pursuant to F. T. C. motion; and Report of the F. T. C. on Premium Prices of Anthracite (97 p., o. p., 7/6/25)—pursuant to F. T. C. motion.

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

⁷ See footnote 4.

Coal, Current Monthly Reports (F. T. C.).—The Commission (December 1919) initiated a system of current monthly returns from the soft coal industry similar to those compiled during the World War, 1917-18 (Coal—Monthly Reports on Cost of Production, 4/20/20 to 10/30/20, Nos. 1 to 6, and two quarterly reports. with revised costs, 8/25/20 and 12/6/20, processed, o. p.). An Injunction to prevent the calling for the monthly reports (denied about 7 years later) led to their abandonment.

Coffee (F. T. C.).—In its 1954 Economic Report of the Investigation of Coffee Prices, the Commission reported that the coffee price spiral of 1953-54 "cannot be explained in terms of the competitive laws of supply and demand." The report lists and discusses six Major factors responsible for the price spiral, and recommends Congressional action to correct some of the "market imperfections" and "irregularities" found. (523 pp., 7/30/54.)

Combed Cotton Yarns.—See Textiles.

Commercial Bribery (F. T. C.).— Investigating the prevalence of bribery of customers' employees as a means of obtaining trade, the Commission published A Special Report on Commercial Bribery (H. Doc. 1107, 65th, 3 p., o. p.), 5/15/18), recommending legislation striking at this practice; Commercial Bribery (S. Doc. Unnumbered 65th, 36 p., o. p., 8/22/18); and Commercial Bribery (S. Doc. 258, 66th, 7 p., o. p., 3/18/20).

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

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

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

Cooperation in American Export Trade—See Foreign Trade.

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

Cooperative Marketing (Senate).—This inquiry (S. Res. 34, 69th, 3/17/25) covered the development of the cooperative movement in the U. S. and illegal interferences with the formation and operation of cooperatives; and a comparative study of costs, prices, and marketing methods (Cooperative Marketing, S.. Doc. 95, 70th, 721 p., o. p., 4/80/28).

Copper—See Wartime Cost Finding, 1917-18.

Copper Industry (F. T. C.).—The Commission's report on The Copper Industry, transmitted to Congress (3/11/47), was in two parts: Part I—The Copper Industry of the United States and International Copper Cartels, and Part II—Concentration and Control by the Three Dominant Companies, o. p. The Commission reported that "The copper situation is particularly serious, not only because of the concentration of control of the ore reserves and of the productive capacity, but

also because the domestic supply is inadequate to meet the demands of high level national production and employment. Furthermore, the production of foreign copper, on which the United States will become increasingly dependent, is likewise dominated by a few corporate groups which in the past have operated cooperatively in cartels to regulate production and prices."

Corporation Reports.—See Quarterly Financial Reports.

Corporate Mergers and Acquisitions (F. T. C.)—To determine the impact on the Nation's economy of corporate mergers and acquisitions, the Commission made a study of the merger movement for the years 1940-46, inclusive. The results of the study were transmitted to Congress in a report entitled *The Present Trend of Corporate Mergers and Acquisitions* (23 p., o. p., 3/7/47), which showed, among other things, that during the period covered, more than 1,800 formerly independent competitive firms in manufacturing and mining industries alone had disappeared as a result of mergers or acquisitions, and that more than one-third of the total number of acquisitions occurred in only three industries, food, nonelectrical machinery, and textiles and apparel—all predominantly "small business" fields.

In 1948 the Commission published *The Merger Movement: A Summary Report* 134 p., o. p., also 7 p. processed summary). In this report the legal history of the antimerger provisions of the Clayton Act is reviewed. Significant individual mergers are examined in detail. Maps, diagrams, charts and tabular statistical materials are used to illustrate the economic effects of the then in force anti-merger legislation.

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

Cost Accounting—See Accounting Systems.

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

Cotton Industry.—See Textiles.

Cottonseed Industry (House), Investigating alleged price fixing (H. Res. 439, 69th, 3/2/27), the Commission reported evidence of cooperation among State associations but no indication that cottonseed crushers, or refineries had fixed prices in violation of the antitrust laws (*Cottonseed Industry*, H. Doc. 193, 70th, 37 p., o. p. 3/5/28).

Cottonseed Industry (Senate), Two resolutions (S. Res. 136, 10/21/29, and S. Res. 147, 11/2/29—71st) directed the Commission to determine whether alleged unlawful combinations of cottonseed oil mill corporations sought to lower and fix prices of cottonseed and to sell cottonseed meal at a fixed price under boycott threat; and whether such corporations acquired control of cotton gins to destroy competitive markets and depress or control prices paid to seed producers (*Investigation of the Cottonseed Industry*, preliminary report, S. Doc. 91, 71st, 4 p., o. p., 2/28/30, and final report, 207 p., o. p., with 11 vols. testimony, S. Doc. 209, 71st, 5/19/33).

Distribution Cost Accounting (F. T. C.).—To provide a guide for current legislation and determine ways for improving accounting methods, the Commission studied distribution cost accounting in connection with selling, warehousing, handling, delivery, credit and collection (Case Studies in Distribution Cost Accounting for Manufacturing and Wholesaling. H- Doc. 287, 77th, 215 p. o. p., 6/23/41).

Distribution.—See Millinery Distribution.

Distribution of Steel Consumption.—A study to determine the distribution of steel in a time of shortage, when control over distribution rests with the producers. (1949-1950) The results of the study were transmitted to the subcommittee on Monopoly of the Senate Select Committee on Small Business and published as a committee print. (20p) o. p., 3/31/52.

Distribution Methods and Costs (F. T. C.).—This inquiry into methods and costs of distributing important consumer commodities (F. T. C. Res., 6/27/40 was undertaken by the Commission pursuant to authority conferred upon it by section 6 of the F. T. C. Act. Eight parts of the F. T. C. Report on Distribution Methods and Costs were transmitted to Congress and published under the subtitles: Part I, Important Food Products (11/11/43, 223 p., o. p.); Part III, Building Materials—Lumber, Paints and Varnishes, and Portland Cement (2/19/44, 50 p., o. p.); Part IV, Petroleum Products, Automobiles, Rubber Tires and Tubes, Electrical Household Appliances, and Agricultural Implements (3/2/44, 189 p. o. p.); Part V, Advertising as a factor in Distribution (10/30/44, 50 p. 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 VII, Cost of Production and Distribution of Fish in New England (6/30/45, 118 p.); and Part IX, Cost of Production and Distribution of Fish on the Pacific Coast (7/25/46, 82 p.). The inquiries relating to fish were conducted in cooperation with the Coordinator of Fisheries, Interior Department. During World War II special reports on the distribution of some 20 commodity groups were made for confidential use of the Office of Price Administration and other war agencies.

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

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

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

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

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

Feeds, Commercial (Senate).—Seeking to determine whether purported combinations in restraint of trade existed (S. Res. 140, 66th, 7/31/19), the Com-

mission found that although some association activities were in restraint of trade, there were no substantial antitrust violations (Report of the F. T. C. on Commercial Feeds, 206 p., o. p., 3/29/21).

Fertilizer (Senate).—Begun by the Commissioner of Corporations⁸ (S. Res. 487, 62d, 3/1/13), this inquiry disclosed extensive use of bogus independent fertilizer companies for competitive purposes (Fertilizer Industry, S. Doc. 551, 64th, 269 p., o. p., 8/19/16). Agreements for abolition of such unfair competition were reached.

