

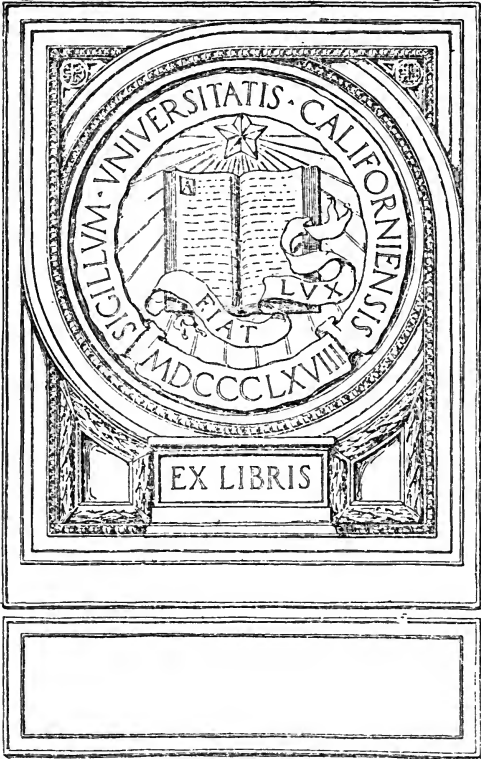
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TRADE COMMISSION

MONOGRAPH
OF THE
UNITED STATES GOVERNMENT
NO 7
REPORT FOR GOVERNMENT RESEARCH



Annual Reports
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**THE FEDERAL TRADE COMMISSION
ITS HISTORY, ACTIVITIES
AND ORGANIZATION**

THE INSTITUTE FOR GOVERNMENT RESEARCH

Washington, D. C.

The Institute for Government Research is an association of citizens for coöperating with public officials in the scientific study of government with a view to promoting efficiency and economy in its operations and advancing the science of administration. It aims to bring into existence such information and materials as will aid in the formation of public opinion and will assist officials, particularly those of the national government, in their efforts to put the public administration upon a more efficient basis.

To this end, it seeks by the thoroughgoing study and examination of the best administrative practice, public and private, American and foreign, to formulate those principles which lie at the basis of all sound administration, and to determine their proper adaptation to the specific needs of our public administration.

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SERVICE MONOGRAPHS
OF THE
UNITED STATES GOVERNMENT
No. 7

THE FEDERAL TRADE COMMISSION

ITS HISTORY, ACTIVITIES
AND ORGANIZATION

BY
W. STULL HOLT



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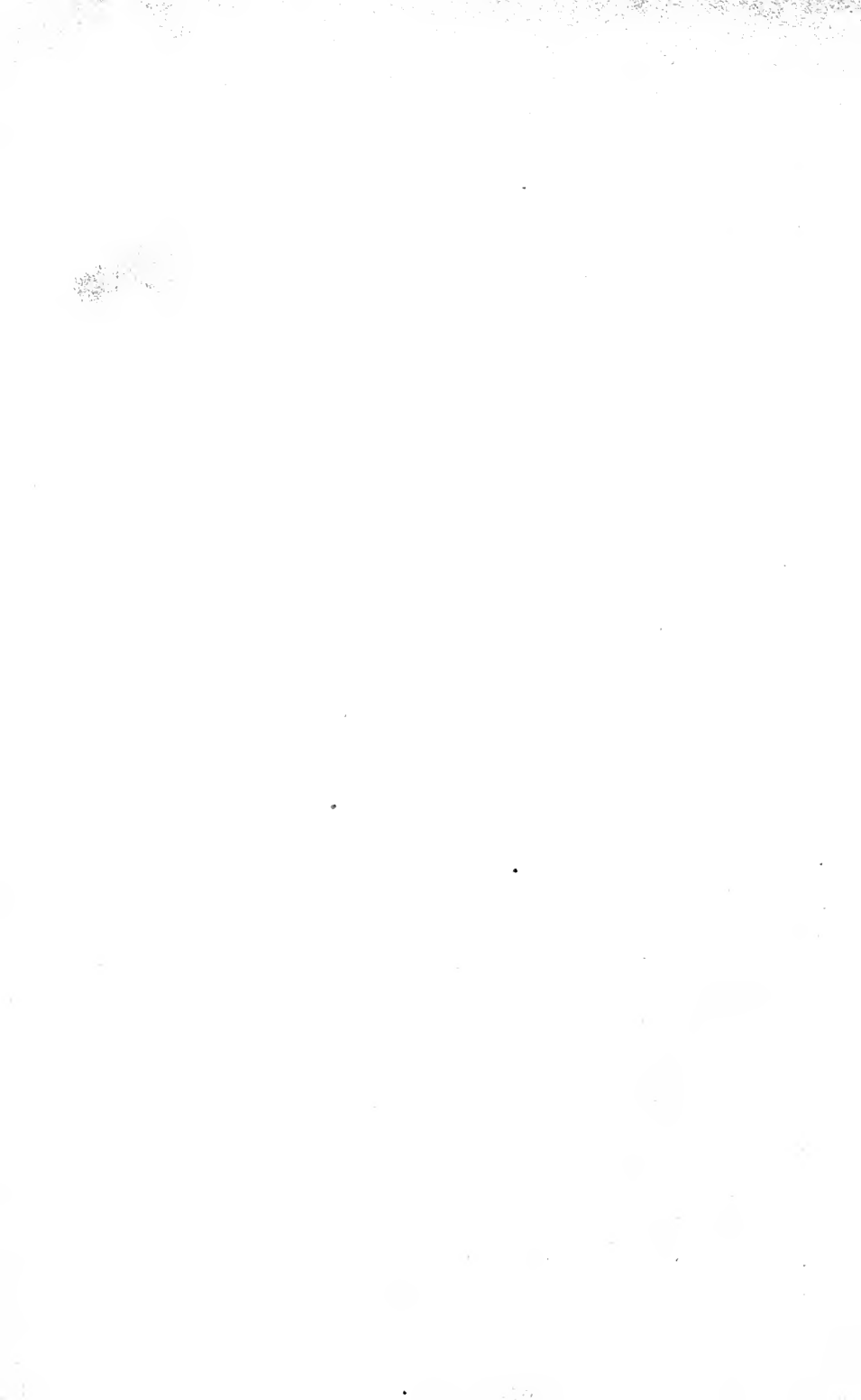
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FOREWORD

