

FEDERAL TRADE COMMISSION

GARLAND S. FERGUSON, *Chairman* 1
EWIN B. DAVIS

' The Chairmanship rotates annually. Commissioner Freer will become Chairman in January 1948.

II

LETTER OF SUBMITTAL

To the Congress of the United States:

I have the honor to submit herewith the Thirty-third Annual Report of the Federal Trade Commission for the fiscal year ended June 30, 1947. A limited number of copies of the report is being printed by the Federal Trade Commission.

By direction of the Commission :

GARLAND S. FERGUSON, *Chairman.*

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**ANNUAL REPORT
OF THE
FEDERAL TRADE COMMISSION
FOR THE
FISCAL YEAR ENDED JUNE 30, 1947**

INTRODUCTION

ACTS ADMINISTERED BY THE COMMISSION

The Federal Trade Commission herewith submits its report

Other legal activities of the Commission embrace administration of (1) section 2 of the Clayton Act, as amended by the Robinson-Patman Act, prohibiting price and other discriminations, and sections 3, 7, and 8 of the Clayton Act dealing with tying and exclusive-dealing contracts, acquisitions of capital stock, and interlocking directorates, respectively; (2) the Export Trade Act also known as the Webb-Pomerene Law, which permits the organization of associations to engage exclusively in export under stated restrictions; (3) the Wool Products Labeling Act of 1939, designed to protect industry, trade, and the consumer against the evils resulting from the unrevealed presence of substitutes and mixtures in wool products; and (4) those sections of the Lanham Trade-Mark Act which delegate to the Commission certain duties with respect to the cancellation of trade-marks registered with the Patent Office. (This act became effective July 5, 1947.)

The general investigations arise chiefly under section 6 (a), (b), (d), and (h) of the Federal Trade Commission Act, giving the Commission power :

(a) To gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any corporation engaged in commerce, excepting banks and common carriers * * *, 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 * * * 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. * * *

(d) Upon the direction of the President or either House of Congress ¹ to investigate and report the facts relating to any alleged violations of the antitrust acts by any corporation.

(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, and with such recommendations as it deems advisable.

INDUSTRY-WIDE ELIMINATION OF UNLAWFUL PRACTICES

On August 12, 1946, the Commission put into effect a reorganization plan designed to expedite observance of the laws under its jurisdiction by emphasis upon industry-wide simultaneous action and by expanding the cooperative phases of its work.

Under the program greater emphasis will be placed on the elimination of unfair trade practices through cooperative means. In those instances where circumstances permit, industry members will be given an opportunity to eliminate unfair methods of competition or unfair or deceptive practices through stipulation agreements to cease and desist or through the establishment of trade practice rules. Heretofore trade practice conferences have been held only when the Commis-

¹ The Independent Offices Appropriation Act of 1934 provided that future investigations by the Commission for Congress must be authorized by concurrent resolution of the two Houses. Under the Appropriation Act of 1948, funds appropriated for the Commission are not to be spent upon any investigation thereafter called for by congressional concurrent resolution "until funds are appropriated

subsequently to the enactment of of such resolution to finance the cost of such investigation.”

ELIMINATION OF UNLAWFUL PRACTICES

Effective July 1, 1947, the Commission separated the Office of the Chief Trial Counsel from the Office of the General Counsel. This action was a continuance of the policy of separating the Commission's advisory and prosecution functions.

Office of the Chief Trial Counsel.--The function of preparing, trying, briefing and arguing complaints in litigated cases is a prosecuting function which is performed by a staff of attorneys who work under the supervision of the Chief Trial Counsel and two Assistant Chief Trial Counsel. Neither they nor any of the attorneys performing such function in a particular case or in a factually related one participate or advise in the decision of such case except under the same conditions that are applicable to attorneys representing the respondent therein and which conditions are set forth in the Commission's published Rules of Practice. (See p.101.) Administration of the Export Trade Act is conducted by the Export Trade Office under a third Assistant Chief Trial Counsel.

Office of Legal Investigations.--The F7ive g a ln bly

In the work of carrying out the provisions of the Wool Products Labeling Act, the office closely integrates the

to conform to the Committee's proposals made in Senate Report No.243 with respect to the standardization of organizational nomenclature for Government departments. The new organizational designations are listed below, but elsewhere throughout this Annual Report the designations employed are those which were in use during the 1947 fiscal year and up to October 24, 1947:

General Counsel (formerly Office of General Counsel).

Division of Appellate Proceedings.

Division of Compliance.

Division of Trade-Marks

Bureau of Litigation (formerly Office of Chief Trial Counsel).

Division of Anti-Monopoly Trials.

Division of Deceptive Practices Trials.

Division of Export Trade.

Bureau of Legal Investigation (formerly Office of Legal Investigations).

Division of Field Investigation.

Division of Radio and Periodical Advertising.

Bureau of Trial Examiners (formerly Trial Examiners Division).

Bureau of Stipulations (formerly Division of Stipulations).

Bureau of Medical Opinions (formerly Medical Advisory Division).

Bureau of Trade Practice Conferences and Wool Act Administration (formerly Office of Trade Practice Conferences and Wool Act Administration).

Division of Rule Making.

Division of Rule Administration.

Division of Wool Administration and Inspection.

Bureau of Industrial Economics (formerly Office of Industrial Economics).

Division of Economics.

Division of Accounting.

Division of Statistics and Financial Reports.

Bureau of Administration (formerly Administrative Services).

Division of Budget and Planning.

Division of Personnel.

Division of Research, Compiling and Publications.

Division of Legal Records.

Division of Economic and Administrative Records.

Library.

Division of Services and Supplies.

The Commission assigned the title of "Director" to the heads of Bureaus and the title of "Chief" to the heads of Divisions.

LANHAM TRADE-MARK ACT

The Lanham Trade-Mark Act of 1946, which became effective July 5, 1947, authorizes the Federal Trade Commission to apply to the Commissioner of Patents for cancellation of the registration of trade-marks on the principal register which are deceptive, immoral or scandalous, or which have been obtained fraudulently or are in violation of the other stated provisions of the act.

On July 1, 1947, a Trade-Mark Division was established in the Office of the General Counsel to perform the duties assigned to the Commission by the new legislation. The division is under the supervision of an Assistant General Counsel.

OFFICE OF COMPLIANCE ESTABLISHED

On March 18, 1947, the Commission established the Office of Compliance to advise it with respect to the manner and form of compliance with orders to cease and desist and to coordinate, supervise and report to the Commission on all matters involving compliance and enforcement of such orders. This office has the responsibility for securing initial reports of compliance with orders and of such supplemental reports of compliance as may be required; planning and requesting investigations of the manner and form in which respondents are complying with orders, and supervising and preparing civil penalty proceedings certified to the Attorney General.

The Office of Compliance is under the supervision of an Assistant General Counsel in the Office of the General Counsel.

SUMMARY OF LEGAL ACTIVITIES DURING FISCAL YEAR

The Commission issued 53 formal complaints alleging violations of the laws it administers; entered 56 orders directing respondents to cease and desist from such violations; and accepted 145 stipulations to discontinue unlawful practices.

There were 28 cases in the United States Supreme Court and Circuit Courts of Appeals in which the Commission was a party. Rulings favorable to the Commission were obtained in 16 cases, 5 in the Supreme Court and 11 in United States Circuit Courts of Appeals. Decisions of circuit courts of appeals affirmed 6 Commission cease and desist orders (1 with modification and 1 with a dismissal as to 1 respondent); dismissed 3 petitions to review, leaving the Commission's orders to cease and desist in effect; denied a petition to enjoin a Commission proceeding; and remanded 1 proceeding at the request of the Commission to enable it to reinstate an order to cease and desist. The Supreme Court denied respondents' petitions for certiorari in 4 cases and granted the Commission's petition for certiorari in 1 case. Three Commission orders to cease and desist were set aside by circuit courts of appeals. Of these, 1 was appealed to the Supreme Court and petition for rehearing is pending as to another. One civil penalty action brought in a district court by the Attorney General for violation of a Commission order to cease and desist resulted in a judgment of \$38,000 against the respondents. (A detailed report of Commission cases in the Federal courts begins at p.59.)

Trade practice rules were promulgated for the following nine industries : household fabric dye, masonry waterproofing, vertical turbine pump, saw and blade service, doll and stuffed toy, piston ring, construction equipment distributing, wholesale confectionery (Philadelphia trade area), and watch (respecting the terms "waterproof," "shockproof," "nonmagnet" and related designations, as applied to watches, watch cases, and watch movements).

In the administration of the Wool Products Labeling Act, field inspections were made of several million articles subject to the labeling

provisions of the act, covering the labeling practices of over 7,500 manufacturers, distributors, and other marketers.

The Commission conducted several investigations into the operation of export associations organized under the Export Trade Act. Investigations of the Sulphur Export Corporation and the Export Screw Association of the United States were completed, and recommendations for the readjustment of the business of the

2 An alphabetical list and brief of description of the investigations conducted by investigati8oTj 1 0.08.06 TDTc 0 Tw (inve

Trade Act the Packers and Stockyards Act, the Securities Act of 1933, the Stock Exchange Act of 1934, the revised Federal Power Commission Act of 1934, the Public Utilities Holding Company Act of 1935, the Natural Gas Act of 1938, and the Robinson-Patman Antidiscrimination Act of 1936, which amended section 2 of the Clayton Act.

THE COMMISSIONERS AND THEIR DUTIES

The Federal Trade Commission is composed of five Commissioners appointed by the President and confirmed by the Senate. Not more than three may belong to the same political party.

As provided in the Federal Trade Commission Act, the term of office of a Commissioner is 7 years, dating from the 26th of September 8 last preceding his appointment, except when he succeeds a Commissioner who relinquishes office prior to the expiration of his term, in which case the act provides that the new member "shall be appointed only for the unexpired term of the Commissioner whom he shall succeed." Upon the expiration of his stated term of office, a Commissioner continues to serve until his successor shall have been appointed and shall have qualified.

As of June 30, ~~AA~~ As s

The Secretary is the Executive Officer of the Commission and is responsible for its administrative management.

Each case coming before the Commission for consideration is assigned to a Commissioner for examination and report before it is acted upon by the Commission. The Commissioners meet each work day for the transaction of business, including all hearings of oral arguments in cases before the Commission. They usually preside individually at the trade practice conferences held for industries, perform numerous administrative duties incident to their position, and direct the work of a staff which, as of June 30, 1947 numbered 603 officials and employees, including attorneys, economists, accountants, and administrative personnel

The Present Trend of Corporate Mergers and Acquisitions, March 7, 1947; 23 pages. Available from the Superintendent of Documents, Government Printing Office, at 10 cents a copy while the supply lasts.

The Copper Industry, Part I, The Copper Industry of the United States and International Copper Cartels, and Part II, Degree of Concentration in Domestic Copper Industry at End of 1945, March 11, 1947; 420 pages Available from the Superintendent of Documents, Government Printing Office, at \$1.25 a copy while the supply lasts. A processed summary is available from Federal Trade Commission without charge while the supply lasts.

Growth and Concentration in the Flour-Milling Industry, June 2, 1947; 36 pages. Available from the Superintendent of Documents, Government Printing Office, at 25 a copy while the supply lasts. A processed summary is available from Federal Trade Commission without charge while the supply lasts.

The Sulphur Industry and International Cartels, June 16, 1947; 105 pages. Available from the Superintendent of Documents, Government Printing Office, at 25 a copy while the supply lasts. A processed summary is available from the Federal Trade Commission without charge while the supply lasts.

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

The 39 volumes of *Federal Trade Commission Decisions* contain (1) the findings of fact and orders to cease and desist issued by the Commission throughout the years; (2) the stipulations accepted by the Commission wherein respondents agree to cease and desist from unlawful practices; and (3) the decisions of the courts in Commission cases for the different periods covered by the different volumes. They constitute a permanent and authoritative record of the remedial measures taken by the Commission to stop violations of the laws it administers. The decisions establish for industry, business, and the individual the guideposts of fair competitive dealing. They also tell, case by case, the story of the multiplicity of unlawful practices which have been found to be detrimental to the public interest and of the accomplishments of the Commission in the prevention of such practices.

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

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

RECOMMENDATIONS TO CONGRESS

On March 4, 1947, the Commission addressed to the Congress a special report pursuant to the statutory direction contained in section 6 (f) of the Federal Trade Commission Act that it recommend to Congress additional legislation. This report pointed out the recent increase in the trend toward corporate acquisitions and mergers and recommended to the Congress that section 7 of the Clayton Act be amended to prevent acquisition of physical assets as well as corporate stock where the effect may be substantially to lessen competition in interstate commerce. Similar recommendations have been made to the Congress in the Commission's Annual Reports for many years.

A Bill embodying the substance of the Commission's recommendations for amendment of section 7 of the Clayton Act was introduced in the present Congress (H. R. 3736, 80th Congress) and favorably reported to the House of Representatives by the Committee on the Judiciary (House Report No. 596). The Commission renews its recommendation that legislation be enacted which will enable the Commission to deal effectively with this problem of curbing corporate mergers and acquisitions which restrict commerce.

The following chart demonstrates the sharp increase in the corporate merger movement over the period from 1919 to date :

[GRAPHIC]

PART I. GENERAL INVESTIGATIONS

During the fiscal year 1947 the Commission completed and transmitted to Congress the following reports ¹ which presented the results of general investigations :

The Present Trend of Corporate Mergers and Acquisitions.

The Copper Industry, Parts I and II.

The Sulphur Industry and International Cartels.

The Wholesale Baking Industry, Part II.

Economic Effects of Grain Exchange Actions Affecting Futures Trading During the First Six Months of 1946.

Growth and Concentration in the Flour-Milling Industry.

In addition, the Commission, with the cooperation of the Securities and Exchange Commission, completed a combined compilation, by industry groups, of the financial operating statements of approximately 5,500 manufacturing corporations for the first three months of 1947. The reports, which were not ready for publication until after the close of the fiscal year, disclose the relationship between investments, sales, costs and profits for the period covered.

Other reports in course of preparation at the close of the fiscal year dealt with studies of the trend of manufacturer-controlled retail prices; costs, profits and practices in the fertilizer industry; the effect of production and distribution policies of large concerns on small business in the farm implement industry and the steel industry; and mergers in the dairy industry.