Fertilizer (Senate).—A second fertilizer inquiry (S. Res. 307, 67th, 6/17/22) developed that active competition generally prevailed in that industry in the U. S., although in some foreign countries combinations controlled certain important raw materials. The Commission recommended improved agricultural credits and more extended cooperation by farmers in buying fertilizer (Fertilizer Industry, S. Doc. 347, 67th, 87 p., o. p., 3/8/23).

Fertilizer (F. T. C.).—The Commission's 1949 report on The Fertilizer Industry (100 p.) is concerned primarily with restrictions and wastes which interfere with the supply of plant food materials in the quantities needed and at prices low enough to facilitate maintenance of soil fertility. The Nation's resources of nitrogen, phosphate, and potash are discussed, and the inter-relationships of producers and mixers are reviewed. The report also summarizes available information concerning cartel control of nitrogen, phosphates, and potash.

Fish—See Distribution Methods and Costs.

Flags (Senate), Wartime, 1917-18.—Unprecedented increases in the prices of U. S. flags in 1917, due to wartime demand, were investigated (S. Res. 35, 65th, 4/16/17). The Inquiry was reported in Prices of American Flags (S. Doc. 82, 65th, 6 p., o. p., 7/26/17).

Flour Milling.—See Food, below.

Food (President), Wartime, 1917-18,—President Wilson, as a wartime emergency measure (2/7/17), directed the Commission "to investigate and report the facts relating to the production, ownership, manufacture, storage, and distribution of foodstuffs" and "to ascertain the facts bearing on alleged violations of the antitrust acts." Two major series of reports related to meat packing at 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.); 11. Evidence of Combination Among Packers (11/25/18, 294 p., o. p.); 111. Methods of the Five Packers in Controlling the Meat-Packing Industry (6/28/19, 325 p., o. p.); IV. The Five Large Packers in Produce and Grocery Foods (6/30/19, 390 p., o. p.); V. Profits of the Packers (6/28/19, 110 p., o. p.); VI Cost of Growing Beef Animals, Cost of Fattening Cattle, and Cost of Marketing Livestock (6/30/19, 183 p., o. p.); and summary (H. Doc. 1297, 65th, 51 p., o. p., 7/3/18).

The reports first led to antitrust proceedings against the Big Five Packers, resulting in a consent decree (Supreme Court of the D. C., 2/27/20),⁹ which had substantially the effect of Federal legislation in restricting their future operations to certain lines of activity. As a further result of the investigation, Con-

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

⁹ The legal history of the consent decree and a summary of divergent economic interests involved in the question of packers participation in unrelated lines of food products were set forth by the Commission in Packer Consent Decree (S. Doc. 219, 68th, 44 p. o. p., 2/20/25), prepared pursuant to S. Res. 278, 68th, 12/8/24.

gress enacted the Packers and Stockyards Act (1921), adopting the Commission's recommendation that the packers be divorced from control of the stockyards. (The meat-packing industry is further referred to under Meat Packing Profit Limitation, p. 150.)

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

Food (President) Continued—Bakeries and Flour Milling.—One F.T.C. report was published by the Food Administration (U.S. Food Administration, Report of the F.T.C. on Bakery Business in United states, pp. 5-13, o.p. 1133/17). Other reports were: Food Investigation, Report of the F.T.C. on Flour Milling and Jobbing (4/4/18, 27 p., o.p.) And Commercial Wheat Flour Milling (9/15/20, 118 p., o.p.).

Food (President) Continued—Canned Foods,¹⁰ Private Car Lines, Wholesale Food Marketing—Under the general title Food Investigation were published Report of the F.T.C. on Canned Foods—General Report and Canned Vegetables and Fruits (5/18/18, 83 p., o.p.); Report of the F.T.C. on Canned Foods—Canned Salmon (12/27/18, 83 p., o.p.); Report of the F.T.C. on Private Car Lines, regarding transportation of meats, fruits, and vegetables, (6/27/19, 271 p., o.p.); and Report of the F.T.C. on Wholesale Marketing of Food (6/30/19, 268 p., o.p.), which recommended that a wholesale dealer in perishable food products should be required to procure a Federal license and that Federal inspection and standards should be provided. Provisions in accordance with these recommendations were incorporated in the Perishable Agricultural Commodities Act (1930).

Food—Bread and Flour (Senate).—Reports on this inquiry (S. Res. 163, 68th, 2/26/24) were: Competitive Conditions in Flour Milling (S.Doc. 97, 70th, 140 p., o.p., 5/3/26); Bakery Combines and Profits (S. Doc. 212, 69th, 95 p., o.p., 2/11/27); Competition and profits in Bread and Flour (S. Doc. 98, 70th, 509 p., o.p., 1/11/28); and Conditions in the Flour Milling Business, supplementary (S. Doc. 96, 72d, 26 p., o.p., 5/28/32).

Food—Wholesale Baking Industry (F.T.C.)—This inquiry (F.T.C. Res., 8/31/45) resulted in two reports to Congress: Wholesale Baking Industry, Part I—Waste in the Distribution of Bread (4/22/46, processed, 29 p., o.p. and Wholesale Baking Industry, Part II—Costs, Prices and Profits (8/7/46, 137 p., o.p.). Part I developed facts concerning wasteful and uneconomic practices in the distribution of bread, including consignment selling which involves the taking back of unsold bread; furnishing, by gift or loan, bread racks, stands, fixtures, etc., to induce distributors to handle a given company's products. It was found that, although War Food Order No. 1 which prohibited these practices was only partially observed, in 1945 as compared with 1942, the quantity of bread saved

¹⁰In connection with its wartime cost finding inquiries. 1917–18. P. 124 herein, the Commission published Report of the F.T.C. on Canned Foods 1918—Corn, Peas, String Beans, Tomatoes, and Salmon (86 p., 11/21/21).

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

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

Food—Fish.—See Distribution methods and Costs.

Food—Flour Milling (Senate).—This study of costs, profits, and other factors (S. Res. 212, 67th, 1/18/22) was reported in Wheat Flour Milling Industry (S. Doc. 130, 68th, 130 p., o.p., 5/16/24).

Food—Flour Milling Industry, Growth and Concentration in (F.T.C.).—The Commission's study showed that there has been a progressive increase in the size of flour-mill operations and a progressive decrease in the number of flour-mill operations and a progressive decrease in the number of flour-milling establishments. Nevertheless, the commission reported, there is a lesser degree of concentration in the flour-milling industry than in many other important industries. The results of the study were presented to Congress in a report on the Growth and Concentration in the Flour Milling Industry (6/2/47, 36 p.).

Food—Grain Elevators (F.T.C.) Wartime, 1917-18.—In view of certain bills pending before Congress with reference to regulations of the grain trade, the Commission, in a preliminary report. Profits of Country and Terminal Grain Elevators (S. Doc. 40, 67th, 12 p., o.p., 6/13/21) presented certain data collected during its inquiry into the grain trade ordered by the President.