The first essential to efficient administration of any enterprise is full knowledge of its present make-up and operation. Without full and complete information before them, as to existing organization, personnel, plant, and methods of operation and control, neither legislators nor administrators can properly perform their functions.

The greater the work, the more varied the activities engaged in, and the more complex the organization employed, and more imperative becomes the necessity that this information shall be available—and available in such a form that it can readily be utilized.

Of all undertakings, none in the United States, and few, if any, in the world, approach in magnitude, complexity, and importance that of the national government of the United States. As President Taft expressed it in his message to Congress of January 17, 1912, in referring to the inquiry being made under his direction into the efficiency and economy of the methods of prosecuting public business, the activities of the national government “are almost as varied as those of the entire business world. The operations of the government affect the interest of every person living within the jurisdiction of the United States. Its organization embraces stations and centers of work located in every city and in many local subdivisions of the country. Its gross expenditures amount to billions annually. Including the personnel of the military and naval establishments, more than half a million persons are required to do the work imposed by law upon the executive branch of the government.

“This vast organization has never been studied in detail as one piece of administrative mechanism. Never have the foundations been laid for a thorough consideration of the relations of all its parts. No comprehensive effort has been made to list its multifarious activities or to group them in such a way as to present a clear picture of what the government is doing. Never has a complete description been given of the agencies through which these activities are performed. At

no time has the attempt been made to study all of these activities and agencies with a view to the assignment of each activity to the agency best fitted for its performance, to the avoidance of duplication of plant and work, to the integration of all administrative agencies of the government, so far as may be practicable, into a unified organization for the most effective and economical dispatch of public business."

To lay the basis for such a comprehensive study of the organization and operations of the national government as President Taft outlined, the Institute for Government Research has undertaken the preparation of a series of monographs, of which the present study is one, giving a detailed description of each of the fifty or more distinct services of the government. These studies are being vigorously prosecuted, and it is hoped that all services of the government will be covered in a comparatively brief space of time. Thereafter, revisions of the monographs will be made from time to time as need arises, to the end that they may, as far as practicable, represent current conditions.

These monographs are all prepared according to a uniform plan. They give: first, the history of the establishment and development of the service; second, its functions, described not in general terms, but by detailing its specific activities; third, its organization for the handling of these activities; fourth, the character of its plant; fifth, a compilation of, or reference to, the laws and regulations governing its operations; sixth, financial statements showing its appropriations, expenditures and other data for a period of years; and finally, a full bibliography of the sources of information, official and private, bearing on the service and its operations.