The Commission also presented extensive data on mergers and acquisitions before subcommittees of the Senate and House Judiciary Committees which were considering proposed amendments of section 7 of the Clayton Act, to give the Commission power to prevent acquisitions of assets generally similar to its present power over acquisitions of stock. Detailed information was submitted on the extent of mergers in steel drums, in liquor, and in manufacturing generally. The Commission also presented evidence to the Senate Small Business Committee on the effect of integration by the large steel producers upon the supply of steel available for small business.

THE PRESENT TREND OF CORPORATE MERGERS AND ACQUISITIONS

The Commission's major interest in its general investigation work during the year centered around the problem of the increase in the concentration of economic power. Most of the individual industry studies, as listed above, have been focused on this central problem of monopoly. The Commission's attitude was summarized in a special report submitted on July 1, 1946, to the Monopoly Subcommittee of the House Select Committee on Small Business, in which it stated :

¹ Summaries of the complete reports listed may be obtained from the Commission while the supply lasts.

During wartime there is little incentive for large corporations to acquire small businesses. New facilities which are needed to produce war products are supplied in large part by the Government. However, as victory looms in sight, and the elements of competition and control over mark

exceeding \$50 million. Another 41 percent of the total were taken over by corporations with assets ranging from \$5 million to \$49 million. Hence, nearly three-fourths of the total number of firms acquired during this period were absorbed by larger corporations with assets of over \$5 million. At the other end of the scale, the distinctly small firms, those with less than \$1 million of assets, have made only 11 percent of the acquisitions.

The largest firms, those with assets of \$50 million and over, acquired an average of some four firms each, while the smallest acquiring firms, those with assets of under \$1 million, acquired an average of less than one and a half firms each.

The predominant role of the giant corporations in this current merger movement is strikingly illustrated by the fact that since 1940, 71 out of the 100 largest manufacturing corporations bought up 278 concerns, or 17 percent of all companies acquired; and in addition 49 of the second 100 purchased 175 firms, or 10 percent of all the companies acquired. In other words, 120 out of the top 200 corporations bought up 453 companies, or 27 percent of the total.

Only 4 of the 18 most active acquiring concerns were too small to rank among the nation's 200 largest manufacturing corporations. These 18 corporations acquired an average of more than 13 firms each, most of which were purchased during 1944-46.

The impact of the merger movement on small business is clearly shown by the fact that fully 90 percent of all the firms bought out since 1940 held assets of less than \$5 million, and 70 percent had less than \$1 million of assets. On the other hand, only 4 percent of the total number of acquired firms had assets of over \$10 million.

In short, the figures indicate conclusively that the major impetus behind the current merger movement has been the desire of giant corporations to consolidate their wartime gains and to expand the scope of their domination through acquisitions of smaller, independent enterprise.

How has the recent merger movement affected the competitive structure of the American economy? The majority of the actions (60 percent) were horizontal acquisitions; that is, the purchase of firms engaged in roughly similar lines of production. Vertical acquisitions, which involve either the "backward" purchase of suppliers or the "forward" purchase of further fabricating facilities, have accounted for 17 percent of the total number. And conglomerate acquisitions, in which there is no discernible relationship in the nature of business between the purchasing and the acquired firms, represented 22 percent of the total number.

Each of these three types of acquisitions contributes to the increase of economic concentration and to the decline of competition. A major result of horizontal acquisitions is to bring together firms producing (1) identical products for similar markets or (2) products which might be substituted for one another.

Vertical integrations have a particularly severe effect upon small business during periods such as the present which are plagued by shortages of raw materials components, etc. During such periods, large firms frequently reached backward to acquire important suppliers, and in so doing reduce the amount of supplies available for small independent business.

The third avenue of expansion, the conglomerate acquisition, con-

tributes greatly to the concentration of economic power, since it results in the absorption of many small firms in different and often completely unrelated lines of activity. Perhaps the most important danger inherent in these conglomerate organizations is the economic power they can wield over a large number of different industries. Threatened with competition in any one of its fields of enterprise, the conglomerate corporation may sell below cost or use other unfair methods in that field, absorbing its losses through excessive profits made in its other lines of activity, all rationalized in the name of "meeting competition." The conglomerate corporation is thus in a position to strike out with great force against small business in a variety of different industries.

The majority of recent acquisitions in manufacturing as a whole and in most of the individual industries have been of the horizontal type. Horizontal acquisitions have been particularly important in mining, petroleum and coal products, drugs and medicines, paper, beverages food and chemicals (other than drugs).

As might be expected, forward vertical acquisitions were most pronounced in the basic materials industries, such as primary metals and chemicals (other than drugs), while the backward integrations were outstanding in electrical machinery, textiles and apparel, and paper and allied products. By far the greatest number of vertical acquisitions were of this latter type and were most noticeable in the textiles industry as a result of the efforts of converters, selling agents, and apparel manufacturers to secure supplies of gray goods.

Conglomerate acquisitions were made in substantial numbers by beverage, metal fabricating, machinery, transportation equipment, and drug corporations. In addition, many acquisitions of this type were made by nonmanufacturing concerns, notably reflecting the absorption of manufacturing firms by financial and banking interests.

THE COPPER INDUSTRY, PARTS I AND II

The Commission's *Report on the Copper Industry*, summarized below, was transmitted to Congress March 11, 1947.

The copper industry presents an outstanding example of a primary materials field in which concentration has reached an extraordinarily high level partly as a result of acquisitions and mergers. This concentration exists not only in the United States but in the world market.

In fact, the interconnecting relationships between international interests through direct financial relations, interlocking directors, or less directly, through large commercial banks, investment houses and industrial consumers in the United States and in foreign countries, are such as to indicate that 5 groups dominate the production and price policies of more than 60 percent of the world's production of primary copper. The individuals who head these dominant groups are (1) Cornelius F. Kelley, chairman of the board of Anaconda Copper Co.; (2) E. T. Stannard, president of Kennecott Copper Corp., the world's largest single copper producing company; (3) Louis C. Cates, president of Phelps Dodge Corp.; (4) A. Chester Beatty, chairman of the board of Rhodesian Selection Trust, Roan Antelope Copper Mines, Ltd., Mufulira Copper Mines, Ltd., director of Rokana Corporation, Ltd., and the controlling figure in British-controlled Rhodesian mines; and (5) Robert C. Stanley, chairman of International Nickel Co.

exists because

Commission's *Report on the Sulphur Industry and International Cartels*,
transmitted to Congress June 16, 1947.

Native or natural sulphur is mined in the United

ticipants to enhance and maintain prices in foreign markets was always the uncontrolled production of non-member companies. Since the early 1920's this competition has consisted of uncontrolled producers of natural sulphur, mainly by American, Japanese and South American producers, and producers of by-product sulphur in the smelting of pyrites for their metal contents, mainly in Scandinavia, Spain and Portugal under patents controlled by Orkla Grube Aktebolaget Industrimetoder of Stockholm, and in Italy by the Montecatini interests.

When competition arose from these three sources in the early 1930's, each became the object of cartel control to maintain cartel price structures and distribution arrangements. Orkla competition was controlled by a secondary agreement between it and Sulphur Export Corp.³ dividing the foreign market, fixing foreign prices, limiting further issuance by Orkla of licenses to third parties in Europe, and providing for joint acquisition of basic patents under which other by-product competition might arise.

Montecatini (Italian) competition was disposed of by the Italian Government, compelling Montecatini to become part of the Italian national cartel, and a measure of control was set up for a time over the American independent sulphur movement in export trade by Sulphur Export Corp. finding a market for independent tonnage in its quota, in consideration of which American independents were to observe cartel prices. There were no such definite arrangements with American independents after 1935, but the latter appear to have found it advantageous to follow the price leadership of the cartel in sales they made in Europe.

When Rio Tinto Co. of Spain and Mason and Barry of Portugal, licensees under Orkla patents, competed for the Spanish market and Rio Tinto threatened to export to France, Sulphur Export Corp. exerted its influence to prevent such invasion of other markets.

In support of a cartel of French sulphur grinders who purchased their 0 1TTj 2.2h1n oD -0

³ See p.82 for Commission's recommendations for readjustment of the business of Sulphur Export Corp.

smaller nonmember producers who have been permitted ,and upon occasion even assisted, to find foreign outlets far tonnages, which additional tonnages, if sold in the domestic market, might have had a depressing effect thereon, has tended to forestall and ameliorate competition at home. The independents, while not always strictly observing Sulphur Export Corp.'s prices abroad, or its members' domestic prices at home have nevertheless followed quite closely the price and distribution leadership of their larger competitors in both markets because it was to their advantage to do so. To do otherwise would not have been good business. The report of the Canadian Commissioner of its Combines Act reports similar economic effects of the cartel agreements on sulphur distribution in Canada, one of the markets not included under the cartel agreements.

From 1926 through 1931, during the first three years of which there were only two American producers it appears that the domestic price level yielded substantial profits. Price protection afforded the Italians maintained export prices substantially higher than domestic prices, and still further enhanced the profits of the American producers. Quota restrictions under the carte agreement, however, restricted the quantity of sulphur that could be sold at the higher export prices. The fact that domestic prices were lower than export prices would seem to ~~under~~ ^{of} ~~and~~ ^{carte} would still

THE WHOLESALE BAKING INDUSTRY, PART II

A third concentrated industry studied by the Commission was the wholesale baking industry. The results of the study were presented to Congress August 7, 1946, in a report entitled *Wholesale Baking Industry, Part II--Costs, Prices and Profits*.

The commercial baking of bread and other bakery products increased considerably during the war period. A recent survey indicated that 85 percent of the bread and 35 percent of the cake consumed in this country were produced by commercial bakers. It is estimated that the baking industry in 1945 had annual sales in excess of \$2 billion compared with total sales of \$1.4 billion for 1939. The estimated quantity of commercial bread produced in 1945 amounted to 15 billion pounds, compared with 10.5 billion pounds for 1939.

Perhaps the most interesting finding in the study was the absence of any close relationship between size of corporations and efficiency. In fact, the report shows that the 4 largest baking companies--Continental Baking Co., General Baking Co., Purity Bakeries Corp., and Ward Baking Co.--had an average cost to produce and sell bread and rolls of 7.58 cents per pound in September 1945, compared with an average cost of 7.41 cents for 10 medium-large multiple plant baking companies. The lower costs of these 10 resulted principally from lower plant overhead expenses. Thus, based on average costs, the medium-large plants were definitely more efficiently operated than the plants of the industry's 4 giant corporations.

However, in terms of plants rather than corporations, the large plants had lower average costs than the medium and smaller sized plants. For September 1945, wholesale baking plants producing in excess of 1 million pounds of bread and rolls per month had total costs of 7.47 cents a pound, compared with average costs of 7.60 cents per pound for those plants baking from 500,000 to 1,000,000 pounds per month; 7.78 cents per pound for those plants baking from 250,000 to 500,000 pounds per month and 9.12 cents per pound for those plants baking under 250,000 pounds monthly. But, inasmuch as efficiency was highest in the medium-large corporations, it is obvious that many of the most efficient large plants were not operated by the giant corporations, but rather were owned by the medium-large concerns.

Although they were not the most efficient concerns, the 4 leaders nonetheless made the highest rates of profits on sales in the industry, ranging from 4.54 cents per dollar of sales in 1941 to 8.47 cents in 1943. Bakeries with annual sales of less than \$500,000 reported minimum profits on sales ranging from a low of 2.68 cents per dollar of sales in 1941 to a high of 5.04 cents in 1943. Similarly, the 4 largest baking companies reported the highest rates of return on net worth before income taxes, ranging from a maximum of 28.86 percent for 1943 to a minimum of 10.09 percent for 1941. These rates compare with those reported by wholesale baking companies with annual sales under \$500,000, ranging from a high of 23.7 percent for 1943 to a low of 11.06 percent for 1941. Out of the 192 companies in this smallest sized group reporting for 1941, a total of 43 reported losses while none of the 4 largest companies in the industry reported a net loss for any year from 1936 to 1945, inclusive.

GROWTH AND CONCENTRATION IN FLOUR-MILLING INDUSTRY

Noticeable features of the development of these enterprises are : (1) the acquisition of flour mills in widely dispersed localities, (2) acquisition of grain storage well distributed throughout the principal wheat-producing regions, and (3) entry into and development of the feed-manufacturing business.

REPORTS ON INDUSTRIAL OPERATIONS

The purpose of these reports is to provide accurate and current information as to the financial characteristics and operating results of American manufacturing industries without disclosing the individual features of any particular corporation. The reports represent a combined industry compilation of the financial statements of manufacturing corporations so as to disclose the simple facts of the true relationship between investments, sales, costs, and profits.

Prior to the war the Commission, in accordance with the powers granted by Congress in 1914, collected, summarized, and analyzed the financial operating statements of corporations in a number of industries and published summaries of the results. During the war period, this work was discontinued because the Price Control Act conferred upon the Office of Price Administration similar powers. On December 12, 1946, the President, by Executive Order, transferred this function back to the Federal Trade Commission and it thereupon resumed its peacetime work in this field.

On April 15, 1947, the Commission directed a representative cross-section of manufacturing corporations to file with it a brief financial statement of operations for the first three months of 1947. The significant facts developed from a combined tabulation of these reports are presented in the tables beginning on page 31.

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

The interagency committee on financial statistics recommended a program of quarterly and annual financial reports. This work was assigned jointly to the Federal Trade Commission and the Securities and Exchange Commission. The Securities and Exchange Commission is responsible for the collection and compilation of information from corporations with securities listed on a national stock exchange and the Federal Trade Commission is responsible for the collection of information from a sufficient number of non-listed corporations so as to effectively round out a representative sample for determining current national estimates for all industrial manufacturing groups. The two agencies collaborated on the assembly and publication of the industry summaries.

The industrial financial summaries should be of increasing value to business and the Government in showing the financial trends of indus-

trial activity. Since the reports are to be issued on a quarterly basis they will provide a current barometer of the economic conditions of the economy and of its various industry segments.