Food—Grain Exporters (Senate).—The low prices of export wheat in 1921 gave rise to this inquiry (S. Res. 133, 67th, 12/22/21) concerning harmful speculative price manipulations on the grain exchanges and alleged conspiracies among country grain buyers to agree on maximum purchasing prices. The Commission recommended stricter supervision of exchanges and additional storage facilities for grain not controlled by grain dealers (Report of the F.T.C. on Methods and operations of Grain Exporters, 2 vols., 387 p., o.p., 5/16/22 and 6/18/23).

Food—Grain. Wheat Prices (President).—An extraordinary decline of wheat prices was investigated (President Wilson's directive 10/12/20) and found to be due chiefly to abnormal market conditions (Report of the F.T.C. on Wheat Prices for the 1920 Crop, 91 p., o.p., 12/13/20).

Food—Important Food Products.—See Distribution Methods and Costs.

Food—Marketing (F.T.C.).—On October 9, 1958, the Commission launched a study of significant economic trends in food marketing. In the first phase of this investigation facts were developed concerning the growth of corporate chains and voluntary and cooperative wholesalers. On June 30, 1959, the Commission published a statistical report entitled Economic Inquiry into Food Marketing—Interim Report (6 p., 22 tables, o.p.). This was followed by publication of Economic Inquiry into Food Marketing, Part I, concentration and integration in Retailing (January 1960, 338 p.).

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 Com-

mission recommended greater control and lower maximum profits (Maximum Profit Limitation on Meat Packing Industry, S. Doc. 110, 66th, 179 p., o. p. 9/25/19).

Food—Milk.—See Distribution Methods and Costs.

Food—Milk and Milk Products (Senate), Wartime, 1917-18—Covering an inquiry (S. Res. 431, 65th, 3/3/10) 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 Area 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 1910 gave rise to a belief that discrimination was being practiced, a Commission investigation (S. Res. 133, 66th, 7/25/19) revealed that alleged discrimination did not appear to exist (Southern Livestock Prices, S. Doc. 209, 66th, 11. p., o. p., 2/2/20).

Food—Sugar (House)—An extraordinary advance in the price of sugar in 1919 (H. Res. 150, 66th, 10/1/19) was found to be due chiefly to speculation and hoarding. The Commission made recommendations for correcting these abuses (Report of the F. T. C. on Sugar Supply and Prices, 205 p., o. p., 11/15/20).

Food—Sugar, Beet (F. T. C.).—Initiated by the Commissioner of Corporations,¹¹ but completed by the F. T. C., this inquiry dealt with the cost of growing beets and the cost of beet-sugar manufacture (Report on the Beet Sugar Industry in the U. S., H. Doc. 158, 65th, 164 p., o. p., 5/24/17).

¹¹See footnote 8.

Foreign Trade--Antidumping Legislation (F. T. C.), To develop information for use of Congress in its consideration of amendments to the antidumping laws, the Commission studied recognized types of dumping and provisions for preventing the dumping of goods from foreign countries (Antidumping Legislation and Other Import Regulations in the United States and Foreign Countries, S. Doc. 112, 73d, 100 p., o. p., 1/11/34; supplemental report, 111 p., o. p., processed, 6/27/38).

Foreign Trade—cooperation in American Export Trade (F. T. C.).—This Inquiry related to competitive conditions affecting Americans in international trade. The Export Trade Act, also known as the Webb-Pomerene law, authorizing the association of U. S. manufacturers for export trade, was enacted as a result of Commission recommendations (Cooperation in American Export Trade, 2 vols., 984 p., o. p., 6/30/16; also summary, S. Doc. 426, 64th, 7 p., o. p., 5/2/16; and conclusions 1916. 14 p., o. p.).

Foreign Trade—Cotton Growing Corporation (Senate). The report of an inquiry (S. Res. 317, 68th, 1/27/25) concerning the development of this British company, Empire Cotton Growing Corporation (S. Doc. 226, 68th, 30 p., o. p., 2/28/25), showed there was then little danger of serious competition with the American grower or of a possibility that the United States would lose its position as the largest producer of raw cotton.

Gasoline.—See Petroleum.

Grain.—See Food.

Grain Exchange Actions (F. T. C. and Chairman of Senate Committee on Agriculture and Forestry).—The Commission's report on Economic Effects of Grain Exchange Actions Affecting Futures Trading During the First Six Months of 1946 (85 p., o. p., 2/4/47) presents results of a special study made at the request of the then Chairman of the Senate Committee on Agriculture and Forestry. The report reviews the factors which made it impossible, during the first half of 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 Guaranty Against Price Decline (68 p., o. p. 5/27/20).

Housefurnishings (Senate).—This inquiry (S. Res. 127, 67th, 1/4/22) resulted in three volumes showing concerted efforts to effect uniformity of prices in some lines (Report of the F. T. C. on House Furnishing Industries, 1018 p., o. p., 1/17/23, 10/1/23, and 10/6/24).

Independent Harvester Co. (Senate), Wartime, 1917-18—After investigation (S. Res. 212, 65th, 3/11/18) of the organization and methods of operation of the company which had been formed several years before to compete with the "harvester trust," but which had passed into receivership, the F. T. C. Report to the Senate on the Independent Harvester Co. (5 p., release, processed, o. p., 5/15/18) showed the company's failure was due to mismanagement and insufficient capital.

Industrial Concentration and Product Diversification in the 1,000 Largest Manufacturing Companies: 1950 (F. T. C.).—This purely statistical report published in January 1957 has 127 pages of text which state the findings in 52 text tables and 22 charts covering all manufacturing, food, electrical apparatus, and transportation equipment, and 529 pages of appendix tables covering these and other manufacturing industries. The 4 leading shippers of each product are identified, but shipments by individual companies are not disclosed.

Interlocking Directorates (F. T. C.).—This 1950 report on Interlocking Directorates summarizes the interlocking relationships among directors of the 1,000 largest manufacturing corporations. It also covers the interlocking directorates between these corporations and a selected list of banks, investment trusts, insurance companies, railroads, public utilities, and distributive enterprises.

International Alkali Cartels (F. T. C.).—In a report (1950) on International Cartels in the Alkali Industry, o. p., the Commission discussed the nature, extent, and effect of International agreements concerning baking soda, soda ash, and caustic soda to which organized groups of American and European alkali producers were parties from 1924 until 1946.

International Electrical Equipment Cartel (F. T. C.).—In its 1948 report on this subject (107 p., also 10 p. processed summary) the Commission points out the high degree of economic concentration in the electrical equipment industry which exists in each of the important industrial nations.

International Petroleum Cartel.—A staff study of the activities of the seven major oil companies in relation to control over the international oil industry. Staff Report to the Federal Trade Commission submitted to the Subcommittee on Monopoly of the Select Committee on Small Business, U. S. Senate Committee print No. 6, 82d Cong.—2d sess. 378 p., 1952.

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

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

Iron Ore.—See Control of Iron Ore.

Large Manufacturing Companies (F. T. C.).—This 1951 report, entitled A List of 1,000 Large Manufacturing Companies, Their Subsidiaries and Affiliates, 1948, shows for each of the 1,000 largest manufacturing corporations which publish financial statements the percentage of stock interest held by the corporation in each of its subsidiaries and affiliates. The parent corporations are grouped in 21 major industries and ranked as to size on the basis of their total assets in 1948. 223 p., o. p., 6/1/51.