In the preparation of these monographs the Institute has kept steadily in mind the aim to produce documents that will be of direct value and assistance in the administration of public affairs. To executive officials they offer valuable tools of administration. Through them, such officers can, with a minimum of effort, inform themselves regarding the details, not only of their own services, but of others with whose facilities, activities, and methods it is desirable that they should be familiar. Under present conditions services frequently engage in activities in ignorance of the fact that the work projected has already been done, or is in process of execution by other services. Many cases exist where one service could make effective use of the organization, plant or results of other serv-

ices had they knowledge that such facilities were in existence. With the constant shifting of directing personnel that takes place in the administrative branch of the national government, the existence of means by which incoming officials may thus readily secure information regarding their own and other services is a matter of great importance.

To members of Congress the monographs should prove of no less value. At present these officials are called upon to legislate and appropriate money for services concerning whose needs and real problems they can secure but imperfect information. That the possession by each member of a set of monographs, such as is here projected, prepared according to a uniform plan, will be a great aid to intelligent legislation and appropriation of funds can hardly be questioned.

To the public, finally, these monographs will give that knowledge of the organization and operations of their government which must be had if an enlightened public opinion is to be brought to bear upon the conduct of governmental affairs.

These studies are wholly descriptive in character. No attempt is made in them to subject the conditions described to criticism, nor to indicate features in respect to which changes might with advantage be made. Upon administrators themselves falls responsibility for making or proposing changes which will result in the improvement of methods of administration. The primary aim of outside agencies should be to emphasize this responsibility and facilitate its fulfillment.

While the monographs thus make no direct recommendations for improvement, they cannot fail greatly to stimulate efforts in that direction. Prepared as they are according to a uniform plan, and setting forth as they do the activities, plant, organization, personnel and laws governing the several services of the government, they will automatically, as it were, reveal, for example, the extent to which work in the same field is being performed by different services, and thus furnish the information that is essential to a consideration of the great question of the better distribution and coördination of activities among the several departments, establishments, and bureaus, and the elimination of duplications of plant, organization and work. Through them it will also be possible to subject any particular feature of the administrative work of the government to exhaustive study, to determine, for example, what facilities, in the way of laboratories and other plant and

equipment, exist for the prosecution of any line of work and where those facilities are located; or what work is being done in any field of administration or research, such as the promotion, protection and regulation of the maritime interests of the country, the planning and execution of works of an engineering character, or the collection, compilation and publication of statistical data, or what differences of practice prevail in respect to organization, classification, appointment, and promotion of personnel.

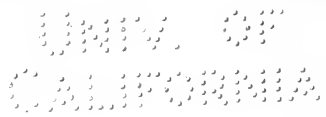
To recapitulate, the monographs will serve the double purpose of furnishing an essential tool for efficient legislation, administration and popular control, and of laying the basis for critical and constructive work on the part of those upon whom responsibility for such work primarily rests.

Whenever possible the language of official statements or reports has been employed, and it has not been practicable in all cases to make specific indication of the language so quoted.

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THE FEDERAL TRADE COMMISSION

ITS HISTORY, ACTIVITIES, AND ORGANIZATION

CHAPTER I

HISTORY

The Federal Trade Commission is an independent establishment created in 1914, whose principal duties are to prevent unfair methods of competition, to compile and investigate the economic facts concerning corporations engaged in interstate commerce, and to supervise the export trade associations formed under the Export Trade Act.

Government Control of Industry. The relation of government to industry has been debated throughout the entire history of the country and varying policies have been adopted from time to time. For many years there has been a steady progress toward greater government supervision over industry. Each successive step was contested, but the tendency for greater control over a wider field has prevailed. When the United States entered the World War the Federal Trade Commission marked the furthest point reached in the extension of government control of industry. Greater powers were exercised by the Interstate Commerce Commission, but that body dealt only with public utility corporations, the common carriers, while the Federal Trade Commission had to do with the broad field of general industry.

The modern aspect of the problem began after the Civil War with the rise of big business. Soon after its advent came the beginnings of modern regulation. These were the state rail-

road commissions,¹ which served as a model for the Interstate Commerce Commission of 1887. The first step toward the control of general industry was the Sherman Anti-Trust Act of 1890.

Sherman Anti-trust Act. This law is the starting point and background for all the discussion of government control of industry. It provides that "every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal."² It gives the courts of the United States jurisdiction to prevent and restrain violations of the act and charges the Attorney General with the duty of instituting proceedings in equity to prevent and restrain violations.

This method of dealing with monopolies after they were formed was not used extensively during the first ten years, despite the fact that it was a period of industrial consolidation. Particularly between the years of 1898 and 1901 when, among the many others, there were organized: The United States Steel Corporation, The American Can Company, The American Woolen Company, The United Shoe Machinery Company, The International Paper Company, The American Locomotive Company, and The International Steam Pump Company.