Table 1.--Federal Trade Commission and Securities and Exchange Commission quarterly industrial financial reports series, first quarter 1947, aggregate for all manufacturing industries combined

SELECTED INCOME AND EXPENSE ITEMS

	Assets range (thousands of dollars)					Total
	1 to 249	250 to 999	1,000 to 4,999	5,000 to 99,999	100,000 and over	
1 Net sales	\$1,620,181	\$3,299,698	\$6,127,657	\$12,325,826	\$11,201,091	
\$34,574,452						
2 Costs and expenses	1,497,968	2,960,325	5,341,047	10,639,154	9,762,505	30,200,999
3 Net operating profit	122,213	339,372	786,610	1,686,672	1,438,586	433,453
4 Other income or deductions-net	1,699	7,354	14,510	8,480	3,694	28,348
5 Net income before Federal income taxes	123,912	346,726	801,120	1,695,152	1,434,892	401,801
6 Provision for Federal income taxes	48,090	143,840	317,921	670,963	547,765	1,728,577
7 Net income after taxes	75,822	202,880	483,199	1,024,189	887,127	2,673,224
8 Dividends paid (cash or in kind)	14,560	32,938	72,257	272,685	276,248	668,688

CONDENSED BALANCE SHEET

ASSETS

9 Cash	\$413,219	\$784,105	\$1,432,029	\$3,580,763	\$3,993,980	\$10,204,097
10 United States Government securities	113,538	367,229	749,216	2,267,994	3,106,732	6,604,709
11 Other marketable securities	37,383	77,690	174,144	319,616	70,134	678,966
12 Accounts and notes receivable net	538,152	1,018,678	2,076,665	4,476,942	3,441,221	11,551,659
13 Inventories	656,032	1,593,570	3,598,326	9,291,480	9,152,079	24,291,487
14 Other current assets	54,239	112,038	155,271	407,194	200,817	925,9
15 Total current assets	1,812,563	3,953,311	8,185,651	20,343,990	19,964,963	54,260,477
16 Property, plant and equipment-net	773,901	1,555,605	3,263,229	8,666,004	14,109,903	28,368,644
17 Other assets including deferred charges	171,203	298,714	755,857	2,113,043	2,736,004	6,074,826
18 Total	2,757,667	5,807,630	12,264,732	31,123,037	36,810,869	88,703,941

LIABILITIES

19 Bank loans payable within one year	\$107,701	\$258,468	\$658,503	\$1,219,476	\$430,878	\$2,675,025	4234,627 Tj 4
20 Other notes and accounts payable	398,634	673,954	1,106,168	2,122,243	2,468,956	6,769,954	
21 Federal income taxes accrued	120,600	436,595	989,178	2,286,965	1,862,848	120,651	
23 Total current liabilities				674,505	1,563,964		

Number of sample corporations	725	1,206	2,368	1,112	57	5,468
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accounts payable	9,662	737,794	51,083	411,972	206,927	108,382	62,855	175,186	192,161	411,716	851,702
Federal income taxes accrued	14,572	1,003,398	74,771	536,560	125,247	101,698	55,601	280,125	129,484	628,328	299,495
Other current liabilities	9,866	355,451	25,013	182,051	57,941	40,462	31,805	106,354	85,046	247,865	401,394
Total current liabilities	34,967	2,743,262	327,961	1,296,650	515,196	286,869	191,975	604,020	449,909	1,444,657	1,638,425
Long-term debt and other liabilities	4,414	999,519	559,448	213,045	39,182	78,780	43,513	300,933	126,083	488,687	1,574,163
Stockholders' equity	170,281	7,489,135	1,036,496	3,608,925	955,783	1,207,756	550,907	2,447,775	1,163,347	5,463,608	8,409,251
Total	209,663	11,231,916	1,923,904	5,118,620	1,510,160	1,573,405	786,394	3,352,729	1,749,338	7,396,946	11,621,839
Number of sample corporations	11	738	31	487	238	207	126	269	254	379	89

Miscellaneous	Income and expenses Total	Rubber products	Leather and leather products	Stone clay, and glass products	Primary metal industries	Fabricated metal products	Machinery	Electrical machinery and parts	Motor vehicles except motor vehicles and parts	Transportation equipment	Instruments, photo and manufactured goods; watches and clocks
Net sales	\$784,049	\$611,805	\$766,894	\$3,343,363	\$1,594,346	\$2,943,287	\$1,637,058	\$2,369,973	\$1,067,740	\$374,004	
\$525,528	\$35,553,577										
Costs and expenses	698,321	548,999	661,754	2,900,855	1,371,108	2,552,140	1,460,935	2,029,540	1,050,240	331,382	
467,354	31,184,068										
Net operating profit	85,728	62,806	105,140	442,508	223,238	391,147	176,123	340,433	17,590	42,622	
58,174	4,369,509										
Other income or deductions-net	-125	1,592	1,647	-3,970	1,840	-1,106	-3,968	-1,443	8,037	4,819	6
15,259											
Net income before Federal income taxes	85,603	64,398	106,787	438,538	225,078	390,041	172,155	338,990	25,537	47,441	
58,867	4,384,768										
Provision for Federal income taxes	36,332	26,710	43,468	170,932	86,879	157,748	62,580	144,344	14,256	18,708	
25,220	1,720,881										
Net income after taxes	49,271	37,688	63,319	267,606	138,199	232,293	109,575	194,646	11,281	28,733	
33,647	2,663,892										
Dividends paid (cash or in kind)	23,791	8,772	20,377	47,629	31,124	53,307	28,298	23,038	6,893	11,399	7
662,743											

ASSETS AND LIABILITIES

ASSETS

Cash	208,325	140,679	270,454	1,288,935	438,850	860,597	370,808	981,956	286,745	117,859	
150,999	10,204,097										
United States Government securities	149,939	61,185	178,089	1,342,158	259,155	489,807	159,811	229,233	271,270	99,452	
77,966	6,604,709										
Other marketable securities	2,499	6,408	29,313	36,565	29,087	67,316	13,844	11,468	32,328	2,696	
25,844	678,966										
Accounts and notes receivable	335,813	236,042	267,187	1,042,077	563,679	1,278,863	688,354	744,500	375,979	175,653	
215,461	11,551,659										
Inventories	646,397	345,261	409,296	1,952,463	1,129,579	2,864,633	1,325,940	1,806,835	871,951	446,159	
415,891	24,291,487										
Other current assets	4,051	13,762	21,620	65,328	35,318	123,586	114,571	62,269	108,481	16,931	
30,433	929,559										
Total current assets	1,374,024	803,338	1,175,959	5,727,526	2,455,668	5,684,802	2,673,327	3,836,261	1,946,755	858,750	
916,595	54,260,477										
Property, plant and equipment-net	498,616	135,749	976,030	4,044,204	1,142,806	1,991,929	721,668	1,741,723	405,840	312,238	
286,507	28,368,644										
Other assets including deferred charges	42,357	53,174	187,222	468,081	227,411	477,674	321,456	486,788	146,524	63,339	
81,682	6,074,820										
Total	1,887,998	992,261	2,339,211	10,239,811	3,825,884	8,154,406	3,716,451	6,064,772	2,499,118	1,234,326	
1,284,785	88,703,941										

LIABILITIES

Bank loans payable within 1 year	34,167	34,170	35,596	69,734	110,993	353,325	154,133	154,599	106,399	45,810	
54,177	2,675,025										
Other notes and accounts payable	170,814	98,513	142,510	751,297	314,342	634,853	304,276	665,355	247,529	75,286	
145,739	6,769,954										
Federal income taxes accrued	170,303	84,045	136,541	616,850	238,274	492,812	174,208	256,809	96,833	94,137	
86,095	5,696,185										
Other current liabilities	110,365	35,614	58,682	397,456	166,145	539,378	345,986	323,165	324,565	48,912	

TABLE 3.--*Federal Trade Commission and Securities and Exchange Commission quarterly financial reports series, first quarter 1947, profit ratios by size classes*

Assets class (thousands of dollars)	Ratio of net income before taxes to stockhold- ers' equity	Ratio of net income after taxes to stockhold- ers' equity
	<i>Percent</i>	<i>Percent</i>
1 to 249	6.66	4.08
250 to 999	8.79	5.14
1,000 to 4,999	9.65	5.82
5,000 to 99,999	7.83	4.73
190,000 end over	5.48	3.39
All sizes	7.11	4.32

(2) disposition of the application by the respondent signing a stipulation as to the facts and an agreement to cease and desist from the practices as set forth in the stipulation; or (3) issuance of formal complaint.

If the Commission decides that a formal complaint should issue, the case is referred to the Chief Trial Counsel for preparation of the complaint and trial of the case. Should the Commission permit disposition by stipulation in lieu of formal complaint, the case is referred to the Director of the Division of Stipulations for negotiation of stipulation and submission thereof to the Commission for approval.

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

PROCEDURE UPON FORMAL COMPLAINTS

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

A formal complaint is issued in the name of the Commission acting in the public interest. It names the respondent, or respondents, alleges a violation of the law, and sets forth the facts and circumstances which constitute the violation.

may be taken by either counsel.

Briefs may be filed within a stated time after the trial examiner's

recommended decision is made and, in the discretion of the Commission, upon the written

advertisers of food, drugs, devices, or cosmetics which may cause injury when used under prescribed or customary conditions from

disseminating advertisements that fail affirmatively to reveal that such products are dangerous or that their use under certain conditions may cause bodily injury.

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

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

LEGAL INVESTIGATIONS

INQUIRIES PRIOR TO FORMAL COMPLAINT OR STIPULATION

The Commission makes legal investigation of all applications for the complaint preliminary to instituting formal action for the correction of unfair methods of competition or other acts or practices violative of the laws it administers. 140

Investigation of cases in initial stages includes the general preliminary legal investigating work of the Commission under the several acts and the continuing survey of radio and periodical advertisements with the object of correcting false and misleading representations.

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

At the beginning of the fiscal year, in 1947

pending for investigation at the close of the year.

During the year, 282 further investigations were made, including

² Statistics reported on pp. 38 to 47 concerning the legal investigation work are division records and not the consolidated record of the Commission, and therefore do not coincide with the figures reported in the tabular summary of the legal work for the entire Commission appearing on pp. 62-64.

obtained in appropriate form to support civil

penalty actions. Such investigations are equally extensive with those conducted in original cases. Fourteen cases of this character were pending at the close of the fiscal year.

Of the 192 restraint-of-trade investigations in progress during the fiscal year, 6 resulted from applications for complaint filed by Federal, State, or municipal agencies; 7 were submitted by trade associations; 1 by a labor union; and 35 were initiated by the Commission on its own motion. Most of the other cases originated as a result of complaints made by individuals and concerns whose business was being jeopardized by alleged unfair and illegal practices.

Clayton Act, section 2, as amended by Robinson-Patman Act.--The Robinson-Patman Act, approved June 19, 1936, amended section 2 of the Clayton Act and restated in more inclusive form the basic principles of prohibiting price discriminations which injuriously affect competition; it also prohibits per se certain

As in previous years the administration of the statute touched widely varied fields

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

Clayton Act, section 3.--This section of the act has reference to exclusive dealing contracts made upon condition that the buyer or lessee will not deal in the goods, wares or merchandise of a competitor. There were 17 such cases pending at the beginning of the fiscal year awaiting investigation. During the fiscal year, 18 additional cases were instituted making a total of 35 such cases on the calendar. Fourteen investigations of this type were complete during the fiscal year for consideration and disposition by the Commission, leaving 21 pending on the active investigational calendar as of June 30, 1947.

The following commodities were involved in these investigations : motion picture films, beauty culture service, farm machinery and implements, fish, shrimp, gasoline, auto accessories and general merchandise, hearing aids, advertising space, soft drinks, fuel oil, baking soda, tobacco products, metallic packing, fire extinguishers and refills, towel cabinets, wire-tying machines and tying wire, rivets and rivet machines, and vending machines.

Included in the above figures are three completed matters which involved formal docketed cases. Twenty-one of such cases were pending at the close of the fiscal year.

Of the 35 exclusive-dealing contract investigations in progress during the fiscal year, some of the applications for complaint were filed by trade associations, some by newspaper companies and others by the Commission on its own motion. The greatest number, however, resulted from complaints made by individuals, companies and corporations alleging unfair practices which jeopardized their respective businesses.

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

where the stock is not voted or otherwise used to bring about the substantial lessening of competition, is also excepted under the provisions of the section. The acquisition of the property and assets of

a competing corporation or corporations, or the merger of the assets and businesses of competing corporations is not prohibited by the statute and the courts have held that the Commission is without authority to prevent such acquisitions or mergers notwithstanding the effect thereof on competition and commerce or tendency to create a monopoly.

The Commission's work under section 7 of the Clayton Act during the year included the consideration of two matters in which complaints were issued prior to the beginning of the year. One of these matters, involving groceries and food products, was dismissed and the other matter, involving building materials and fuel, was awaiting disposition at the close of the year. This complaint also involved alleged violation of section 5 of the Federal Trade Commission Act. No formal complaints were issued during the year.

Applications for complaint were docketed in five matters, two of which were closed after preliminary investigation. Six applications for complaint were pending at the close of the year, the commodities involved being asbestos products, evaporated milk, biscuits and crackers, and distillery products. During the year the Commission also gave consideration to two undocketed matters which were closed after preliminary investigation.

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

Since enactment of the amendment, the Commission has completed 2,466 field investigations of alleged violations of section 12 of the act, which relates to false advertising of food drugs, devices, and cosmetics. Of these, 135 were completed during the fiscal year. This number includes new cases as well as old cases reinvestigated to determine whether Commission cease and desist orders, and stipulations executed by advertisers and accepted by the Commission, were being violated, and whether additional practices not previously prohibited were being carried on in contravention of the law.

At the close of the year, 143 applications for complaint respecting alleged false advertising of food, drugs, devices, and cosmetics were under investigation.

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

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yearly for each publication, the frequency of the calls for each publication depending upon its circulation and the character of its advertisements.

Through such systematic calls during the fiscal year, the Commission procured 1,733 editions of representative newspapers of established general circulation and 1,309 editions of magazines and farm and trade journals of interstate distribution. These periodicals included 236 issues of farm 179 issues of trade journals and specialty publications, and 10 issues of domestic foreign-language publications.

In these newspapers, magazines, and farm and trade journals, 398,711 advertisements were examined, of which 18,256 were noted as containing representations that appeared to warrant investigation as to the facts.

Mail-order advertising.--The Commission procured mail-order catalogs and circulars containing an aggregate of 1,038,629 issues.

and 1,309 editions of farm and trade journals of interstate distribution.

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involved.

Industry-wide investigations.--Pursuant to the reorganization plan effective August 12, 1946, the Commission, through its Radio and Periodical Division, completed an industry-wide investigation of the

mothproofing products industry which dealt with the advertising and promotional practices of 73 separate companies.