Leather and Shoes (F. T. C. and House), Wartime, 1917-18.—General complaint regarding high prices of shoes led to this inquiry, which is reported in Hide and Leather Situation, preliminary report (H. Doc. 857, 65th, 5 p., o. p., 1/23/18).

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

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

Lumber Trade Associations (Attorney General).—The Commission's extensive survey of lumber manufacturers' associations (referred to F.T.C., 9/4/19) resulted in Department of Justice proceedings against certain associations for alleged antitrust law violations. Documents published were: Report of the F.T.C. on Lumber Manufacturers' Trade Associations, incorporating regional reports of 1/10/21, 2/18/21, 6/9/21, and 2/15/22 (150 p., o.p.); Report of the F.T.C. on Western Red Cedar Association, Lifetime Post Association, and Western Red Cedarmen's Information Bureau (22 p., o.p., 1/24/23), also known as Activities of Trade Associations and Manufacturers of Posts and Poles in the Rocky Mountain and Mississippi Valley Territory (S.Doc. 293, 67th, o.p.); and Report of the F.T.C. on Northern Hemlock and Hardwood Manufacturers Association (52 p., o.p., 5/7/23).

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

Meat Packing Profit Limitations.—See Food.

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

Milk.—See Food.

Millinery Distribution (President).—This inquiry, requested by President Roosevelt, embraced growth and development of syndicates operating units for retail millinery distribution, the units consisting of leased departments in department or specialty stores (Report to the President of the United States on Distribution Methods in the Millinery Industry, 65 p., processed, 11/21/39, o.p.).

Monopolistic Practices and Small Business.—A study by the staff of the Commission on the effect of certain monopolistic practices on small business, requested by the Subcommittee on Monopoly of the Senate Select Committee on Small Business. The results were transmitted to the Subcommittee and published as a committee print by Selected Committee on Small Business, U.S. Senate, 82d Cong. (88 p. 3/31/52).

Motor Vehicles (Congress).—Investigating (Public Res. 87, 75th, 4/13/38) distribution and retail sales policies of motor vehicle manufacturers and dealers, the Commission found, among other things, a high degree of concentration and strong competition; that many local dealers' associations fixed prices and operated used-car valuation or appraisal bureaus essentially as combinations to restrict competition; that inequities existed in dealer agreements and in certain manufacturers' treatment of some dealers; and that some companies' car finance plans developed serious abuses (Motor Vehicle Industry, H. Doc. 468, 76th, 1077 p., o.p., 6/5/39). The leading companies voluntarily adopted a number of the Commission's recommendations as company policies.

National Wealth and Income (Senate).—In 1922 the national wealth was estimated (inquiry pursuant to S. Res. 451, 67th, 2/28/23) at \$353,000,000,000 and the national income in 1923 at \$70,000,000,000 [National Wealth and Income (S. Doc. 126, 69th, 381 p., o.p., 5/25/26) and Taxation and Tax-Exempt Income (S. Doc. 148, 68th, 144 p., o.p. 6/6/24)].

Open Price Associations (Senate).—An investigation (S. Res. 28, 69th, 3/17/25) to ascertain the number and names of so-called open-price associations, their importance in industry and the extent to which members maintained uniform prices, was reported in Open-Price Trade Associations (S. Doc. 226, 70th, 516 p., o.p., 2/13/29).

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

Paper—Book (Senate), Wartime, 1917-18.—This inquiry (S. Res. 269, 64th, 9/7/16) resulted in proceedings by the Commission against certain manufacturers to prevent price enhancement and the Commission recommended legislation to repress trade restraints [Book Paper Industry—A Preliminary Report (S. Doc. 45, 65th, 11 p., o. p., 6/13/17), and Book Paper Industry—Final Report (S. Doc., 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); an Newsprint Paper Investigation (in response to S. Res. 95, 65th, 6/27/17; S. Doc. 61, 65th, 8 p., o. p., 7/10/17)].

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

Petroleum.—See International Petroleum Cartel.

Petroleum Products—See Distribution Methods and Costs.

Petroleum and Petroleum Products, Prices (President and Congress).—At different times the Commission has studied prices of petroleum and petroleum products and issued reports thereon as follows: Investigation of the Price of Gasoline, preliminary (S. Doc. 403, 64th, 15 p., o. p., 4/10/16) and report on the Price of Gasoline in 1915 (H. Doc. 74, 65th, 224 p., o. p., 4/11/17—both pursuant to S. Res. 109, 63d, 6/18/13¹² and S. Res. 457, 63d, 9/28/14, which reports discussed high prices and the Standard Oil Companies' division of marketing territory among themselves, the Commission suggesting several plans for restoring effective competition; Advance in the Prices of Petroleum Products (H. Doc. 801, 66th, 57 p., o. p., 6/1/20)—pursuant to H. Res. 501, 66th, 4/5/20, in which report the Commission made constructive proposals to conserve the oil supply; Letter of Submittal and Summary of Report on Gasoline Prices in 1924 (Cong. Rec., 2/28/25, p. 4941)—pursuant to request of President Coolidge, 2/7/24; Petroleum Industry—Prices, Profits and Competition (S. Doc. 61, 70th, 360 p., o. p., 12/12/27)—pursuant to S. Res. 31, 69th, 6/3/36; Importation of Foreign Gasoline at Detroit, Mich., (S. Doc. 206, 72d, 3 p., o. p., pursuant to S. Res. 274, 72d, 7/16/32; and Gasoline Prices (S. Doc. 178, 73rd 22 p., o. p., 5/10/34)—pursuant to S. Res. 166, 73d, 2/2/34.

Petroleum—Foreign Ownership (Senate).—Inquiry was made (S. Res. 311, 67th, 6/29/22) into acquisition of extension oil interests in the U. S. by the Dutch-Shell organization, and into discrimination allegedly practiced in foreign countries against American interests (Report of the F. T. C. on Foreign Ownership in the Petroleum Industry, 152 p., o. p., 2/12/23).

Petroleum Pipe Lines (Senate).—Begun by the Bureau of Corporations,¹³ this inquiry (S. Res. 109, 63d, 6/18/13) showed the dominating importance of the pipe lines of the great midcontinent oil fields and reported practices of the pipe-

¹²See footnote 8.

¹³See footnote 8. Conditions in one of the midcontinent fields were discussed by the Bureau of Corporations in Conditions in the Healdton Oil Field (Oklahoma) (116p., 8/15/15).

line companies which were unfair to small producers (Report on Pipe-line Transportation of Petroleum, 467 p., o. p., 2/28/16), some of which practices were later remedied by the Interstate Commerce Commission.

Petroleum-Regional Studies (Senate and F. T. C.).—Reports published were: Pacific Coast Petroleum Industry (two parts 4/7/21 and 11/28/21, 538 p., o. p. pursuant to S. Res. 138, 66th, 7/31/19; Reports of the F. T. C. on the Petroleum Industry of Wyoming (54 p., o. p., 1/3/21) pursuant to F. T. C. motion; Petroleum Trade in Wyoming and Montana (S. Doc. 233, 67th, 4 p., o. p., 7/13/22) pursuant to F. T. C. motion, in which report legislation to remedy existing conditions was recommended; and Report of the F. T. C. on Panhandle Crude Petroleum (Texas) (19 p., o. p., 2/3/28) pursuant to F. T. C. motion, 10/6/26 (in response to requests of producers of crude petroleum).