Industrial Commission. This extraordinary era of combination attracted wide attention and caused much discussion of the "trust problem." In 1898 the Industrial Commission was created to "investigate questions pertaining to immigration, to labor, to agriculture, to manufacturing and to busi-

¹ Massachusetts 1869, California 1876, New York 1882.

² On May 15, 1911 in *United States vs. Standard Oil Co.* the Supreme Court held that the law applies only to combinations in unreasonable restraint of trade, thereby apparently reversing earlier decisions which held any combination illegal regardless of the degree of restraint.

ness." The investigations, which lasted until 1902, included the trust problem to which much time and attention were devoted. The commission recommended greater publicity regarding the operation of corporations as the chief measure of reform. This was to be obtained by Federal supervision exercised by a permanent bureau, "the duties of which shall be, to register all State corporations engaged in interstate or foreign commerce; . . . and to collate and publish information regarding such combinations and the industries in which they may be engaged, so as to furnish to the Congress proper information for possible future legislation."

The Bureau of Corporations. Some of the recommendations of the Industrial Commission were translated into action the following year (1903) when the Bureau of Corporations was created. This bureau was the direct predecessor of the Federal Trade Commission, into which it was merged when the latter was created in 1914.

The law under which the Bureau of Corporations was created was section 6 of the act establishing the Department of Commerce and Labor (32 Stat. L., 827) reading as follows :

SEC. 6. That there shall be in the Department of Commerce and Labor a bureau to be called the Bureau of Corporations, and a Commissioner of Corporations who shall be the head of said bureau, to be appointed by the President, who shall receive a salary of five thousand dollars per annum.

The said Commissioner shall have power and authority to make, under the direction and control of the Secretary of Commerce and Labor, diligent investigation into the organization, conduct, and management of the business of any corporation, joint stock company or corporate combination engaged in commerce among the several States and with foreign nations excepting common carriers subject to "An Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and to gather such information and data as will enable the President of the United States to make recommendations to Congress for legislation for the

regulation of such commerce, and to report such data to the President from time to time as he shall require; and the information so obtained or as much thereof as the President may direct shall be made public.

In order to accomplish the purposes declared in the foregoing part of this section, the said Commissioner shall have and exercise the same power and authority in respect to corporations, joint stock companies and combinations subject to the provisions thereof, as is conferred on Interstate Commerce Commission in said "Act to regulate commerce" and the amendments thereto in respect to common carriers so far as the same way may be applicable, including the right to subpoena and compel the attendance and testimony of witnesses and the production of documentary evidence and to administer oaths.

The establishment of this permanent body to investigate and to publish under the direction of the President the information obtained, in some ways supplemented the Sherman Anti-Trust Law and in others departed radically from its basic idea. The Sherman Act, at least until 1911 when the law was interpreted to mean "unreasonable restraint of trade," failed to recognize the irresistible movement toward concentration in business. Its method was abolition in isolated cases brought to its attention by judicial procedure. The new idea involved in the establishment of the Bureau of Corporations was the recognition of the inevitableness and in some cases of the desirability of industrial combinations, in spite of general statutory prohibition. Its method of handling the problem was regulation instead of repression. The regulation was to be obtained from Congress and, especially from the force of public opinion, acting on information supplied by a permanent administrative body organized and trained for that purpose. This new conception of the "trust problem" was not universally accepted or perhaps even dominant among the reasons for establishing the Bureau of Corporations. But it was present, and it continued to spread. In each of the annual reports of the Commissioner of Corporations the idea is emphasized and the necessity

shown for broadening the national control into a general constructive policy.

As it was, the work of the bureau was restricted to a comparatively small scope. The most conspicuous pieces of work it did during its eleven years of existence were the investigations of the Petroleum Industry (Standard Oil Company), of the Tobacco Industry, and of the International Harvester Company. In each case the work was done under, or the results used to supplement, the Sherman Anti-Trust Law by aiding the Attorney General in prosecuting under it. Experiences during these investigations showed how great is the force of mere publicity. Perhaps the best illustration was in 1906 when the great system of secret and semi-secret railroad discriminations enjoyed by the Standard Oil Company was made public by the bureau. Immediately all the railroads concerned voluntarily cancelled every rate criticised as illegal.

Growth of the Commission Idea. For a good many years there had been evolving a new agency in American government for executive and quasi-judicial functions. It was designed to afford more speedy and informal relief than that given by the law and to make the remedy fit the circumstances. This idea of commissions of experts gained wide approval and many people thought it the best solution of the trust problem. By 1912 it had become so popular that two of the three big parties declared in their platforms for the creation of an independent commission to deal with at least some phases of the trust problem. On January 20, 1914, President Wilson delivered a special message to Congress on trusts and monopolies, in which he recommended the establishment of a Federal Trade Commission. He said in part:

And the business men of the country desire something more than that the menace of legal process in these matters be made explicit and intelligible. They desire the advice, the definite guidance, and information which can be supplied by

an administrative body, an interstate trade commission.