At the close of the year the division was conducting industry -wide investigations with respect to the advertising and promotional practices of the simulated and cultured pearls industry, involving 122 separate companies, and the floor wax products industry, involving 107 manufacturers and distributors of all types of such products.

DISPOSITION OF CASES BY STIPULATION

Instead of disposing of cases by the formal complaint and trial method, the Commission under certain circumstances affords respondents the opportunity of signing a statement of facts and an agreement to cease and desist from most types of unfair methods of competition and unfair or deceptive acts or practices in commerce. The policy of the Commission with respect to stipulations of this type is set forth in its Statement of Policy. (See p.119.)

During the fiscal year the Commission approved 145 stipulations, of which 120 were negotiated through the Division of Stipulations after it was established on August 12, 1946. (See p.65 for report of the Division of Stipulations.)

FORMAL COMPLAINTS

During the fiscal year the Commission issued 53 formal complaints alleging violations of the laws it administers. Of this total, 39 charged violation of the Federal Trade Commission Act; 9, violation of the Clayton Act; 3, violation of the Federal Trade Commission and Clayton Acts; and 2, violation of the Wool Products Labeling and Federal Trade Commission Acts.

I. COMPLAINTS UNDER FEDERAL TRADE COMMISSION ACT

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

[Complaints referred to are identified by accompanying docket numbers]

In each of five complaints issued by the Commission competing manufacturers and sales organizations were charged with combining, through their trade associations and

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vertisements also were alleged to be false and misleading because they failed to reveal the potential danger

ORDERS TO CEASE AND DESIST

The Commission during the fiscal year issued 56 orders to cease and desist from the use of unfair methods of competition and other viola-

tions of the laws it administers. The following cases are illustrative of the orders

lumbago or Similar disorders; or that the device constitutes a competent or effective treatment for the alleviation of pain resulting from diseases and ailments, unless such claim is specifically limited to conditions which do not involve acute inflammatory processes, glandular structures or the special senses. The Commission found that the device instead of being beneficial might result in serious and irreparable injury to health under certain conditions. It ordered the respondent to discontinue disseminating advertisements which fail to reveal that the device is not safe for use for any condition unless a competent medical authority has determined, as a result of diagnosis, that the use of diathermy is indicated and has prescribed the frequency and rate of application of the treatments, and the user has been adequately instructed by a trained technician in the use of the device (5032.)

The Myndall Cain House of Beauty, Minneapolis.--The Commission in this case prohibited numerous representations concerning the results to be accomplished by use of cosmetics known to be injurious to the skin, and the use of the same for the purpose of

representations that the reproductions sold by the respondents were “paintings” which were being sold at special or reduced prices; the display of attractive “samples” when the final products delivered were inferior to such specimens; and failure to disclose that the portraits were of such an unusual shape and design that they required a frame which could be procured only from the corporate respondent (4692).

Central University, Indianapolis.--In this case the Commission ordered a correspondence school operated solely by its secretary from her residence to stop describing itself as a university and otherwise misrepresenting its status. The order prohibits the respondent from representing that the school is a larger institution than it actually is or that it has more complete educational facilities or a larger student enrollment than is the fact. Commission findings were to the effect that there was neither a resident faculty nor a resident study body and that neither the credits earned by students of the school nor the degrees conferred are recognized by reputable ‘ accredited colleges or universities (5326).

II. ORDERS UNDER WOOL PRODUCTS LABELING ACT

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

United States of single shuttle cotton and synthetic fiber

automatic looms, was ordered to cease and desist from discriminating in price between its various costumers in connection

The following list illustrates unfair methods of competition and unfair or deceptive acts and practices condemned by the Commission

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

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

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

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

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

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

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

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

8. Widespread threats to the trade of suits for patent infringement arising from the sale by competitors of alleged infringing products, not in good faith, but for the purpose of intimidating the trade and hindering or stifling competition, and

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favorable price, or that the number thereof that may be purchased is limited.

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

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

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

21. Misrepresenting in various ways the necessity or desirability or the advantages
the goods

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value of its goods, or the personnel or staff or personages presently or theretofore associated with such business or the products thereof.

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

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

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

(h) Advertising a price for a product as illustrated or described and not including in such price all charges for equipment or accessories illustrated or described or necessary for use of the product or customarily included as standard equipment, and failing to include all charges not specified as extra.

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

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

bTcin(a)Tj f 88 e 77192188 TC (B) 115 22 Te 358 22 products with 18-358-021812186 6 TD) 086
(a) Tj f 88 e 77192188 TC (B) 115 22 Te 358 22 products with 18-358-021812186 6 TD) 086

in consideration of a domestic company's agreement not to export the same commodity, nor to sell to anyone other than those who agree not to so export the same.

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

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

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

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

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

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

(f)

senting rising market conditions and demand, and leading seller to ship under the belief that he would receive prices higher than the buyer intended to or did pay.

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

During the fiscal year there were 28 cases in the United States Supreme Court and circuit courts of appeals in which the Commission was a party.

Rulings favorable to the Commission were obtained in 16 cases. In this group were four cases before the Supreme Court and eight before circuit courts of appeals which finally were concluded in favor of the Commission.

Rulings were unfavorable to the

mission Act. United States circu

CASES DECIDED BY THE COURTS

Acme Asbestos Covering & Flooring Co., and others, Chicago.--The Sixth Circuit (Cincinnati) affirmed the Commission order to cease and desist except as to one respondent in a case involving a price-fixing combination and restraint of trade in the sale of pipe insulation, through use of license agreements and zone-delivered prices.

American Drug Corp., St. Louis, Mo.--The Eighth Circuit (St. Louis) remanded this case to the Commission on motion of the Commission. The Commission then reinstated its order to cease and desist which had been vacated previously. The order is directed against misrepresentation of a medicinal preparation.

A. P. W. Paper Co., Albany, N. Y.--The Second Circuit (New York) remanded this case and directed the Commission to consider the desirability of modifying the order to cease and desist to accord with the mandate of the Supreme Court. The Commission modified the order in accordance with the court's direction.

Elizabeth Arden, Inc., and others, New York.--The Supreme Court of the United States denied a petition for writ of certiorari to review a decision of the Second Circuit (New York) affirming the Commission's order to cease and desist from violation of section 2 (e) of the Robinson-Patman Act by discrimination in the furnishing of cosmetic demonstrator services to retailers.

Nelson C. Brewer, and others, Chicago.--The Sixth Circuit (Cincinnati) affirmed the Commission's order prohibiting the sale of lottery devices in interstate commerce.

S. Buchsbaum & Co., Chicago.--The Seventh Circuit (Chicago) set aside the Commission's order forbidding use of the term "Elasti-Glass" to designate or describe merchandise made of vinylite or any other similar synthetic resinous compound.

The Cement Institute, and others Chicago.--The Seventh Circuit (Chicago) set aside the Commission's order to cease and desist issued under the Federal Trade Commission Act and the Robinson-Patman Act and involving alleged Nation-wide restraint of competition in the price of Portland cement through the agreed use of a multiple basing-point delivered-price system. The Supreme Court granted a writ of certiorari to review the circuit court decision.

Eastman Kodak Co., Rochester, N. Y.--The Second Circuit (New York) affirmed the Commission's order forbidding suppression of competition by use of a resale-price-maintenance policy in connection with the sale of photographic film. The Supreme Court denied a writ of certiorari. (Subsequently, the Commission modified its order so as to permit Eastman to use such a sales policy in selling Kodachrome film because the product is now "sold in free and open competition" with Ansco color film manufactured by a competitor of Eastman.)

General Seafoods Corp., and others, Boston.--The First Circuit (Boston) remanded this case to the Commission in accordance with stipulation of counsel to vacate the order and dismiss the complaint which had alleged misrepresentation in the sale of seafood.

Harvest House, New York.--The Second Circuit (New York) dismissed the petition to review in accordance with the stipulation of counsel. The Commission's order prohibits misrepresentation of a book dealing with methods for developing the body.

Koret, Inc., New York.--The Second Circuit (New York) dismissed the petition to review in accordance with stipulation of counsel. The modified order in this case is directed against certain representations concerning the composition of women's handbags.

Langendorf United Bakeries, San Francisco.--The Ninth Circuit (San Francisco) dismissed the petition to review in accordance with stipulation of counsel. The order was directed against misrepresentation of bread.

Morton Salt Co., Chicago.--The Seventh Circuit (Chicago) set aside the Commission and order to cease and desist involving alleged violation of section 2 (a) of the Clayton Act by discriminating in prices of salt.

National Crepe Paper Association of America, and others, Philadelphia.--The Seventh Circuit (Chicago) affirmed the Commission's order forbidding price fixing in the sale of paper through use of a system of zone-delivered prices. The Supreme Court denied a petition for writ of certiorari.

The Parker Pen Co., Janesville, Wis.--The Seventh Circuit (Chicago) modified and affirmed the Commission's order forbidding misleading advertising of guaranties in connection with the sale of fountain pens.

Vacu-Matic Carburetor Co., Wauwatosa, Wis.--The Seventh Circuit (Chicago) affirmed the Commission and order prohibiting misrepresentation concerning the economy in gasoline consumption to be derived from use of a mechanical device for attachment to automobile engines. The Supreme Court denied a petition for writ of certiorari.

CASES PENDING IN THE COURTS

Allied Paper Mills, Kalamazoo, Mich., and others.--Seventh Circuit (Chicago), combination in restraint of trade in book print and coated paper.

Amasia Importing Corp., New York.--Second Circuit (New York), misbranding and mislabeling of women's girdles.

American Association of Law Book Publishers, Rochester, N. Y., and others.--Second Circuit (New York) and price-fixing combination in law books and legal publications.

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

The Cement Institute, and others, Chicago.--Supreme Court of the United States, alleged Nation-wide combination to restrain competition in the price of Portland cement and to discriminate in price through the agreed use of a multiple basing-point delivered-price system.

Consumers Home Equipment Co., and others, Detroit.--Sixth Circuit (Cincinnati), false and misleading representations as to silverware, mattresses and other household goods.

Ox'O-Gas Co., New York.--Second Circuit (New York), misrepresentation of solution designated "Ox'O," advertised and sold as capable of increasing the efficiency of automobile engines and mileage.

Morton Salt Co., Chicago.--Seventh Circuit (Chicago), alleged price discrimination

in the sale of salt, in violation of section 2 (a) of the Robinson-Patman Act. The case is pending on petition for rehearing.

Edward P. Paul & Co New

desist	128	desist	6,674
Settled by acceptance of TPC rules	0	Settled by acceptance of TPC rules	97
Consolidated with other proceedings	14	Consolidated with other proceedings	172
Dismissed	0	Dismissed	3,863
Closed without further proceedings	1 373	Closed without further proceedings	1 4,828
Total disposition during year	556	Total disposition	20,127
Pending end of year	1,140	Pending June 30, 1947	1,140

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

TABLE 2.--*Complaints*

FISCAL YEAR ENDED JUNE 30, 1947		CUMULATIVE SUMMARY, 1915 TO JUNE 30, 1947	
Pending beginning of year	423	Complaints	5,563
Complaints docketed	53	Previous action reconsidered :	
Previous action reconsidered :		Orders to cease and desist	69
Orders to cease and desist	2	Settled by stipulation to cease	
Settled by stipulation to cease and		and desist	1
desist	6	Dismissed	12
Dismissed	1	Closed without further proceed-	
Closed without further proceed-		ings 1	2
ing 1	6		

Appealed by others	4	Total for disposition	104
Total for disposition	5		
Decisions for Commission	0	Decisions for Commission	29
Decisions for others	6	Decisions for others	15
Petitions withdrawn by Commission	6	Petitions withdrawn by Commission	2
Certiorari denied Commission	6	Certiorari denied Commission	9
Certiorari denied others	4	Certiorari denied others	48
Total disposition during year	4	Total disposition	103
Pending end of year	1	Pending June 30, 1947	1

PART III. SETTLEMENT OF CASES BY STIPULATION
AGREEMENTS ON CORRECTIVE ACTION RESULT FROM INFORMAL
CONFERENCES WITH BUSINESSMEN

The Commission on August 12, 1946, created the

¹ The policy of the Commission with respect to disposition of cases by stipulation is set forth in its Statement of Policy on p. 119

acts, the division recommends, for the Commission's consideration, the institution of investigations on an industry-wide basis. Such recommendations have been made in the floor wax industry, the mothproofing industry and the shoe industry.

The objective is to provide uniform and concurrent voluntary corrective action, if any action is indicated, applicable to all the members of the various industries, so that all may be placed on an equal competitive basis for the betterment of the public interest.

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PART IV. TRADE PRACTICE CONFERENCES

ESTABLISHMENT AND ADMINISTRATION OF TRADE PRACTICE RULES FOR INDUSTRIES

Trade practice conferences provide a cooperative procedure for preventing unfair competitive methods and other business practices contrary to laws administered by the Commission. Under this procedure rules defining and cataloging unfair trade practices are established after industry conferences and hearing of interested and affected parties, including representatives of the purchasing public. Such conference proceedings being industry-wide in scope, industry members are thereby placed on a fair and equal competitive basis. The accomplishment of law observance by this industry-wide cooperative action is aimed to effectuate substantial economies in the cost of law enforcement, both to Government and industry.

The work of administering promulgated rules is directed to the maintenance of active cooperation between the industry and the Commission in promoting voluntary observance of the rules and in ascertaining new industry situations requiring amendment of the rules or other appropriate action. Through this work industry members are afforded guidance and assistance to the end that the conduct of their business may be in accordance with the law.

Trade practice conference procedure.--The procedural steps and requirements applicable to industry proceedings for the establishment of trade practice rules are covered in the Commission's Rules of Practice (see p.114). Trade practice conference proceedings may be instituted by the Commission upon its own motion or upon application therefor whenever such proceedings appear to the Commission to be in the interest of the public. Any interested

respectively.

Group I rules.--The unfair trade practices which are embraced in Group I rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission as construed in the decisions of the Commission or the courts; and appropriate proceedings in the public interest will be taken by the Commission for the purpose of enforcing such laws. wi1 9 1652 0

¹ With respect to the last three industries named, the conference proceedings were completed during the fiscal year ended June 30, 1948, but rules for the industries were promulgated during the fiscal year 1947.

tints, and color removers which are prepared and packaged for use in the home in dyeing, redyeing, coloring, tinting, or retinting wearing apparel and fabric home furnishings or decorations or removing color therefrom preparatory to redyeing or retinting. Subjects covered by the rules include misuse of the terms "all fabric", "all purpose", and similar representations as applied to industry dyes or tints; misuse of the words "fast", "fadeless", "fadeproof", "unfadable", "sunfast", "wash-fast", and representations of similar import; deception respecting efficacy of color removers; deceptive guarantees; confusion as to "tint" and "dye"; and deception by failure to disclose essential information. Improper use of demonstrators and payment of "spiffs", push money, etc., also are defined and proscribed.