Potomac Electric Power Co. (Procurement Director, United States Treasury).—A study (2/29/44) of the financial history and operations of this corporation for the years 1896-1943 was made at the request of the Director of Procurement, United States Treasury, and the report thereon was introduced into the record in the corporation's electric rate case before the District of Columbia Public Utilities Commission.

Power—Electric (Senate).—This inquiry (S. Res. 329, 68th, 2/9/25) resulted in two reports, the first of which, Electric Power Industry—Control of Power Companies (S. Doc. 213, 69th, 272 p., o. p., 2/21/27) dealt with the organization, control, and ownership of commercial electric-power companies. It called attention to the dangerous degree to which pyramiding had been practiced in superimposing a series of holding companies over the underlying operating companies, and was influential in bringing about the more comprehensive inquiry described under Power—Utility Corps., below. Supply of Electrical Equipment and Competitive Conditions (S. Doc. 46, 70th, 282 p., o. p., 1/12/28) showed, among other things, the dominating position of General Electric Co. in the equipment field.

Power—Interstate Transmission (Senate).—Investigation (S. Res. 151, 71st, 11/8/29) was made of the quantity of electric energy transmitted across State lines and used for development of power or light, or both (Interstate Movement of Electric Energy, S. Doc. 238, 71st, 134 p., o. p., 12/20/30).

Power—Utility Corporations (Electric and Gas Utilities) (Senate).—This extensive inquiry (S. Res. 83, 70th, 2/15/28; Public Res. 46, 73d, 6/1/34; and F. T. C. Act, Sec. 6) embraced the financial set-up of electric and gas utility companies operating in interstate commerce and of their holding companies and other companies controlled by the holding companies. The inquiry also dealt with the utilities efforts to influence public opinion with respect to municipal ownership of electric utilities. The Commission's reports and recommendations, focusing congressional attention upon certain unfair financial practices in connection with the organization of holding companies and the sale of securities, were among the influences which brought about enactment of such remedial legislation as the Securities Act (1933), the Public Utility Holding Company Act (1935), the Federal Power Act (1935), and the Natural Gas Act (1938).

Public hearings were held on all phases of the inquiry and monthly interim reports presented hundreds of detailed studies by the Commission's economists, attorneys, accountants, and other experts, based on examination of 29 holding companies having \$6,108,128,713 total assets; 70 subholding companies with \$5,635,463,201 total assets; and 278 operating companies with \$7,245,106,464 total assets. The testimony, exhibits, and final reports (Utility Corporations, S. Doc. 92, 70th, o. p.) comprised 95 volumes.¹⁴

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

Price Bases (F.T.C.).—More than 3,500 manufacturers representing practically every industrial segment furnished data for this study (F.T.C. motion, 7/27/27) of methods used for computing delivered prices on industrial products and of the actual and potential influence of such methods on competitive markets and price levels. In the cement industry the basing-point method¹⁵ was found to have a tendency to establish unhealthy uniformity of delivered prices and cross-hauling or cross-freighting to be an economic evil (Report of the F.T.C. on Price Bases Inquiry, Basing-Point Formula, and Cement Prices, 218 p., o.p., 3/26/32). Illustrating the use in a heavy commodity industry of both a modified zone-price system and a uniform delivered-price system, the Commission examined price schedules of the more important manufacturers of range boilers, 1932-36, disclosing that the industry operated under a zone-price formula, both before and after adoption of its N.R.A. code (Study of Zone-Price Formula in Range Boiler Industry, 5 p., processed, 3/30/36, a summary based on the complete report which was submitted to Congress but not printed).

Price Deflation (President).—To an inquiry (3/21/21) of President Harding, the Commission made prompt reply (undated) presenting its views of the causes of a disproportional decline of agricultural prices compared with consumers' prices (Letter of the F.T.C. to the President of the U.S., 8 p., o.p.).

Profiteering (Senate), Wartime, 1917-18—Current conditions of profiteering (S. Res. 255, 65th, 6/10/18) as disclosed by various Commission investigations were reported in Profiteering (S. Doc. 248, 65th, 20 p., o.p., 6/29/18).

Quarterly Financial Report for Manufacturing Corporations.—Since 1947, the Federal Trade Commission has summarized for each calendar quarter uniform, confidential financial statements collected from a probability sample of all enterprises classified as manufacturers, except newspapers, which are required to file U.S. Corporation Income Tax Form 1120. The quarterly summaries, entitled Quarterly Financial Report for Manufacturing Corporations, are published by the Government Printing Office and sold by the Superintendent of Documents. In the published summaries, profits per dollar of sales and rates of profit on stockholders' equity are shown each quarter for each of 60 industry and size groups of manufacturing corporations. Also shown each quarters are 45 income statement and balance sheet items, and as many financial and operating ratios, for each of 45 industry and size groups of corporate manufacturers. (Similar reports for retail trade and wholesale trade corporations were published for the year 1950 and for each quarter of 1951 and 1952.)

Radio (House).—A comprehensive investigation of the radio industry (H. Res. 548, 67th, 3/4/23); Report of the F.T.C. on the Radio Industry, 347 p., o.p., 12/1/23) contributed materially to enactment of the Radio Act of 1927 and the succeeding federal Communications Act of 1934. The investigation was followed by Commission and Department of Justice proceedings on monopoly charges which culminated in a consent decree (11/2/32; amended, 11/2/35).

Rags, Woolen.—See Textiles.

Raisin Combination.—See Food.

Range Boilers.—See Prices Bases.

Rates of Return for Identical Companies in Selected Manufacturing Industries (F.T.C.).—Part A of the report compares prewar (World War II) and postwar rates of return on stockholders' investments for identical manufacturing corporations in 24 selected industries, for the years 1940, 1947-60. Part B of the report compares rates of return on stockholders' investments, for 1959 and 1960, for the 4 largest companies, and usually the second 4 and third 4 largest companies in each of 39 industries. (49 p. Processed.)

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

Resale Price Maintenance (F. T. C.).—The question whether a manufacturer of standard articles, Identified by trade-mark or trade practice, should be permitted to fix by contract the price at which purchasers should resell them, led to the first inquiry, resulting in a report, Resale Price Maintenance (H. Doc. 1480, 65th, 3 p., o. p., 12/2/18). Other reports were: A Report on Resale Price Maintenance (H. Doc. 145, 66th, 3 p., o. p., 6/30/19) and resale Price Maintenance (F. T. C. motion, 7/25/27; reports, Part 1, H. Doc. 546, 70th, 141 p., o. p., 1/30/29, and Part II, 215 p., o. p., 6/22/31). The Report of the F. T. C. on Resale Price Maintenance, o. p., (F. T. C. Res., 4/25/39) was submitted to Congress 12/13/45. The inquiry developed facts concerning the programs of trade organizations interested in the extension and enforcement of minimum resale price maintenance contracts, and the effects of the operation of such contracts upon consumer prices and upon sales volumes of commodities in both the price-maintained and 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, o. p.) explained the results of the inquiry.¹⁶ The facts developed focused the attention of Congress on the necessity of requiring listed corporations to report their salaries.

Southern Livestock Prices.—See Food.