The opinion of the country would instantly approve of such a commission. It would not wish to see it empowered to make terms with monopoly or in any sort to assume control of business, as if the Government made itself responsible. It demands such a commission only as an indispensable instrument of information and publicity, as a clearing house for the facts by which both the public mind and the managers of great business undertakings should be guided, and as an instrumentality for doing justice to business where the processes of the courts or the natural forces of correction outside the courts are inadequate to adjust the remedy to the wrong in a way that will meet all the equities and circumstances of the case.

The Federal Trade Commission Act. Several bills to accomplish the suggestions of President Wilson were immediately introduced. Similar bills had often been in Congress during the previous three years but had never been successfully pushed. In this instance the matter was taken up vigorously and one of the bills, the Newlands bill, was ultimately approved.

During the hearings before the Committees on Interstate Commerce two of the activities suggested for the proposed commission received the most support. The first was that the commission should have power to relieve the doubts of the business community as to what they could do and could not do under the Sherman Anti-Trust Law. Some suggested that the commission should be able to pass upon plans of coöperation submitted to it by business men, and if it decided such coöperation would not be an unreasonable restraint of trade it should issue a license to be held during good behavior or a certificate which would be an estoppel to criminal proceedings if at some later date the Attorney-General should bring suit under the Sherman Law against the parties. The second suggested activity that received hearty approval was that the commission should receive current reports from all corporations, or at least all the large ones, in the various

trades and that it should make public this information thereby protecting the public and benefiting the business community with accurate trade statistics. Neither one of these things has been done by the commission. The first is not done because the law as passed, gave the commission no authority to do this in any way. The second has not yet been accomplished because, although authorized, legal and administrative difficulties have prevented, as will be shown in the following chapter.

The Newlands bill as passed was substantially the same as when introduced except in one respect. That one amendment was Section 5, which provided that unfair competition is illegal and directed the commission to prevent unfair competition in the way prescribed. Throughout the comparatively long debate in the Senate this section was the center of discussion.

The bill was approved on September 26, 1914 (38 Stat. L., 717) provided:

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. 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.

It abolished the Bureau of Corporations and transferred all the bureau's employees, unexpended funds, and records to the commission, which was instructed to continue all the pending investigations and proceedings of the bureau.

It stated "That unfair methods of competition in commerce are hereby declared unlawful."³

"The commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks and common carriers subject to the Acts to regulate commerce, from using unfair methods of competition in commerce."

It then outlined the way in which the commission was to carry out this duty. Briefly stated it is: that whenever the commission has reason to believe that a corporation is using any unfair method of competition, and if the commission thinks a proceeding would be to the interest of the public, it shall issue a complaint stating the charges and setting a date for the hearing. The corporation accused has a right to appear at the hearing and to show cause why an order to cease the practice complained of should not be issued. The testimony at the hearings is reduced to writing and kept on file. If the commission, after the hearing, decides that the method of competition is unfair, it makes a report in writing stating its findings as to facts and issues the corporation an order to cease from that method of competition. If the corporation does not obey such an order, the commission may apply to a circuit court of appeals for the enforcement of its order. Or if the corporation receiving an order wishes to, it may obtain a review of the order in the circuit court of appeals. In either case the findings of the commission as to facts, if supported by testimony, is conclusive.

The law also gave the commission power

³ The law defines commerce as meaning interstate commerce.

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

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

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

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

(e) Upon the application of the Attorney General to investigate and make recommendations for the readjustment of the business of any corporation alleged to be violating the antitrust Acts in order that the corporation may thereafter

maintain its organization, management, and conduct of business in accordance with law.

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

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

(h) To investigate from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or trades, 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.

To enable the commission to gather any information for any of the above purposes the law gave the commission wide investigatory powers, the most important being the following:

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.

The Clayton Act. Almost simultaneously with the Federal Trade Commission Act there was passed the Clayton Act approved October 15, 1914 (38 Stat. L., 730). Among its provisions were four sections prohibiting certain specific practices and authorizing the Federal Trade Commission to prevent them. Apparently they would have come under the general provision of the Federal Trade Commission Act prohibiting unfair methods of competition, but Congress made doubly sure by specifically declaring them illegal.

Section 2 prohibits in certain cases, price discrimination where the effect may be substantially to lessen competition or to tend to create a monopoly in any line of commerce.