Rules for the masonry water proofing products industry.--Proceedings for the establishment of rules for this industry were instituted by the Commission upon a showing of widespread use of certain unfair practices in the industry. Rules covering these practices were promulgated after a general industry conference and public hearing for consideration of the proposed rules. Products of the industry are admixtures or coatings for

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related designations, as applied to watches, watch cases and watch movements.--
These rules clarify requirements for proper use of the terms named and have for their purpose the elimination

and prevention of deception in the marketing of watches, watch cases or watch movements, whether of domestic or foreign manufacture, and maintenance of fair competition among persons, firms, and corporations engaged in the sale, offering for sale, or distribution of these articles. Provisions of the rules respecting the use of such terms are applicable to all types of advertising, whether in newspapers, periodicals, sales catalogs, sales promotional literature, on the radio, or otherwise; and also to the use of the terms as a mark, or part of the marking, on any watch, watch case, or movement, or on any label, tag, container, or literature used in connection with the sale, offering for sale, or distribution of such articles. The rules prescribe definite and specific requirements as to conditions to use of the terms and are designed to adequately protect the buying public. The definition of such terms as applied to watches, watch cases, and watch movements has been an urgent need of the industry.

Rules for the saw and blade service industry.--Members of this industry engage in the business of supplying and servicing, under lease or rental contract, saws, saw frames, knives, chopper machines, knife or slicer machines (and plates or blades for such machines), and similar articles for use in meat markets, packing houses, restaurants, and other food processing or food dispensing establishments. The promulgated draft for this industry consists of 18 Group I rules prohibiting a variety of unfair competitive practices, together with 5 Group II rules constituting voluntary expressions recommending against the use of practices which the industry consikniu

and toilet preparations industry.

After

“nonmagnetic”, etc.), linen, rayon, and fur.

Cooperative liaison working-During the year contacts were renewed with several industries having trade practice rules for the purpose of creating cooperative liaison by means of which the rules might

be more effectively administered and enforced in the best interest of both the industries and the public. The cooperative liaison established with these industries proved helpful in determining whether present rules are adequate in fulfilling industry needs; whether new practices have developed which indicate a need for rule revision; and whether the rules have accomplished the results toward which they are directed.

TYPES OF PRACTICES COVERED IN PROMULGATED RULES

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

Misrepresentation in various forms, including false or misleading advertising; misbranding; defamation of competitors or disparagement of their products; commercial bribery in purchasing or selling supplies; inducing breach of competitor's contract; false invoicing; imitation of competitor's trade-marks, trade names, etc.; substituting inferior products for those ordered; lottery schemes; use of consignment distribution to close competitor's trade outlets; enticing away employees of a competitor; giving "push money", gratuities, etc., under circumstances involving commercial bribery, deception or restraint of trade; full-line forcing as a monopolistic weapon; combination or conspiracy to fix prices, suppress competition or restrain trade; unfair bidding methods. discriminations in price, service or facilities, such as discrimination effected through rebates, refunds, discounts credits, returns, or other means; prohibited brokerage or commissions; the making of advertising or promotional allowances or the furnishing of services or facilities on terms not accorded to all customers on proportionally equal terms; and aiding or abetting another in the use of unfair trade practices.

Other subjects covered in the rules are : Use of slack-filled or short-weight containers, or those of odd size simulating standard and generally recognized types; use of deceptive depictions (photographs, engravings, cuts, etc.) in describing industry products, use of false or misleading guarantees, warranties, prj 1.68 2ep218 Tc TD 0.s TD0 TD C

selling books under the subscription plan; and false representations respecting tube capacity of radio sets and their range or receptivity.

The rules also cover the following: Misuse of terms “perfect”, “perfect cut”, “commercially perfect”, “real” “genuine”, “natural”, etc., in describing precious stones or their imitations; deceptive use of word as applied to sun glasses; improper use of terms “pullorum tested” “blood tested” etc, as applied to baby chicks; misuse of words “all fabric”, “all purpose” “fast”, “fadeless” “fadeproof” “unfadable”, “sunfast”, or “wash-fast” as descriptive of products of the household fabric dye industry; deceptive use of such terms as “all-wave”, “world-wave”, “world-wide wave”, etc., with reference to radio receiving sets; improper use of words “bristle”, “puce bristle”, etc., in the sale of toilet brushes; misuse of terms “extra fancy”, “extra select”, “extra quality”, “deluxe”, “choice”, etc., to describe tuna fish products; improper use of words “lisle cotton”, “cotton lisle”, etc., as applied to hosiery products; deceptive use of terms “hand woven”, “hand loomed”, “hand printed”, and “hand embroidered” in describing linen products; misuse of term “waterproof” as applied to watches, watch cases or watch movements, or to luggage or related products, or to masonry waterproofing products, or of the expression “water resistant” to describe watches, watch cases or watch movements or masonry waterproofing products, or of the words “water repellent” as descriptive of such watches watch cases or watch movements, or of luggage or related products; improper use of terms “water tight”, “moistureproof”, or “water sealed” as applied to watches, watch cases or watch movements, or to masonry waterproofing products; misuse of terms “vaporproof”, “dampproof”, “dampproofin”, “damp-resistant”, “weatherproof”, “weatherproofing”, “perpetual”, “eternal”, “permanent”, or “permanently” to describe “everlasting”, products of the masonry waterproofing industry; deceptive use of words “water protected”, “shockproof”, “shock protected”, “shock absorbing”, “shock resistant”, “unconditionally shock resistant”, “jarproof”, “nonmagnetic”, or “antimagnetic” in referring to watches, watch cases or watch movements; and misuse of words “dustproof” or “warp-proof” as applied to luggage and related products.

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

In addition, there are rules providing for disclosure of fiber content of textile merchandise made of rayon, or of two or more fibers containing either rayon, silk or linen; disclosure as to remaining shrinkage in so-called preshrunk merchandise;

specification of

minimum requirements for standard or genuine products; proper nomenclature for industry products; disclosure as to true composition of paint and varnish brushes, as to imperfect or defective merchandise, as to use of adulterant or substitute for linseed oil in respect to putty products, as to presence of metallic weighting in silk or silk products, as to minimum yardage of ribbons, as to true functions of radio parts and accessories, as to quality, quantity, and size of ripe olives packed in cans and other opaque containers, as to latent defects in artificial limbs or devices, as to price charged for so-called premiums in sale of piston rings, and as to use and application of masonry waterproofing products.

INFORMATIVE LABELING

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

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

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

Products containing rayon in whole or in part are covered by the rules for the rayon industry, promulgated October 26, 1937. Those containing silk in whole or in part are covered by the rules for the silk industry, issued November 4, 1938. Corresponding rules for linen and part-linen merchandise were promulgated February 1, 1941. Informative labeling for all types of hosiery is the subject of trade practice rules for the hosiery industry, issued May 15, 1941. Similar rules covering fur garments and fur products generally were promulgated June 17, 1938, and informative labeling provisions

putty manufacturing, June 30, 1939; mirror manufacturing, July 19, 1939;

PART V. WOOL PRODUCTS LABELING ACT

INFORMATIVE LABELING FOR PROTECTION OF INDUSTRY AND THE PUBLIC

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

The fiber content of articles containing, purporting to contain, or represented as containing “wool,” “reprocessed wool,” or “reused wool” is required by the act to be disclosed by appropriate s

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

Manufacturers' registered identification numbers.--Under rule 4 of the regulations the Commission affords manufacturers of wool products residing in the United States opportunity to have assigned to them manufacturers' registered identification numbers. Such a number is afforded opportunity to the manufacturer's label and is 07006269c (10/10/10)

PART VI. MEDICAL AND SCIENTIFIC OPINIONS

DATA ARE UTILIZED BY COMMISSION IN CASES RELATING TO FOOD, DRUGS, DEVICES, AND COSMETICS

The Medical Advisory Division furnishes the Commission with scientific facts and opinions concerning the composition of and the advertising claims made for food; drugs, curative devices, cosmetics, and other commodities in cases where questions of science arise. It arranges for analyses of samples of such products under investigation and gathers information with respect to their nature.

The division provides medical opinions and scientific information needed in the preparation of formal complaints issued and stipulations accepted by the Commission. During the fiscal year it prepared 187 written opinions and in addition rendered many verbal opinions. A substantial amount of time was devoted to assisting the Commission's legal staff in its preparation for hearings involving questions of science, and to securing the services of expert scientific witnesses whose testimony was essential to a determination of the scientific facts. Forty-two such experts served as witnesses during the year.

The Director of the Medical Advisory Division is the Commission's liaison officer with the Food and Drug Administration. In instances where it is necessary or desirable for contacts to be made by other members of the staff, they are cleared through the liaison officer.

Through the Director of the Medical Advisory Division the Commission maintains cooperative contact with many other Government agencies concerned with food, drugs, curative devices, cosmetics, insecticides, etc. Included among these are the Food and Drug Administration, the National Bureau of Standards, the United States Public Health Service, the Bureau of Animal Industry, and the Agricultural Marketing Service. Similar contacts also are maintained with many nongovernmental clinics, hospitals, laboratories, and scientists.

PART VII. FOREIGN TRADE WORK

EXPORT TRADE ACT

The Commission administers the Export Trade Act, commonly called the Webb-Pomerene Law, which grants exemption from the antitrust laws to associations or cooperatives solely engaged in export trade under certain conditions set out in the law.

Export associations are req3.56 0 TD 0 Tc c () Tj 5.28 0aw.

30 Church Street,
New York.

80

Durex Abrasives Corp.,
63 Wall Street,
New York,

FORTY-NINE ASSOCIATIONS OPERATING UNDER THE ACT 81

Easco Lumber Association,
821 Market Street,
San Francisco.

Electrical Export Corp.,
122 East Fifty-first Street,
New York.

Export Screw Association of the United
States,
21 Stevens Street,
Providence, R I.

Flints Export Agency,
50 Broad Street,
New York.

Florida Hard Rock Phosphate Export
Association,
318 East Main Street,
Lakeland, Fla.

Flour Millers Export Association,
859 National Press Building,
Washington, D. C.

Friction Materials Export Association,
Inc.,
22 East Fortieth Street,
New York.

General Milk Co., Inc.,
19 Rector Street,
New York.

Goodyear Tire & Rubber Export Co.,
The,
1144 East Market Street,
Akron, Ohio.

Maine Sardine Packers' Export Asso-
ciation,
Eastport, Maine.

Metal Lath Export Association, The,
Room 1504,
205 East Forty-second Street,
New York.

Motion Picture Export Association, Inc.,
546 Fifth Avenue,
New York.

Railway Car Export Corp. of America,
1025 Connecticut Avenue,
Washington, D. C.

Redwood Export Co.,
405 Montgomery Street,
San Francisco.

Rubber Export Association, The
1185 East Market Street,
Akron, Ohio.

Steam locomotive Export Association,
Inc.,
Room 1622,
30 Church Street,
New York.

Sulphur Export Corp.,
420 Lexington Avenue,
New York.

Texas Rice Export Association,
407 Jensen Drive,
Houston, Tex.

Textile Export Association of the
United States,
320 Broadway,
New York.

Typewriter Manufacturers Export Asso-
ciation,
1611 Forty-fourth Street,
Washington, D. C.

United States Alkali Export Associa-
tion,
11 Broadway,
New York.

United States Scientific
Export Association, Inc.,
50 Broadway,
New York.

Universal Dairy Products Co.,
80 East Jackson Boulevard,
Chicago.

Walnut Export Sales Co., Inc.,

Inc
Indianapolis

tion, The,
347 Madison Avenue,
New York.

Potash Export Association, Inc.,
420 Lexington Avenue,
New York.

Wire Rope Export Trade Association,
The
Room 2006,
19 Rector Street,
New York.

NEW ASSOCIATIONS

The Maine Sardine Packers' Export Association was formed in July 1946, and now represents 11 sardine packing companies located on the coast of Maine. Association offices were established in Eastport, Maine, and New York.

The American Phonograph Cooperative, Ltd., was formed in September 1946 by 23 companies to export used coin-operated phonographs, with offices in Chicago.

The United States Scientific Export Association, organized in November 1946, will ship scientific, chemical, technical and laboratory apparatus, instruments, equipment and supplies to foreign countries for its five member companies in Illinois, Pennsylvania and New York. The association office is in New York.

The Citrus Corporation of America filed its organization papers with the Commission in February 1947 and established offices in New York and Delaware. Members are producers of citrus fruits in Florida and include one growers , association, a packing company and four individuals.

EXPORTS IN 1946 TOTAL \$322,597,224

Exports during 1946 showed a substantial increase over 1945, especially in metal products and foodstuffs :

	<i>1945</i>	<i>1946</i>
Metals and metal products	\$16,303,330	
\$93,435,947		
Products of mines and wells	20,003,356	29,320,916
Lumber and wood products	8,207,702	9,636,851
Foodstuffs	9,450,482	1 3 1 ,
623,782		
Miscellaneous	40,007,613	58,579,728
Totals	94,172,483	
322,597,224		

INQUIRIES AND RECOMMENDATIONS

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

Summons and bill of particulars were issued in August 1946 to the Pacific Forest Industries, an association exporting plywood from the West Coast. This was a reopened case, continuing an inquiry made in 1939 and 1940 (Docket 202-1). Hearings were held on the West Coast in the Fall of 1946 and the matter is still pending.

Inquiries involving Carbon Black Export, Inc., Electrical Apparatus Export Association, General Milk Co., Inc., and The Pipe Fittings & Valve Export Association also are pending (Dockets 202-5, 202-4, 202-6 and 202-9).