Steel Code and Steel Code as Amended (Senate and President).—The Commission investigated (S. Res. 166 73d, 2/2/34) price fixing, price increases, and other matters (Practices of the Steel Industry Under the Code, S. Doc. 159, 73d, 79 p., o. p., 3/19/34) and the Commission and N. R. A. studied the effect of the multiple basing-point system under the amended code (Report of the F. T. C. to the President in Response to Executive Order of May 30, 1934, with Respect to the Basing-point System in the Steel Industry, 125 p., o p., 11/30/34).¹⁷ The Commission recommended important code revisions.

Steel Companies, Proposed Merger (Senate).—An inquiry (S. Res. 286, 67th 5/12/22 into a proposed merger of Bethlehem Steel Corp. And Lackawanna Steel Co., and of Midvale Steel & Ordnance Co., Republic Iron & Steel Co., and Inland Steel Co., resulted in a two-volume report. Merger of Steel and Iron Companies (S. Doc. 208, 67th, 11 p., o. p., 6/5/22 and 9/7/22).

Steel Costs and Profits.—See Wartime Cost Findings, 1917-18.

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

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

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

¹⁷ As of the same date, the N. R. A. published its Report of the National Recovery Administration on the Operation of the Basing-Point System in the Iron and Steel Industry. The basing-point system is also discussed in published reports listed under "Cement" and "Price Bases" herein.

¹⁸ See footnote 15.

prior to the decision was also requested. The Commission submitted a list of 10,245 corporations, pointing out that declaration of stock dividends at the rate prevailing did not appear to be a result of controlling necessity and seemed questionable as a business policy (Stock Dividends, S. Doc. 26, 70th, 273 p., o. p., 12/5/27).

Sugar.—See Food.

Sulphur Industry (F. T. C.) in its report to Congress on The Sulfur Industry and International Cartels (6/16/47), o. p., the Commission stated that the operations of all four producers constituting the American sulphur industry generally have been highly profitable, and that the indications are that foreign cartel agreements entered into by Sulphur Export Corp., an export association organized under the Webb-Pomerene Law, have added to the profitability of the U. S. Industry. On 2/7/47, after hearings, the Commission recommended that Sulphur Export Corp. readjust its business to conform to law.

Taxation and Tax-Exempt Income.—See National Wealth and Income.

Temporary National Economic Committee, Studies of the F. T. C.—See F. T. C. Annual Report, 1941, p. 218, for titles.

Textiles (President) —President Roosevelt (Executive Order of 9/26/34) directed an inquiry into the textile industry's labor costs, profits, and investment structure to determine whether increased wages and reduced Working hours could be sustained under prevailing economic conditions. Reports covering the cotton, woolen and worsted, silk and rayon, and thread, cordage and twine industries were: Report of the F. T. C. on Textile Industries, Parts I to VI, 12/31/34 to 6/20/35, 174 p., o. p. (Part VI financial tabulations processed 42 p., o. p.); Report of the F. T. C. on the Textile Industries in 1933 and 1934), Parts I to IV, 8/1/35 to 12/5/35, 129 p., o. p.; Parts II and III, o. p. (Part IV, processed, 21 p., o. p.; accompanying tables, processed, 72 p., o. p.); Cotton Spinning Companies Grouped by Types of Yarn Manufactured During 1933 and 1934, 1/31/36, 20 p., processed, o. p.; Cotton Weaving Companies Grouped, by Types of 'Woven Goods Manufactured During 1933 and 1934, 3/24/30, 48 p., processed, o. p.; Textile Industries in the First Half of 1935, Parts I to III, 5/22/36 to 8/22/36, 119 p., processed, o. p.; Textile Industries in the Last Half of 1935, Parts I to III, 11/20/36 to 1/6/37, 155 p., processed, o. p.; and Textile Industries in the First Half of 1936, Parts I to III, 1/21/37 to 2/11/37, 163 p., processed, o. p.

Textiles—Combed Cotton Yarns.—High prices of combed cotton yarns led to this inquiry (H. Res. 451, 66th, 4/5/20) which disclosed that while for several years profits and prices had advanced, they declined sharply late in 1920 (Report of the F. T. C. on Combed Yarns, 94 p., o. p., 4/14/21).

Textiles—Cotton Growing Corporation—See Foreign Trade.

Textiles—Cotton Merchandising (Senate).—Investigating abuses in handling consigned cotton (S. Res. 252, 68th, 6/7/24), the Commission made recommendations designed to correct or alleviate existing conditions (Cotton Merchandising Practices, S. Doc. 194, 68th, 38 p., o. p., 1/20/25).

Textiles—Cotton Trade (Senate).—Investigation (S. Res. 262, 67th, 3/29/22) involved a decline in cotton prices, 1920-22, as reported in Preliminary Report of the F. T. C. on the Cotton Trade (S. Doc. 311, 67th, 28 p., o. p., 2/26/23). After a second inquiry (S. Res. 429, 67th, 1/31/23), the Commission recommended certain reforms in trading practices and particularly in permitting Southern delivery of cotton on New York futures contracts (The Cotton Trade, incl. testimony, S. Doc. 100, 68th, 2 vols., 510 p., o. p., 4/28/24). A subsequent Senate bill (S. 4411, 70th, 5/18/28) provided for Southern warehouse delivery, but, before any law was enacted, the New York Cotton Exchange adopted Southern delivery

on New York futures contracts (11/16/28 and 2/26/30) in accordance with the Commission's recommendations.

Textiles—Woolen Rag Trade (F. T. C.).—Wartime, 1917-18.—The Report on the Woolen Rag Trade (90 p., o. p., 6/30/19) contains information gathered during the World War, 1917-18, at the request of the War Industries Board, for its use in regulating the prices of woolen rags employed in the manufacture of clothing.

Tobacco (Senate).—Inquiry (S. Res. 329, 2/9/25) in to activities of two well-known companies disclosed that alleged illegal agreements or conspiracies did not appear to exist (The American Tobacco Co. and the Imperial Tobacco Co.. S. Doc 34. 69th, 129 p., o. p., 12/25/25).

Tobacco Marketing—Leaf (F. T. C.).—Although representative tobacco farmers in 1929 alleged existence of territorial and price agreements among larger manufacturers to control cured leaf tobacco prices, the Commission found no evidence of price agreements and recommended production curtailment and improvement of marketing processes and cooperative relations (Report on Marketing of Leaf Tobacco in the Flue-Cured Districts of the States of North Carolina and Georgia, 54 p., o. p., processed, 5/23/31).

Tobacco Prices 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., 6/13/16).

Twine.—See Sisal Hemp and Textiles.

Utilities.—See Power.

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

¹⁹ See footnote 10.

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

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

Wartime Inquiries, 1917-18, Continued.—Further wartime inquiries of this period are described herein under the headings: Coal, Coal Reports—Cost of Production, Cost of Living, Flags, Food, Farm Implements, Independent Harvester Co., Leather and Shoes, Paper—Book, Paper—Newsprint, Profiteering, and Textiles—Woolen Rag Trade, o. p.

The following are unpublished investigations by the Commission for the use of other government agencies:

Aluminum Foundries (W. P. B.), Wartime, 1942-43—Details were obtained for the War Production Board, at its request, from aluminum foundries throughout the U. S. covering their operations for May 1942 and their compliance with W. P. B. Supplementary Orders m-1-d, M-1-c, and M-1-f.