Section 3 prohibits so-called "tying contracts," that is, contracts whereby as a condition of sale or lease of commodities, the seller or lessor exacts from the purchaser or lessee an agreement that he shall not use or deal in other commodities except those furnished by the seller or lessor, where the effect may be substantially to lessen competition or to tend to create a monopoly.

Section 7 prohibits "holding companies" or the ownership by one company of the stock of another, where the effect may be substantially to lessen competition between the companies or to tend to create a monopoly.

Section 8 prohibits "interlocking directorates" in corporations either of which has a capital, surplus, and undivided profits aggregating more than \$1,000,000, and which are competitors, so that the elimination of competition by agreement between them would be a violation of any of the anti-trust laws.

The procedure outlined for the enforcement of these provisions by the Federal Trade Commission is identical with that of the Federal Trade Commission Act except that the proviso

that the proceedings in the opinion of the commission would be to the interest of the public is omitted.

War Work of the Commission. ⁴ Like all the government services the Federal Trade Commission was called upon during the World War to help in the emergency. The extra work done by the commission was chiefly of two kinds; the investigation of the cost of production of various commodities, and the execution of the provision of the Trading-with-the-Enemy Act that had to do with the granting of licenses to use enemy owned patent and copyrights.

Cost of Production Work. It was the policy of the government after entering the war to insist on reasonable prices for its own purchases. Later on it became necessary to regulate prices to protect itself and the public. To do this intelligently, information with regard to production, costs, and investments was necessary. The President directed that when cost information was needed the various branches of the government requiring such information should obtain it through the Federal Trade Commission. As a result a great part of the attention and energy of the commission was devoted to this work during the period of the war. Among the various branches of the government to which reports were rendered on production costs of commodities were the War Department, the Navy Department, the War Industries Board, the Fuel Administration, the Food Administration, the Shipping Board and the Emergency Fleet Corporation, the Railroad Administration, the Department of Agriculture, the Department of Justice, the Post Office Department, and the Government Printing Office. In no instance did the Federal Trade Commission act as a price-fixing body, but the information it collected was used by other bodies in determining prices.

Altogether some 264 of these confidential cost of production reports were made. The methods of investigation varied

⁴ A detailed discussion of the regular work of the commission will be found in the following chapter.

considerably, but in most cases an examination of the books of account by the staff of the commission was included. In the case of some commodities the figures were kept up to date by means of monthly reports in a form prescribed by the commission. This was particularly true of the coal industry, where monthly cost reports were begun in August, 1917, and continued up to and including December, 1918. After that they were discontinued because the Fuel Administration no longer required the information.

Work under the Trading-with-the-Enemy Act. On October 6, 1917, the Trading-with-the-Enemy Act⁵ was approved. It vested in the President certain powers, some of which, by Executive Order of October 12, 1917, the President delegated to the Federal Trade Commission. These included authority:

(a) To license citizens and corporations of the United States to make, use, and vend any machine, manufacture, composition of matter or design, or to use any process, trade mark, print label, or copyright owned or controlled by an enemy or ally of enemy.

(b) To order that an invention be kept secret and the grant of a patent withheld until the end of the war, whenever the publication of an invention or the granting of a patent may be detrimental to the public safety or defense or may assist the enemy, or endanger the successful prosecution of the war.

(c) To license citizens and corporations of the United States to file and prosecute in the country of an enemy or ally of enemy, applications for patents or for registration of trade marks, prints, labels, or copyrights, or to pay any taxes, annuities or fees relating thereto.

The authority under (c) above was revoked by the President, at the suggestion of the commission, in an Executive Order issued April 11, 1918, and after that date no licenses were issued under its authority. The commission issued 2940 or-

⁵ 40 Stat. L., 411.

ders to keep inventions and patents secret up to the time of the armistice, after which a vacating order was issued.

The most important work done in this field was that done under (a) above. The commission issued licenses permitting the manufacture and sale of many articles, particularly dyes and drugs. Some of these were not only necessary for the use of the public but were also of great commercial value. The commission was given wide powers in deciding what persons should receive licenses and in fixing the rate of the royalty to be paid to the Alien Property Custodian. This money is a trust fund for the enemy owner and the licensee, subject to the disposition of the court in case the enemy owner during the year following peace avails himself of the privilege accorded him by the act of filing suit to recover his rights under the patent. The royalties have amounted to \$833,223.30 up to June 30, 1920. After the armistice the prospect of peace decreased the number of applications for licenses. At the present time this activity of the commission is practically ended, although the law is still in effect pending the proclamation of peace.