After formal hearings, the Commission issued recommendations for the readjustment of the business of Sulphur Export Corp. (Docket 202-6) on February 7, 1947, as follows:

1. That Sulphur Export Corp. refrain in the future from formulating, promoting or participating in any plan, program or agreement whereby either or any of the following described provisions, or provisions of similar purport or effect, are continued, entered into or effectuated, to wit :

(a), Provisions such as those in the agreement between Sulphur Export Corp. and the Ufficio per la Vendita Dello Zolfo Italiano, whereby said Sulphur Export Corporation bound itself to deduct from its tonnage quota of shipments of American Sulphur for export, certain shipments of sulphur from the United States made by or through American producers not stockholders or members of said Corporation;

(b) Provisions such as those in the agreement between Sulphur Export Corporation and the Ufficio per la Vendita Dello Zolfo Italiano, whereby the latter was guaranteed the right to sell a specified minimum tonnage of sulphur in a certain designated period, on a priority basis over and above the tonnage of sulphur to be sold by Sulphur Export Corporation in said territory during the same period ;

(c) Provisions such as those in the agreement between Sulphur Export Corp. and the Ufficio per la Vendita Dello Zolfo Italiano, requiring that shipments of manufactured sulphur from the United States made by or through American exporters be deducted from the tonnage quota of export shipments of crude sulphur made by Sulphur Export Corporation ;

(d) Provisions such as those in the agreement between Sulphur Export Corp. and the Ufficio per la Vendita Dello Zolfo Italiano, requiring that the parties to such agreement were to maintain the status quo in the manufactured sulphur industry in the trade territories to which said agreement applied and to do nothing which would encourage any alteration in the competitive trade situation in said industry in said trade areas.

2. That Sulphur Export Corp. refrain in the future from formulating, promoting or participating in any plan, program or agreement such as that provided in the agreement with Orkla-Grube Aktlebolag, that Sulphur Export Corp. shall acquire or control or participate in the acquisition or control of any share in patents or processes useful for or capable of being used in connection with the production of sulphur for commercial purposes, and that said Corporation in the future refrain from so obligating itself, financially or otherwise, in any such understanding or agreement.

3. That Sulphur Export Corp. in the future refrain from entering into any understanding or agreement with American producers of sulphur who are not regularly admitted and recognized members of said Corporation, whereby said producers or Sulexco agree not to sell sulphur in certain foreign markets, or to sell only at agreed or noncompetitive prices and terms, or to refrain from competing with each other in export trade in sulphur.

4. That Sulphur Export Corp. in the future cease and desist from selling, banding, marketing

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either or any of the following-described undertakings, or undertakings of similar purport or effect, are abetted, continued, entered into or effectuated, to wit:

(a) Undertaking or practice, such as the participation in the purchase of the Fair Works of Sweden, by means of which foreign competitors who have or may ship their products into the United States are eliminated or their production terminated or abandoned.

(b) Undertaking or agreement, such as the agreement with the International Union of Wood Screw Manufacturers by means of which the United States was agreed upon as the home market for the members of the Association and the importation of wood screws into this country by members of the Union was prevented.

(c) Undertaking or practice, such as the Association's cooperation with the International Union of Wood Screw Manufacturers, whereby machinery for the

making of wood screws was purchased or sequestered and made unavailable to manufacturers or potential manufacturers of wood screws.

(d) Undertaking or agreement, such as the agreement between the Association and Guest, Keen and Nettelfolds, Ltd., of Birmingham, England, a foreign competitor, whereby the export of wood screws from foreign countries into the United States and its territories and possessions was limited, restrained and prevented.

2. That Export Screw Association of the United States in the future refrain from entering into any understanding or agreement with American manufacturers of wood screws who are not regularly admitted and recognized members of said Association, whereby said manufacturers agree to sell only at agreed and noncompetitive prices and terms, or to refrain from competing in export trade in wood screws.

3. That Export Screw Association of the United States refrain In the future from fixing prices, terms or discounts upon or trading in any manner in wood screws marketed in Puerto Rico or any other territory or possession of the United States.

4. That Export Screw Association of the United States in the future seasonably file with the Commission all information required by the Export Trade Act to be filed annually, and furnish all information and documentary evidence requested or required by the Commission, pursuant to said Act, whether called for by report forms, by questionnaires or communications, by personal visitation or otherwise.

It is ordered by the Commission that Export Screw Association of the United States file with the Commission within 30 days hereof a report stating whether it has elected to comply with the above recommendations, and if so, the manner in which it has so complied.

The Screw Association reported compliance.

TRUST LAWS AND TRADE REGULATION ABROAD

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

Argentina.--A number of decrees in May and June 1946 effected reorganization of the economic and financial structure of the country. In October 1946 the President presented to Congress a Five-Year Plan including 27 basic laws for expansion of industry, agriculture, communications and trade; reforms in public health, ~~and~~ fitted

Canada.--The Combines Investigation Act was amended August 31, 1946.

China.--Emergency measures were taken by the National Government in February 1947 in an effort to balance the budget. Wartime

price control, outlawing of strikes and factory closing, and prohibition of hoarding and speculation were reimposed.

Colombia.--Price and rent control were reimposed in March 1946 to prevent speculation, scarcity and increased prices.

Costa Rica.--A Legislative Decree on July 23, 1946, increased the capital of the Agricultural Development Section of the National Bank to make loans to organized industrial and agricultural cooperatives. Price-fixing measures were reestablished in August 1946.

Czechoslovakia.--The nationalization program begun in 1945 now covers about 65 percent of the industrial capacity of the country.

Ecuador.--A decree effective February 8, 1947, provided a new system of foreign trade control. Only essential articles may be imported, and prices of imported goods are under control of the Director of Foreign Trade who may determine a maximum profit and confiscate goods sold contrary to the regulations.

France.--The French Four-Year Plan contemplates revitalizing six basic industries of the country, coal, electricity, transport, steel, cement, and farm machinery, through price control, rationing, allocation of materials, control of credit and foreign exchange, and a system of building licenses, as well as control of employment. The gas and electricity industries, certain insurance companies and the coal industry were nationalized in 1946.

Germany.--A Decartelization Act, made effective by the American and British military Governments, prohibits combines in restraint of trade and concentration through employment of more than 10,000 employees by one company.

Great Britain.--The Bank of England was nationalized by law February 14, 1946, and the coal industry by act of July 12, 1940, effective January 1, 1947. Other industries which it is proposed to nationalize are iron and steel, Cable & Wireless, Ltd., civil aviation, inland transportation, and electricity. In December 1946 the Government announced a program to modernize and

Mexico.--A National Securities Commission was created by decree on April 16, 1946. A Soil and Water Conservation Act was passed July 19, 1946. A decree on October 15, 1946, declared all radioactive mineral resources a part of the national reserves.

Netherlands.--The National

PART VIII. FISCAL AFFAIRS

APPROPRIATION ACTS PROVIDING FUNDS FOR COMMISSION WORK

The Independent Offices Appropriation Act, 1947 (Public Law 334, 79th Congress), approved March 28, 1946, provided funds for the fiscal year 1947 for the Federal Trade Commission as follows :

FEDERAL TRADE COMMISSION

Salaries and expenses : For salaries and expenses of the Federal Trade Commission, including personal services in the District of Columbia ; contract stenographic reporting services ; supplies and equipment, lawbooks, books of reference, periodicals, garage rentals ; traveling expenses ; newspapers not to exceed \$500, foreign postage ; not to exceed \$5,000 for deposit in the general fund of the Treasury for cost of penalty mail as required by section 2 of the Act of June 28, 1944 (Public Law 364); and witness fees and mileage in accordance with section 9 of the Federal Trade Commission Act ; \$2,194,120, of which not less than \$228,695 shall be available for the enforcement of the Wool Products Labeling Act : *Provided*, That no part of the funds appropriated herein for the Federal Trade Tw () T.0282 Tc (p-994n Tc (V

in certain appropriations for the fiscal year ending June 30, 1947, and for other purposes (Public Law 25, 80th Congress), approved March 29, 1947, provided funds in the amount of \$281,000 to meet increased pay costs authorized by the Act of May 24, 1946 (Public Law 390).

APPROPRIATIONS FOR FISCAL YEAR

Funds available by 24, 1946 (Public Law 390).

Appropriations, allotments, expenditures, liabilities, and balances for the fiscal year ended June 30, 1947

	Amount available	Amount expended	Liabilities	Expenditures and liabilities	Balances
Federal Trade Commission, 1947- Salaries, Commissioners, and all other authorized expenses	\$2,800,120.00	\$2,564,163.94	\$161,347.65	\$2,725,511.59	\$74,608.41
Printing and binding, Federal Trade Commission, 1947	50,000.00	9,546.63	29,116.44	38,663.07	11,336.93
Transfer from Office of Price Ad- ministration, 1947	125,000.00	85,709.93	11,779.49	97,489.42	27,510.58
Total, fiscal year 1947	2,975,120.00	2,059,420.50	202,243.58	2,801,004.08	113,455.92
Unexpended balances:					
Federal Trade Commission, 1946	53,015.13	42,165.63	2,855.01	45,020.64	8,594.49
Printing and binding, Federal Trade Commission, 1946	36,605.23	12,220.48	16,010.00	28,230.48	8,374.75
Federal Trade Commission, 1945	59,493.77	1,885.30		1,885.30	57,608.47
Printing and binding, Federal Trade Commission, 1945	27,590.45	22,098.57		22,098.57	5,491.88
Total	3,152,424.58	2,737,790.48	221,108.59	2,958,899.07	193,525.51

Detailed statement of costs for 8, li Tc -0.021 Tw (the fiscal year) ending June 30, 1947, 2,855.01

Fertilizer industry	15,448.60	1,027.96	4.50	18,481.08
Financial reporting program	84,222.44	952.67	1,171.63	86,346.74
Study of the efficiency of large, small and medium-sized companies	2,432.26	30.58		2,462.84
Production and distribution policies	197.62			197.62
Study of the steel situation for Senate Committee on Small Business	1,830.01			1,830.01
Total	281,717.16	4,468.11	1,188.55	267,371.82

Detailed statement of costs for the fiscal year ending June 30, 1941--Continued

	Salary	Travel	Other	Total
Printing and binding			\$43,865.68	\$43,865.68
Summary:				
Commissioners and Secretary Administration	\$161,710.88	\$1,269.31	3.41	162,983.60
Legal	392,764.50	141.50	56,324.34	449,230.34
General investigations	1,080,719.37	112,524.60	21,095.07	1,814,339.04
Printing and binding	261,717.16	4,460.11	1,188.55	267,371.82
Total	2,496,911.91	118,401.52	122,477.05	2,737,790.48

RECAPITULATION OF COSTS BY DIVISIONS

Commissioners and Secretary	\$158,865.16	\$1,269.31	\$3.41	\$160,137.88
General Counsel	463,798.51	27,713.92	15,434.57	506,947.00
Accounts, statistics, and economic reports	208,074.73	5,285.94	1,193.10	274,553.77
Legal investigations	700,599.44	46,418.63	975.68	747,994.75
Trial examiner	136,093.00	13,538.05	12.22	149,643.27
Medical advisory	24,104.47	404.74	4,377.70	28,886.91
Trade practice conferences and Wool Act administration	252,947.41	23,629.43	289.35	276,866.19
Stipulations Division	64,433.65			64,433.65
Legal aids to Commission	32,385.32			32,385.32
Administrative	395,610.22	141.50	56,324.34	452,076.06
Printing and binding			43,865.68	43,865.68
Total	2,496,911.91	118,401.52	122,477.05	2,737,790.48

APPROPRIATIONS AND EXPENDITURES, 1915-47

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

Year	Nature of appropriations	Appropriations and liabilities	Expenditures	Balance
1915	Lump sum	\$184,016.23	\$90,442.05	\$93,574.18
	Printing and binding	12,386.76	9,504.10	2,882.60
1916	Lump sum	430,964.08	379,927.41	51,636.67
	Printing and binding	15,000.00	14,997.55	2.45
1917	Lump sum	542,025.92	448,890.66	93,135.26
	Printing and binding	25,000.00	23,610.54	1,389.48
1918	Lump sum	1,578,865.92	1,412,280.19	166,585.73
	Printing and binding	30,000.00	11,114.06	18,885.94
1919	Lump sum	1,693,622.18	1,491,637.39	201,984.97
	Printing and binding	14,934.21	14,934.21	0
1920	Lump sum	1,206,587.42	1,007,593.30	198,994.12
	Printing and binding	28,348.97	28,348.97	0
1921	Lump sum	938,609.94	842,991.24	95,618.70
	Printing and binding	37,182.56	37,182.56	0
1922	Lump sum	952,505.45	878,120.24	74,385.21
	Printing and binding	22,801.73	22,801.73	0
1923	Lump sum	952,020.11	948,293.07	3,727.04
	Printing and binding	22,460.21	22,400.21	0
1924	Lump sum	990,000.00	900,020.93	29,979.07
	Printing and binding	20,000.00	19,419.25	580.75
1925	Lump sum	990,000.00	988,082.37	1,917.63
	Printing and binding	20,000.00	19,866.14	133.86
1926	Lump sum	990,000.00	976,957.02	13,042.98
	Printing and binding	18,000.00	18,000.00	0
1927	Lump sum	980,000.00	943,881.99	36,118.01
	Printing and binding	17,000.00	17,000.00	0
1928	Lump sum	967,850.00	951,965.15	15,884.85
	Printing and binding	16,500.00	16,500.90	0
1929	Lump sum	1,135,414.83	1,131,521.47	3,893.36
	Printing and binding	27,777.69	27,777.69	0
1930	Lump sum	1,440,971.82	1,430,084.17	10,887.65

	Printing and binding	35,363.58	35,363.58	0
1931	Lump sum	1,932,857.81	1,808,463.35	124,454.46
	Printing and binding	39,858.73	39,858.73	0
1932	Lump sum	1,808,097.19	1,749,484.00	58,612.59
	Printing and binding	30,000.00	30,000.00	
1933	Lump sum	1,421,714.70	1,378,973.14	42,741.56
	Printing and binding	30,000.00	20,000.00	10,000.00

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Year Nature of appropriations,000.00

APPENDIXES

FEDERAL TRADE COMMISSION ACT

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

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

other purposes

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

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

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

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

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

therefor approved by the Commission.

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

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

¹ The salary of the secretary is controlled by the provisions of the Classification Act of 1923, approved March 4, 1923, 42 Stat. 1488.

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

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The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers, subject to the Acts to regulate commerce, air carriers and foreign air carriers subject to the Civil Aeronautics Act of 1938, ³ and persons, partnerships, or corporations subject to the Packers and Stockyards Act, 1921, except as provided in section 406 (b) of said Act, from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce.