Antifreeze Solutions, Manufacturers of (W. P. B.), Wartime, 1943-44.—War Production Board Order L-258 of 1/20/43 prohibited production of salt and petroleum-base antifreeze solutions. While production of these products had ceased, great quantities were reported to be still in the hands of producers and distributors. To enable W. P. B. to determine what further action should be taken to protect essential automotive equipment from these solutions, it requested the Commission to locate producers' inventories as of 1/20/43, and to identify till deliveries made from such inventories to distributors subsequent to that date.

Capital Equipment (W. P. B.), Wartime, 1942-43.—For the War Production Board, a survey was made in connection with Priorities Regulation No. 12, as amended 10/3/42, of concerns named by it to determine whether orders had been improperly related to secure capital equipment or whether orders that had been related had been extended for the purpose of obtaining capital equipment in violation of priorities regulations.

Chromium Processors (W. P. B.), Wartime, 1942-43.—For the War Production Board, the Commission investigated the transactions of the major chromium processors to determine the extent to which they were complying with Amendment No. 2 to W. P. B. General Preference Order No. issued 2/4/42. The investigation was conducted concurrently with a survey of nickel processors.

Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of (W. P. B.), Wartime, 1942-43.—The Commission conducted an investigation for the War Production Board to determine whether manufacturers of commercial cooking and plate warming equipment were complying with W. P. B. Limitation Orders L-182 and L-182 as amended 3/2/43; Conservation Orders M-126 and M-9-c, as amended; and Priorities Regulation No. 1.

Contractors, Prime, Forward Buying Practices of (W. P. B.), Wartime, 1942-43.—The matter of procurement, use, and inventory of stocks of critical materials involved in the operation of major plants devoting their efforts to war products was inquired into for the information of the War Production Board. Items such as accounting, inventory, control, purchase, practices, etc., formed a part of the inquiry.

Copper Base Alloy Ingot makers (W. P. B.), Wartime, 1942-43.—This investigation was designed to ascertain the operations, shipments, and inventories of

copper, copper alloys, copper scrap, and copper base alloy ingot makers and was conducted for the purpose of determining the extent to which they were complying with governing W. P. B. Preference and Conservation Orders M-9-a and b, and M-9-c.

Copper, Primary Fabricators of (W. P. B.), Wartime, 1941-42.—A survey and inspection of a specified list of companies which used a large percentage of all refinery copper allocated, and at the same time represented a fair cross-section of the industry, were made to ascertain the degree of compliance accorded to preference, supplementary, and conservation orders and regulations of the Director of Priorities, Office of Production Management (later the War Production Board).

Cost of Living (President)—President Roosevelt, in a published letter (11/16/37), requested the Commission to investigate living costs. The Commission (11/20/37) adopted a resolution undertaking the inquiry and a few months thereafter submitted a report to the President.

Costume Jewelry, Manufacturers of (W. P. B.), Wartime, 1943-44.—Because it appeared that vast quantities of critical metals were being diverted illegally from war use to the manufacture of costume jewelry and similar items, the War Production Board requested the Commission to investigate 45 manufacturers to ascertain the facts concerning their compliance with W. P. B. Orders M-9-a, M-9-b, M-9-c, M-9-c-2, M-43, M-38, M-11, M-11-b, M-126, L-81, L-131, and L-131-a, all amended.

Electric Lamp Manufacturers (W. P. B.), Wartime, 1942-43.—At the direction of the War Production Board, an investigation was made of the activities of manufacturers of portable electric lamps whose operations were subject to the restrictions imposed by W. P. B. Limitation and Conservation Orders L-33 and M-9-c.

Fertilizer and Related Products (O. P. A.), Wartime, 1942-43.—At the request of O. P. A. (June 1942), the Commission investigated costs, prices, and profits in the fertilizer and related products industries. The inquiry developed information with reference to the operations of 12 phosphate rock mines of 11 companies, and 40 plants of 24 companies producing sulphuric acid, superphosphate, and mixed fertilizer. One of the principal requirements of the inquiry was to obtain information concerning costs, prices, and profits for 103 separate formulas of popular-selling fertilizers during 1941 and 1942.

Food—Biscuits and Crackers (O. P. A.), Wartime, 1942-43—As requested by the Office of Price Administration, the Commission investigated costs and profits in the biscuit and cracker manufacturing industry and submitted its report to that agency 3/25/43. The survey of 43 plants operated by 25 companies showed, among other things, that costs were lower and profits higher for the larger companies than for the smaller ones.

Food—Bread Baking (O. E. S.), Wartime, 1942-43.—This investigation was requested (10/23/42) by the Director of the Office of Economic Stabilization and was conducted to determine what economies could be made in the bread-baking industry so as to remove the need for a subsidy for wheat, to prevent an increase in bread prices, or to lower the price of bread to consumers. Essential information on more than 600 representative bakeries' practices, costs, prices, and profits was developed and reported to O. E. S. (12/29/42). The report also was furnished to the Secretary of Agriculture and special data gathered in the inquiry were tabulated for O. P. A.

Food—Bread Baking (O. P. A.), Wartime, 1941-42.—In the interest of the low-income consumer, for whom it was deemed necessary the price of bread should be held at a minimum, the Commission investigated costs, prices, and profits of 60 representative bread-baking companies, conveying its findings to O. P. A. (Jan. 1942) in an unpublished report.

Food-Flour Milling (O. E. S.), Wartime, Requested by the Director of the Office of Economic Stabilization, this inquiry covered practices, costs, prices, and profits in the wheat flour-milling industry, its purpose being to provide the Director with facts to determine what economies could be effected in the industry so as to eliminate the need for a wheat subsidy, without reducing farmers' returns, or to reduce bread prices. The report was made to O. E. S. and a more detailed report was prepared for O. P. A.

Fruit Growers and Shippers (W. P. B.), Wartime, 1943-44.—This investigation was requested by the War Production Board to determine whether 7 grape growers and 12 grape shippers, all located in California, were in violation of W. P. B. Order 1,232 with respect to quotas affecting the use of lugs (wooden shipping containers)

Furnaces, Hot Air, Household (W. P. B.), Wartime, 1943-44.—The Commission made a Nation-wide survey for the War Production Board of the operations of one of the largest manufacturers in the United States of household hot air furnaces, to determine whether its practices in selling and servicing domestic heating plants were in violation of Orders L-79 and P-84, and other applicable regulations and orders of W. P. B.

Fuse Manufacturers (W. P. B.), Wartime, 1942-43—For the War Production Board the Commission investigated and reported on the activities of representative fuse manufacturers whose operations were subject to W. P. B. Limitation Orders L-158 and L-161, as amended.

Glycerin, Users of (W. P. B.). Wartime, 1942-43.—At the request of the War Production Board, paint and resin manufacturers, tobacco companies, and other large users of glycerin were investigated to determine whether they had improperly preference ratings to obtain formaldehyde, paraformaldehyde, or hexamethylenetetramine, to which they were not otherwise entitled.

Household Furniture (O. P. A.), Wartime, 1941-42—Costs, prices, and profits of 67 representative furniture companies were studied to determine whether, and to what extent, price increases were justified. A study was also made to determine whether price-fixing agreements existed and whether price increases resulted from understandings in restraint of trade. Confidential reports were transmitted to O. P. A. in Sept. 1941.