The Export Trade Act. Among the powers of the Federal Trade Commission was one permitting it to investigate "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." As the result of such an investigation the commission found that American exporters were at a disadvantage compared with their rivals in the chief foreign exporting countries, where combinations for the export trade were effectively developed. As it was the fear of violating the anti-trust laws that prevented American exporters from developing equally effective organizations for overseas business, the commission recommended legislation to make it clear that such organizations would be permitted. The recommendation of the commission and the great interest in foreign

trade created by the war led to the Webb-Pomerene Act which became a law on April 10, 1918.⁶

This act declares that the Sherman Anti-Trust Act of 1890 shall not be construed as declaring illegal associations engaged solely in export trade. It also exempts such associations and members of them from that section of the Clayton Act which forbids holding companies. At the same time it specifically states that the prohibition against unfair methods of competition applies to the export trade, and it requires all export trade associations to report to the Federal Trade Commission, their officers, stockholders and any other information about membership, conduct or management that the commission may require. The Federal Trade Commission is charged with the duty of receiving such report and

Whenever the Federal Trade Commission shall have reason to believe that an association or any agreement made or act done by such association is in restraint of trade within the United States or in restraint of the export trade of any domestic competitor of such association, or that an association either in the United States or elsewhere has entered into any agreement, understanding, or conspiracy, or done any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein, it shall summon such association, its officers, and agents to appear before it, and thereafter conduct an investigation into the alleged violations of law. Upon investigation, if it shall conclude that the law has been violated, it may make to such association recommendations for the readjustment of its business, in order that it may thereafter maintain its organization and management and conduct its business in accordance with law. If such association fails to comply with the recommendations of the Federal Trade Commission, said commission shall refer its findings and recommendations to the Attorney General of the United States for such action thereon as he may deem proper.

⁶ 40 Stat. L., 516.

For the purpose of enforcing these provisions the Federal Trade Commission shall have all the powers, so far as applicable, given it in "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

CHAPTER II

ACTIVITIES

As indicated in the preceding chapter, the Federal Trade Commission has two major duties: the prevention of unfair methods of competition in interstate commerce, the collection of information regarding corporations engaged in interstate commerce and regarding export trade associations. In this chapter each will be treated in turn, and the attempt will be made to trace in detail the method in which each is performed. In both the aim is regulation, to be obtained in the first case by quasi-judicial action, and in the other by means of publicity or by other governmental agencies acting on the information supplied by the Federal Trade Commission.

Quasi-judicial Activities. The law declares that unfair methods of competition in interstate commerce are illegal and charges the Federal Trade Commission with the duty of preventing them. The method used in discharging this duty is partly outlined by the law and partly developed by the commission.

Prevention of Unfair Methods of Competition. With few exceptions the proceedings are started by business men who write to the commission complaining of the methods of some competitor. As the proceedings are primarily for the purpose of protecting the public interest, the names of the parties complaining are not disclosed by the commission except as they may be called upon to furnish evidence. There are obvious reasons for this policy. Moreover, the commission can and sometimes does institute proceedings on its own initiative. No matter how the attention of the commission is called to the practices in question, a formal complaint

cannot be issued and proceedings started unless the commission has "reason to believe" that a person, partnership or corporation is using methods forbidden either by the specific provisions of the Clayton Act or by the general provision of the Federal Trade Commission Act. The commission must also, if the complaint is to be issued under the general prohibition, be of the opinion that a proceeding would be in the interests of the public.

These important points are determined by a preliminary investigation and consideration of the facts disclosed thereby. All complaints that show on their face that the practice complained of is not unlawful or is something outside the jurisdiction of the commission, are immediately dropped and the person complaining informed to that effect. The rest are docketed as "applications for the issuance of a complaint" and are assigned to investigators for attention. These preliminary investigations vary with each case, but are nearly sure to involve lawyers, economists, and accountants. When completed the investigator reports the findings and recommends either dismissal or the issuance of a formal complaint. The case then goes to a board of review composed of two lawyers and an economist. This board reviews the entire investigation and makes its report to the commission, which finally decides whether it has reason to believe the law has been violated and that a proceeding would be in the interest of the public. Experience has shown that about two out of three of the complaints are not such as to warrant any formal proceedings, and these are dismissed without publicity.

During the first two years the commission attempted to establish the practice of disposing of a good many cases without formal proceedings even though there appeared to have been a violation of the law. It would do this in cases where the party complained of would agree to cease from the practices in question without waiting for a formal proceeding. The commission would publish a "conference ruling" on the

points in the case. These contained no names and were for the guidance of those interested in the opinions of the commission with regard to particular practices and the interpretation of the law. The commission considered that this method of disposing of cases would not only save much time and money but would also serve the public interest as well as a formal proceeding. However, after the experience of two years the commission decided that the results did not warrant the continuance of this method of handling complaints. The "conference rulings" were ineffectual and were not such orders as could be made the basis of enforcement proceedings. No more "conference rulings" were issued, and since then formal proceedings have been held in all such cases.