(b) Whenever the Commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition or unfair or deceptive act or practice in commerce, and if it shall

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

appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect and containing a notice of

prevent injury to the public or to competitors pendente lite. The findings of the Commission as to the facts, if supported by evidence, shall be conclusive. To the extent that the order of the Commission is affirmed, the court shall 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

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

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

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

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

(k) As used in this section the term “mandate,” in case a mandate

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 found that

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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

made thereon has become final within the meaning of section 5, would be to the interest of the public, the

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

specified in clause (1), (2) , or (3); but does not include devices or their components, parts, or accessories.

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

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

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

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

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

Original act approved September 26, 1914.

Amended act approved March 21, 1938.

OTHER ACTS ADMINISTERED BY THE COMMISSION

In addition to the Federal Trade Commission Act, the Commission also administers section 2 of the Clayton Act (U. S. C., title 15, sec. 13), as amended by the Robinson-Patman Antidiscrimination Act, and sections 3, 7, and 8 of the Clayton Act (U. S. C., title 15, secs. 61); the Wool Products Labeling Act (U. S. C., title 15, sec. 68); and certain sections of the Lanham Trade-Mark Act (Public Law 489, 79th Congress).

relating to

dent, secretary, or other executive officer or a director of the corporation to be served;
or

(b) By leaving a copy thereof at the principal office or place of business of such person, partnership, or

proof based upon testimony taken before a trial examiner, the motion will be referred to the trial examiner for report and recommendation before a ruling is made by the Commission.

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

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

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examiner shall consult any person or party as to any fact in issue unless upon notice and opportunity for all parties to participate.

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

The trial examiner is charged with the duty of conducting a fair and impartial hearing and of maintaining order in form and manner consistent with the dignity of the Commission. He will note on the record any disregard by counsel of his rulings on matters of order and procedure and where he deems it necessary shall make special written report thereof to the Commission. In the event that counsel supporting the complaint or counsel for any respondent shall be guilty of disrespectful, disorderly, or contumacious language or conduct In connection with any hearing, the trial examiner may suspend the proceeding and submit to the Commission his report thereon, together with his recommendations as to whether any rule should be issued

Commission. Lists of

changes agreed to in writing by opposing counsel may be incorporated into the record, if and when approved by the trial examiner, at the close of evidence in support of the complaint, or at the final hearing before the trial examiner, or at any time thereafter before he files his report, and at no other times. If any changes are ordered by the trial examiner without such written agreement between opposing counsel they shall be subject to objection and exception.

RULE XVI. SUBPOENAS

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

Application for subpoenas for the production of documentary evidence shall be made in writing to the presiding trial examiner or to the Commission. The application must

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

RULE XIX. DEPOSITIONS 01c () Tj01.68 0 TD 02 Tc () Tj- T05 9
evidence () Tj T 1 2 7 r evidence

For good and exceptional cause the testimony of any witness may be taken in any case whether at issue or not, by deposition de bene esse or, prior to the pendency of a case, according to the common usage in Chancery. Depositions may be taken orally or upon

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

RULE XXI. PROPOSED FINDINGS AND CONCLUSIONS BEFORE TRIAL EXAMINER

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

Oral argument may be allowed at the discretion of the trial examiner and the Commission.

probative and substantial

Briefs not filed on or before the time fixed in the rules will be received only by

the trial examiner and the exceptions

thereto, will resolve all questions of fact by what

RULE XXVIII. TRADE PRACTICE CONFERENCE PROCEDURE 115

- (3) The size or extent and the divisions of the industry or trade groups concerned.
- (4)

own motion in proceeding against the use of any act, practice or method contrary to law.

(i) *Amendment of rules.*--Trade Practice rules may be amended or rescinded by the Commission upon its own motion or upon application filed with it by any interested person, party or group. Such application shall be in writing, signed by the applicant or his duly authorized representative, and shall set forth the reasons for the requested action.

RULE XXIX. PUBLIC INFORMATION

The Rules of Practice of the Commission, and such amendments as may be made thereto, shall be published in the Federal Register and may be obtained from the Commission upon application.

The findings, conclusions of law, and final orders of the Commission in respective formal proceedings and a digest of accepted stipulations to desist from unlawful practices shall be published in the official reports of the Commission.

Trade Practice Conference Rules for respective industries, issued under Rule XXVIII hereto, may be obtained upon application to the Commission and shall be published in the Federal Register.

Information concerning the activities of the Commission will be released from time to time under the direction or pursuant to the authority of the Commission.

In proceedings instituted by the issuance of formal complaint, the pleadings, transcript of testimony, exhibits, and all documents received in evidence or made a part of the record therein shall be available for inspection and copying by the public at the convenience of the Commission.

Documents, records, and reports made public by the Commission, including stipulations to cease and desist, certain trade practice conference records, and certain papers filed under the Wool Products Labeling Act, shall be available for inspection and copying at the convenience of the Commission.

The records and files of the Commission, and all documents, memoranda, correspondence, exhibits, and information of whatever nature, other than the documentary matters above described, coming into the possession or within the knowledge of the Commission or any of Its officers or employees in the discharge of their official duties, are confidential, and none of such material or information may be disclosed, divulged, or produced for inspection or copying except under the following

disclosed,

regard to statutory restrictions, its rules of practice, and the public interest.

(b) In the event that confidential material is desired for inspection, copying, or use by some agency of the Federal or a State Government, a request therefor may be made by the administrative head of such agency. Such request shall be in writing, and shall describe the information or material desired, its relevancy to the work and function of such agency and, if the production of documents or records or the taking of copies thereof is asked, the use which, is intended to be made of them. The Commission will consider and act upon such requests, having due regard to statutory restrictions, its rules of practice, and the public interest.

In cases in which an officer or employee of the Commission has been lawfully served with a subpoena duces tecum, material designated herein as confidential shall be produced only when and as authorized by the Commission. Service of such subpoena shall immediately be reported to the Commission with a statement of all relevant facts. The Commission will thereupon enter such order or give such instructions as it shall deem advisable in the premises. If the officer or employee so served has not received instructions from the Commission prior to the return date of the subpoena, he shall appear in response thereto and respectfully decline to produce the documents or records subpoenaed (pointing out that he is not permitted to do so under this rule, and request a continuance pending action by or instructions from the Commission. If, notwithstanding, the court or other body orders the production of any of the material subpoenaed, the officer or employee shall immediately report the facts to the Commission.

well as to determine the extent to which pending formal matters may have been affected.

It is the desire of the Commission to inform the public on these matters, but to avoid commitments which may abrogate its statutory procedures or frustrate the effectiveness of its corrective processes. To this end the Commission has formulated a statement of policy concerning the scope and effect of its trade practice conference procedure insofar as it may affect the settlement of pending matters before it, and it has reappraised its policy with respect to the settlement of cases by stipulation agreements.

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

It has long been the Commission's practice in certain instances where proper circumstances are present to dispose of pending matters upon acceptance by the affected parties of trade practice rules for their industry covering the charges in such matters. This practice was specifically limited In 1936 when the Commission determined that whenever an application for trade practice conference is received from an industry, some or all of whose members are respondents in proceedings before the Commission involving alleged violations of the Clayton Act or combinations or conspiracies in restraint of trade in violation of the Federal Trade Commission Act, such proceedings will have to go forward without regard to the trade practice conference procedure. when the 2025-01-20 10:20:00 AM

its effectiveness upon the consistent and sound judgment of the Commission in applying it in individual instances. But no statement of policy should be so broad as to constitute an invitation to to

1 The wartime cost-finding inquiries, 1917-1918 (p. 139), include approximately 870 separate investigations.

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

3 Inquiries desired by either House of Congress are now undertaken by the Commission as a result of concurrent resolutions of both Houses. For further explanation, see footnote on p.2.

4 F. T. C. recommendations that section 7 of the Clayton Act be amended to declare unlawful the acquisition of corporate assets under the same conditions that acquisition of corporate stock has been unlawful since 1914, are discussed in *Chain Stores--Final Report on the Chain Store Investigation* (S. Doc. 4, 74th, 12/14/34), p.96; *Summary Report on Conditions With Respect to the Sale and Distribution of Milk and Dairy Products* (H. Doc. 94, 75th 1/4/37), p. 38; *Report of the F. T. C. on Agricultural Income Inquiry, Part I* (3/2/37), p.28 *Agricultural Implement and Machinery Industry* (H Doc. 702, 75th, 6/8/39), p. 1038; and F. T. C. Annual Reports : 1938, pp. 19 and 29; 1939, p.14; 1940, p.12; 1941,p.19; 1942, p. 1942,1942,7 0 2 ,

tion; and terminal markets. Its recommendations for improvement of the Perishable Agricultural Commodities Act were adopted by Congress in amending

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.

Chromium Processors (W. P. B.), Wartime, 1942-43.--For the War Production Board, the Commission investigated the transactions of the major chro-

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

⁷ See footnote 4, p.123.

mium processors to determine the extent to which they were complying with Amendment No. 2 to W. P. B General Preference Order No. m-18a, issued 2/4/42. The investigation was conducted concurrently with a survey of nickel processors.

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

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

Special Report on Commercial Bribery (H. Doc. 1107, 65th, 3 p., o. p., 5/15/18), recommending legislation striking at. this practice; *Commercial Bribery* (S. Doc. unnumbered, 65th, 36 p., o. p., 8/22/18); and *Commercial Bribery* (S. Doc. 258, 66th, 7 p., o. p., 3/18/20).

Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of (W. P. B.), Wartime, 1942-43.--The Commission conducted an investigation for the War Production Board to determine whether manufacturers of commercial cooking and plate warming equipment were complying with W. P. B Limitation Orders W.ec5-312.12 -12.96

Cooperation in American Export Trade.--See Foreign Trade.

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

Cooperative Marketing (Senate) --This inquiry (S. Res. 34, 69th, 3/17/25) covered the development of the cooperative movement in the U.S. and illegal Interferences with the formation and operation of cooperatives ; and a comparative study of costs, prices, and marketing methods (*Cooperative Marketing*, 5. Doc. 95, 70th, 721 p., o. p., 4/30/28).

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

Copper Base Alloy Ingot Makers (W. P. B.), Wartime, 1942-43.--This investigation was designed to ascertain the operations, shipments, and Inventories of copper, copper alloys, copper scrap, and copper base alloy ingot makers and was conducted for the and

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

Cost of Living (President).--President Roosevelt, in a published letter (11/16/37), requested the Commission to Investigate living costs. The Commission (11/20/37) adopted a resolution undertaking the Inquiry and a few months thereafter submitted a confidential report to the President.

Costume Jewelry, Manufacturers of (W. P. B.), Wartime, 1942-44.--Because it appeared that vast quantities of critical metals were being diverted

the President

s9d President, D 0 Tc ()

Cottonseed Industry (House) --Investigating alleged price fixing (H. Res. 439, 69th, 3/2/27), the Commission reported evidence of cooperation among State associations but no indication that cottonseed crushers or refiners had fixed prices in violation of the antitrust laws (*Cottonseed Industry*, H. Doc. 193, 70th; 37 p., 3/5/28).

Cottonseed Industry (Senate) --Two resolutions (S. Res. 136, 10/21/29, and S. Res. 147, 11/2/29-71st) directed the Commission to determine whether alleged unlawful combinations of cottonseed oil mill corporations sought to lower and fix prices of cottonseed and to sell cottonseed meal at a fixed price under boycott threat; and whether such corporations acquired control of cotton gins to destroy competitive markets and depress or control prices paid to seed producers (*Investigation of the Cottonseed Industry*, preliminary report, S. Doc. 91, 71st, 4 p., o. p., 2/28/30, and final report, 207 p., with 11 vols. testimony, S. Doc. 209, 71st, 5/19/33).

Distribution Cost Accounting (F. T. C.)--To provide a guide for current legislation and determine ways for improving accounting methods, the Commission studied distribution cost accounting in connection with selling, warehousing, handling, delivery, credit and collection (*Case Studies in Distribution Cost Accounting for Manufacturing and Wholesaling*, H. Doc. 287, 77th, 215 p., 6/23/41).

Distribution.--See Millinery Distribution.

Distribution Methods and Costs (F. T. C.)--This inquiry into methods and costs of distributing important consumer commodities (F. T. C. Res., 6/27/40) was undertaken by the Commission pursuant to authority conferred upon it by section 6 of the F. T. C. Act. Eight parts of the *F. T. C. Report on Distribution Methods and Costs* were transmitted to Congress and published under the subtitles: *Part I, Important Food Products* (11/11/43, 223 p., o. p.); *Part III, Building Materials-Lumber, Paints and Varnishes and Portland Cement* (2/19/44, 50 p., o. p.); *Part IV, Petroleum Products, Automobiles, Rubber Tires and Tubes, Electrical Household Appliances, and Agricultural Implements* (3/2/44, 189 p., o. p.); *Part V, Advertising as a Factor in Distribution* (10/30/44, 50 p., o. p.); *Part VI, Milk Distribution, Prices, Spreads and Profits* (6/18/45, 58 p.); *Part VII, Cost of Production and Distribution of Fish in the Great Lakes Area* (6/30/45, 59 p.); *Part VIII, Cost of Production and Distribution of Fish in New England* (6/30/45, 118 p.); and *Part IX, Cost of Production and Distribution of Fish on the Pacific Coast* (7/25/46, 82 p.). The inquiries relating to fish were conducted in cooperation with the Coordinator of Fisheries, Interior Dept. During World War II special reports on the distribution of some 20 commodity groups were made for confidential use of the Office of Price Administration and other war agencies.

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

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

Electric Lamp Manufacturers (W. P. B.), Wartime, 1942-43.--At the direction of the War Production Board, an investigation was made of the activities of manufacturers of portable electric lamps whose operations were subject to the restrictions imposed by W. P. B. Limitation and Conservation Orders L-33 and m-9-c.

Electrical Household Appliances.--See Distribution Methods and Costs.

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

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

Fertilizer (Senate).--Begun by the Commissioner

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 of fertilizer materials. The Commission recommended improved agricultural credits and more extended cooperation by farmer

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.130.

Food (President) Continued--Bakeries and Flour Milling.--One F. T. C. report was published by the Food Administration (*U.S. Food Administration, Report*

⁹ The legal history of the consent decree and a summary of divergent economic interests involved in the question of packer 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.

of the F. T. C. on Bakery Business in U. S., pp. 5-13, o. p., 11/3/17). Other reports were : *Food Investigation*, *Report of the F. T. C. on Flour Milling and Jobbing* (4/4/18, 27 p., o. p.) and *Commercial Wheat Flour Milling* (9/15/20, 118 p., o. p.)