Insignia Manufacturers (W. P. B.), Wartime, 1944-45—Preliminary studies made by the War Production Board disclosed the probability that certain insignia manufacturers had acquired larger quantities of foreign silver than necessary to fill legitimate orders and diverted the balance to unauthorized uses. In response to W. P. B.'s request the Commission surveyed the acquisition of foreign silver by such manufacturers to determine the degree of their compliance with Order M-199 and checked the receipt and use of both domestic and treasury silver, as well as the manufacture of insignia, as controlled by Orders L-131 and M-9-c.

Jewel Bearings, Consumers of (W. P. B.), Wartime, 1942-43.—For the War Production Board, users of Jewel bearings were investigated to determine the extent to which they were complying with W. P. B. Conservation Order M-50, which had been issued to conserve the supply and direct the distribution of jewel bearings and jewel-bearing material.

Metal-Working Machines, Invoicing and Distribution of (W. P. B.), Wartime, 1942-43.—For the War Production Board an inquiry was made to obtain complete data from the builders of metal-working machines (including those manufactured by their subcontractors) such as all nonportable power-driven machines that shape metal by progressively removing chips or by grinding, boning, or lopping; all nonportable power-driven shears, presses, hammers, bending ma-

chines, and other machines for cutting, trimming, bending, forging, pressing, and forming metal; and all power-driven measuring and testing machines. Each type and kind of machine was reported on separately.

Nickel Processors (W. P. B.), Wartime, 1942-43.—The Commission was designated by the War Production Board to investigate the transactions of some 600 nickel processors for the purpose of determining the extent to which they were complying with W. P. B. Preference Order No. M-6-a, issued 9/30/41, and Conservation Order M-6-b, issued 1/20/42. The investigation was conducted concurrently with a survey of chromium processors.

Optical Decree (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 8/12/52) the manner in which an antitrust consent decree entered (Sept. 1948) against the American Optical Company and others, restraining them from discriminatory and monopolistic practices, was being observed, and report (2/10/54) to the Attorney General.

Paint, Varnish, and Lacquer Manufacturers (W. P. B.), Wartime, 1943-44—The purpose of this survey was to determine whether the manufacturers covered were in violation of War Production Board Orders M-139, M-150, M-159, M-246, and M-327 in their acquisition and use of certain chemicals, all subject to W. P. B. allocations, used in the manufacture of paint, varnish, and lacquer. Sales of such products to determine their end uses also were investigated.

Paperboard (O. P. A.), Wartime, 1941-42.—Costs, profits, and other financial data regarding operations of 68 paperboard mills (O. P. A. request, 11/12/41) for use in connection with price stabilization work, were transmitted to O. P. A. in a confidential report (May 1942).

Paper—Newsprint (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 1/24/38) the manner in which certain newsprint manufacturers complied with a consent decree entered against them (11/26/17) by the U. S. District Court, Southern District of New York.

Petroleum Decree (Attorney General).—The Commission investigated (inquiry referred to F. T. C. 4/16/36) the manner in which a consent decree entered (9/15/30) against Standard Oil Co. of California, Inc., and others, restraining them from monopolistic practices, was being observed, and reported (4/2/37) to the Attorney General.

Priorities (W. P. B.), Wartime, 1941-45.—Pursuant to Executive orders January 1942), W. P. B. designated the Federal Trade Commission as an agency to conduct investigations of basic industries to determine the extent and degree to which they were complying with W. P. B. orders relative to the allocation of supply and priority of war materials. F. T. C. Priorities investigations are listed herein under the headings: Aluminum, Foundries Using; Antifreeze Solutions, Manufacturers of; Capital Equipment, Chromium, Processors of; Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of; Contractors, Prime, Forward Buying Practices of; Copper Base Alloy Ingot Makers; Copper, Primary Fabricators of; Costume Jewelry, Manufactures of; Electric Lamps, Manufacturers of; Fruit Growers and Shippers; Furnaces, Hot Air, Household; Fuse Manufacturers; Glycerin, Users of; Insignia Manufacturers; Jewel Bearings, Consumers of; Metal-working Machines, Invoicing and Distribution of; Nickel, Processors of; Paint, Varnish, and Lacquer, Manufacturers of; Quinine, Manufacturers and Wholesalers of; Silverware, Manufacturers of; Silverware Manufacturers and Silver Suppliers; Steel Industry; Textile Cotton; and Tin, Consumers of. The report on each of these investigations was made directly to W. P. B.

Quinine, Manufacturers and Wholesalers of (W. P. B.), Wartime, 1942-43.—At the instance of the War Production Board, investigation was made to deter-

mine whether requirements of its Conservation Order No. M-131-a, relating to quinine and other drugs extracted from cinchona bark, were being complied with.

Silverware Manufacturers (W. P. B.), Wartime, 1942-43.—Silverware manufacturers were investigated at the request of the War Production Board to determine the extent to which they had complied with the copper orders, that is, W. P. B. General Preference Order No. M-9-a, Supplemental Order No. and Conservation Order m-9-c, as amended.

Silverware Manufacturers and Silver Suppliers (W. P. B.), Wartime, 1942-43.—The activities of silverware manufacturers and silver suppliers under W. P. B. Conservation and Limitation Orders m-9-a, b, and c, m-100 and L-140 were investigated and reported on at the request of the War Production Board.

Sisal Hemp (Senate).—The Commission assisted the Senate Committee on Agriculture and Forestry in an inquiry (S. Res. 170, 64th, 4/17/16) and advised how certain quantities of hemp promised by the Mexican sisal trust, might be fairly distributed among American distributors of binder twine (Mexican Sisal Hemp, S. Doc. 440, 64th, 8 p., o. p., 5/9/16). The Commission's distribution plan was adopted.

Steel Costs and Profits (O. P. A.), Wartime, 1942-43.—A report on the Commission's survey of costs, prices and profits in the steel industry, begun in April 1942 at the request of O. P. A., was made to that agency. The inquiry covered 29 important steel-producing companies.

Steel Industry (O. P. M.), Wartime, 1941-42.—This investigation covered practically every steel mill in the country and was conducted for the purpose of determining the manner in which the priorities and orders promulgated by the Office of Production Management were being observed, i. e., the technique used in the steel industry in meeting the requirements of O. P. M. (later the War Production Board) orders and forms controlling the distribution of pig iron, iron and steel, iron and steel alloys, and iron and steel scrap.

Textile Mills, Cotton (W. P. B.), Wartime, 1943-44.—For the War Production Board the Commission conducted a compliance investigation of manufacturers of cotton yarns, cordage, and twine to ascertain whether they were in violation of Priorities Regulation 1, as amended, by their failure to fill higher rated orders at the time they filled lower rated orders.

Tin Consumers (W. P. B.), Wartime, 1942-43.—The principal consumers of tin were investigated at the instance of the War Production Board to determine the degree of their compliance with Commission Order m-43-a, as amended, and other orders and regulations issued by the Director of the Division of Industry Operation, controlling the inventories, distribution, and use of the tin supply in the U. S.

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

Wartime inquiries, 1941-45.—To aid in the 1941-45 war program, F. T. C. was called upon by other Government departments, particularly the war agencies, to use its investigative, legal accounting, statistical and other services in conducting investigations. It made cost, price, and profit studies; compiled industrial corporation financial data; investigated compliance by basic industries with W. P. B. priority orders; and studied methods and costs of dis-

tributing important commodities. The 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.