Food (President) Continued--Canned Foods,¹⁰ Private Car Lines, Wholesale Food Marketing.--Under the general title *Food Investigation* were published *Report of the F. T. C. on Canned Foods--General Report and Canned Vegetables and Fruits* (5/18/18, 103 p., o. p.): *Report of the F. T. C. on Canned Foods-Canned Salmon* (12/27/18, 83 p., o.p.); *Report of the F. T. C. on Private Car Lines*, regarding transportation of meats, fruits, and vegetables (6/27/19, 271 p., o.p.); and *Report of the F. T. C. on Wholesale Marketing of Food* (6/30/19, 268 p., o. p.), which recommended that a wholesale dealer in perishable food products should be required to procure a Federal license and that Federal inspection and standards should be provided. Provisions in accordance with these recommendations were incorporated in the Perishable Agricultural Commodities Act (1930).

Food--Biscuits and Crackers (O. P. A.), Wartime, 1942-43.--As requested by the Office of Price Administration, the Commission investigated Agricultural Commodities Act (1930) during

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,

¹⁰ In connection with its wartime cost finding inquiries, 1917-18, p. 139 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).

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. A summary of *Part II* appears at p. 25.

Food--Fish.--See Distribution Methods and Cost.

Food--Flour Milling (Senate).--This study of costs, profits, and other factors (S. Res. 212, 67th, 1/18/22) was reported in *Wheat Flour Milling Industry* (S. Doc. 130, 68th, 130 p., o. p., 5/16/24).

Food--Flour Milling (O. E. S.-), Wartime, 1942-43.--Requested by the Director of the Office of Economic Stabilization, this inquiry covered practices, costs, prices and profits in the wheat flour-milling industry, its purpose being to provide the Director with facts to determine what economies could be effected in the industry so as to eliminate the need for a wheat subsidy, without reducing farmers' returns, or to reduce bread prices.- The report was made to O. E. S. and a more detailed report was prepared for O. P. A.

Food--Flour-Milling Industry, Growth and Concentration in (F. T. C.).--The Commission's study showed that there has been a progressive increase in the size of flour mill operations and a progressive decrease in the number of flour-milling establishments.- Nevertheless, the Commission reported, there is a lesser degree of concentration in the flour-milling industry than in many other important industries. The results of the study were presented to Congress in a report on the *Growth and Concentration in the Flour-Milling Industry* (6/2/47). A summary of the report appears at p. 27.

Food--Grain Elevators (F. T. C.), Wartime, 1917-18.--In view of certain bills pending before Congress with reference to regulation of the grain trade, the Commission, in a preliminary report, *Profits of Country and, Terminal Grain Elevators* (S. Doc 40., 67th. 12 p., o.p., 6/13/21) presented certain data collected during its inquiry into the grain trade ordered by the President.

Food--Grain Exporters (Senate).--The low prices of export wheat in 1921 gave rise to this inquiry (S. Res. 133, 67th, 12/22/21) concerning harmful speculative price manipulations on the grain exchanges and alleged conspiracies among country grain buyers to agree on maximum purchasing prices. The Commission recommended stricter supervision of exchanges and additional storage facilities for grain not controlled by grain dealers (*Report of the F. T. C. on Methods and Operations of Grain Exporters*, 2 vols., 387 p., o. p., 5/16/22 and 6/18/23).

Food--Grain, Wheat Prices (President).--An extraordinary decline of wheat prices was investigated (President Wilson's directive, 10/12/20) and found to be due chiefly to abnormal market conditions (*Report of the F. T. C. on Wheat Prices for the 1920 Crop*, Price Methods and Market (6/10/21)).

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., 4/5/35); *Report of the F. T. C. on the Sale and Distribution of Milk and Milk Products* (Connecticut and Philadelphia milk-sheds, interim report, H. Doc. 887, 74th, 125 p., 12/81/85); *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., 6/4/36); *Twin City Sales Area* (H. Doc. 506, 74th, 71 p., 6/13/36); and *New York Milk Sales Area* (H. Doc. 95, 75th, 138 p., o. p., 9/30/36.) The Commission reported that many of the industry's problems could only be dealt with 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 Price. (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* $TD 0$ $Tc 0.03$ $Tw () Tj 2.28 0$ $TD -0.062Tw (mills) Tj 19.68 0$ TD

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

Glycerin, Users of (W. P. B.), Wartime, 1942-43.--At the request of the War Production Board, paint and resin manufacturers, tobacco companies, and other large users of glycerin were investigated to determine whether they had improperly extended preference ratings to obtain formaldehyde, paraformaldehyde, or hexamethylenetetramine, to which they were not otherwise entitled.

Grain.--See Food.

Grain Exchange. 34.68 0 TD 10 9.98 11 0.0262 28cw (See Pg) TD 0.0021 1940 1w (imp 6A) 1j 32.40

industry groups as well as the aggregate for all manufacturing corporations. For the first quarterly period of 1947, total assets of all manufacturing corporations were estimated at \$89 billion.

fill legitimate orders and diverted the balance to unauthorized uses. In response to W. P. B.'s request the Commission surveyed the acquisition and use of foreign silver by such manufacturers to determine the degree of their compliance with Order M-199 and checked the receipt and use of both

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embraced growth and development of syndicates operating units for retail millinery distribution,
the units consisting consisting

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plans developed serious abuses (*Motor Vehicle Industry*, H. Doe.- 468, 76th, 1077 p., 6/5/39).
The leading companies voluntarily adopted a number of the Commission's recommendations
as company policies.

National Wealth and Income (Senate).--In 1922 the national wealth was estimated (Inquiry
pursuant to S. Res. 451, 67th, 2/28/23) at \$353,000,000,000 and the national income in 1923
at \$70,000,000,000 [*National Wealth and Income* (S. Doc. 126, 69th, 381 p., o.p., 5/25/26) and
Taxation and Tax-Exempt Income (S. Doc. 148, 68th, 143 p., 6/7/24) 0.5 with 0 the 6 Board

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

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

12 See footnote 8, p.127.

p., 6/1/20)--pursuant to H. Res. 501, 66th, 4/5/20, in which report the Commission made constructive proposals to conserve the oil supply; *Letter of Submittal and Summary of Report on Gasoline Prices in 1924* (24 p. processed, 6/4/24, and Cong. Record, 2/28/25, p. 5158)--pursuant to request of President Coolidge, 2/7/24; *Petroleum Industry--Prices, Profits and Competition* (S. Doc. 61, 70th, 360 p., 12/12/27)--pursuant to S. Res. 81, 69th, 6/3/36; *Importation of Foreign Gasoline at Detroit, Mich.* (S. Doc. 206, 72d, 3 p., o.p., 2/27/33)--pursuant to S. Res. 274 72d, 7/16/32; and *Gasoline Prices* (S. Doc. 178, 73d, 22 p., 5/10/34)--pursuant to S. Res. 166, 73d, 2/2/34.

Petroleum Decree (Attorney General).--The Commission investigated (inquiry referred to F. T. C. 4/16/36) the manner In which a consent decree entered (9/15/30) against Standard Oil Co. of California, Inc., and others, restraining them from monopolistic practices, was being observed, and reported (4/2/37) to the Attorney General.

Petroleum--Foreign Ownership (Senate).--Inquiry was made (S. Res. 311, 67th, 6/29/22) into acquisition of extensive oil Interests in the U. S. by the Dutch-Shell organization, and into discrimination allegedly practiced in foreign countries against American Interests (*Report of the the the*

(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,

13 See footnote 8, p.127. Conditions in one of the midcontinent fields were discussed by the Bureau of Corporations in *Conditions in the Healdton Oil Field* (Oklahoma) (116 p., 8/15/15).

were among the influences which brought about enactment of such remedial legislation as the Securities Act (1933) , the Public Utility Holding Company Act (1935), the Federal Power Act (1935), and the Natural Gas Act (1938).

Public hearings were held on all phases of the inquiry and monthly interim reports presented hundreds of detailed studies by the Commission's economists, attorneys, accountants and other experts, based on examination of 29 holding companies having \$6,108,128,713 total assets ; 70 subholding companies with \$5,685,463,201 total assets ; and 278 operating companies with \$7,245,106,464 total assets. The testimony, exhibits and final reports (*Utility Corporations*, S. Doc. 92, 70th) comprised 95 volumes.

Price Bases (F. T. C.).--More than 3,500 manufacturers representing practically every industrial segment furnished data for this study (F. T. C. motion, 7/27/27) of methods used for computing delivered prices on industrial products and of the actual and potential influence of such methods on competitive markets and price levels. In the cement industry the basing-point method was found to have a tendency to establish unhealthy uniformity of delivered prices and cross-haul or cross-freighting to be an economic evil (*Report of the F. T. C. on Price Bases Inquiry, Basing-Point Formula and Cement Prices*, 218 p., 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, dis-closing 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 (8/21/21) of President Harding, the Commission made prompt reply (undated) presenting its views of the causes of a disproportional decline of agricultural prices compared with consumers' prices (*Letter of the F. T. C. to the President of the U. S.*, 8 p., o.p.).

Priorities (W. P. B.), Wartime, 1941-45.--Pursuant to Executive orders (January 1942), W. P. B. designated the Federal Trade Commission as an agency to conduct investigations of basic industries to determine the extent and degree to which they were complying with w. P. B. orders relative to the allocation of supply and priority of delivery of war materials. F. T. C. priorities investigations are listed herein under the headings : Aluminum, Foundries Using ; Antifreeze Solutions, Manufacturers of ; Capital Equipment ; Chromium, Processors of ; Commercial Cooking and Food and Plate Warming Equipment, Manufacturers of ; Contractors, Prime, Forward Buying Practices of ; Copper Base Alloy Ingot Makers ; Copper, Primary Fabricators of ; Costume Jewelry, Manufacturers of ; Electric Lamps, Manufacturers of ; Fruit Growers and Shippers ; Furnaces, Hot Air, Household ; Fuse Manufacturers ; Glycerin, Users of ; Insignia Manufacturers ; Jewel Bearings, Consumers of ; Metal-works, Manufacturers of ; Paper, Manufacturers of ; Petroleum Products, Refiners of ; Pottery, Manufacturers of ; Rubber, Manufacturers of ; Steel, Manufacturers of ; Textiles, Manufacturers of ; Toys, Manufacturers of ; Wagon, Manufacturers of ; Wood, Manufacturers of ; Wool, Manufacturers of ; Yarn, Manufacturers of ; Zinc, Manufacturers of ; and Miscellaneous.

Rags, Woolen.--See Textiles.

Raisin Combination.--See Food.

Range Boilers.--See Price Bases.

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Resale Price Maintenance (F. T. C.).--

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

¹⁶The salary lists do not appear in the report but are available for inspection has of the same date the N. R. A.

War Production Board) orders and forms controlling the distribution of pig iron, iron and steel, iron and steel alloys, and iron and steel scrap.

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

Stock Dividends (Senate).--The Senate requested (S. Res. 304, 69th, 12/22/26) the names and capitalizations of corporations which had issued stock dividends, and the amounts thereof, since the Supreme Court decision (3/8/20) holding that such dividends were not taxable. The same information for an equal period prior to the decision was also requested. The Commission submitted a list of 10,245 corporations, pointing out that declaration of stock dividends at the rate prevailing did not appear to be a result of controlling necessity and seemed questionable as a business policy (*Stock Dividends*, S. Doc. 26, 70th, 273 p., 12/5/27).

Sugar.--See Food.

Sulphur Industry (F. T. C.) --In its report to Congress on *The Sulphur Industry and International Cartels* (6/16/47), the Commission stated that the operations of all four producers constituting the American sulphur industry generally have been highly profitable, and that the indications are that foreign cartel agreements entered into by Sulphur Export Corp., an export association organized under the Webb-Pomerene Law, have added to the profitability of the U. S. industry.

Textiles--Cotton Merchandising (Senate).--Investigating abuses In handling consigned cotton (S. Res. 252, 68th, 6/7/24) , the Commission made recommendations

cotton on New York futures contracts (*The Cotton Trade*, incl. testimony, S. Doc. 100, 88th, 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.

Textile Woolen Rag Trade (F. T. C.), Wartime, 1917-18.--The *Report on the Woolen Rag Trade* (90 p., o. p., 6/30/19) contains information gathered during the World War, 1917-18, at the request of the War Industries Board, for Its use In regulating the prices of woolen rags employed in the manufacture of clothing.

Tin Consumers (W. P. B.), Wartime, 1942-43.--The principal consumers of tin were investigated at the Instance of the War Production Board to determine the degree of their compliance with Conservation Order m-43-a, as amended, and other orders and regulations issued by the Director of the Division of Industry Operation, controlling the inventories illustration, and use of the tin supply in the U.S.

Tobacco (Senate).--Inquiry (S. Res. 329, 68th, 2/9/25) into activities of two well-known companies disclosed that alleged illegal agreements or conspiracies did not appear to exist (*The American Tobacco Co. and the Imperial Tobacco Co.*, S. Doc. 34, 69th, 129 p., o. p., 12/23/25).

Tobacco Marketing-Leaf (F. T. C.).--Although representative tobacco farmers in 1929 alleged existence of territorial and price agreements among larger manufacturers to. control cured leaf tobacco prices, the Commission found no evidence of price agreements and recommended production curtailment and improvement of marketing processes and cooperative relations (*Report on Marketing of Leaf Tobacco in the Flue-Cured Districts of the States of North Carolina and Georgia*, 54 p., processed, 5/3/31).

Tobacco Prices (Congress).--Inquiries with respect to a decline of loose-leaf tobacco prices following the 1919 harvest (H. Res. 533, 66th, 6/3/20) and low tobacco prices as compared with high prices of manufactured tobacco products (S. Res. 129, 67th, 8/9/21) resulted in the Commission recommending modification of the 1911 decree 6/8/20 on tobacco supply and 54 p. of

Steel Industry (138 p., 2/18/25). The unpublished reports 20 cover a wide variety of subjects. On the basis of the costs as found, prices were fixed, or controlled In various degrees, by Government agencies such as the War and

¹⁹ See footnote 10, p.129.

²⁰ Approximately 260 of the wartime cost inquires are listed In the F. T. C. Annual Reports, 1018, pp.29-30, and 1919, pp. 38-42 and in's *World War Activities of the F. T. C., 1917-18* (69 p., processed, 7/15/40).

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