The number of applications for complaints has increased steadily from the organization of the commission, as the following table shows.

APPLICATION FOR COMPLAINTS

| Fiscal Year | Docketed | Disposed of | | |
|--|----------|-------------|----------------|-------|
| | | Dismissed | Formals Served | Total |
| Organization (March 16, 1915) to June 30, 1915 | 112 | 103 | 0 | 8 |
| Ended June 30, 1916 | 134 | 105 | 3 | 108 |
| Ended June 30, 1917 | 153 | 79 | 16 | 95 |
| Ended June 30, 1918 | 332 | 160 | 80 | 240 |
| Ended June 30, 1919 | 535 | 301 | 125 | 426 |
| Ended June 30, 1920 | 724 | 339 | 220 | 559 |
| Ended June 30, 1921 | 426 | 357 | 157 | 514 |
| Totals | 2416 | 1349 | 601 | 1950 |

When a formal complaint is made it is served by someone duly authorized by the commission either (a) by delivering a

copy to the person to be served, or to a member of the partnership to be served, or to an executive officer or a director if it is a corporation; or (b) by leaving a copy of the complaint at the principal office or place of business of the person, partnership, or corporation; or (c) by sending one there by registered mail. A complaint thus served contains the charges and gives notice of a hearing to be held on a certain day, at least forty days after the service of the complaint. Attention is also called in the complaint to that rule of practice before the Federal Trade Commission requiring a written answer within thirty days from the service of the complaint. This answer "shall contain a short and simple statement of the facts which constitute the ground of defense. It shall specifically admit or deny or explain each of the facts alleged in the complaint, unless the defendant is without knowledge in which case he shall so state, such statement operating as a denial."

Although the law says the defendant has the right to show cause why an order should not be entered by the commission requiring him to cease and desist from the violation of the law as charged, the commission has assumed that the burden of proof is on it to establish the allegations of the complaint. Consequently the defendant is not required to bring any witnesses on the date fixed by the complaint. The usual practice on that date is to fix a time and place for the beginning of the taking of testimony. The testimony is usually taken before an examiner of the commission who has had experience in trials in the courts. He passes upon the admissibility of the evidence presented at the hearings before him. But before the taking of the testimony is finally closed, either party objecting to the ruling of the examiner upon the introduction of evidence may have such ruling reviewed by the commission. Subpoenas requiring the attendance of witnesses or the production of documentary evidence can be issued by any member of the commission. Witnesses receive the same fees and mileage that are paid witnesses in the courts of

the United States. In cases where sufficient cause can be shown testimony may be taken by deposition. If the respondents are surprised or unprepared for the cross-examination of witnesses who testify in support of the commission's complaint, the commission will recall such witnesses at a later date for cross-examination. After the testimony to support the complaint has been presented the respondents are given a reasonable length of time to prepare evidence to be given in support of their answer or in rebuttal of the testimony presented in support of the complaint. In the proceedings the commission is represented, and the evidence is offered, by attorneys while the respondent may appear in person or be represented by counsel. When the evidence has all been introduced before the examiner, the attorneys on both sides present to the commission briefs of the law and facts. The pleadings, evidence, and summary thereof are also presented to the commission. The counsel for the respondent can, if it is desired, make oral argument before the commission. The commission then makes its findings as to the facts and issues its order to cease and desist from the practices complained of or dismisses the case.

If the respondent fails to obey the order the commission may apply to the circuit court of appeals in any circuit, where the method of competition in question is used or where the respondent resides or carries on business, for the enforcement of its order. Or if the respondent receiving an order to cease and desist wishes to, he may obtain a review of the case in the circuit court of appeals, which has authority to affirm, set aside, or modify the order of the commission. In either case a transcript of the record is filed in a circuit court of appeals of the United States. But the findings of the commission as to facts are conclusive if supported by testimony. If either party applies to the court for leave to adduce additional evidence, the court may order such evidence to be taken before the commission. The commission can then modify its findings as to facts or change its order in the

light of the new evidence. Of the thirty appeals to court that have been made up to June 30, 1921, there have been seventeen decided, fifteen unfavorably to the commission and two favorably.¹ Several of these have been taken to the Supreme Court on appeal, and more are likely to be, as the time limit for appeals has not expired. /

The following table shows the number and status of the formal complaints that have been issued so far.²

FORMAL COMPLAINTS

| Fiscal Year | Served | Disposed of | | | Cases Ap-pealed |
|--|--------|-------------|----------------------------|-------|-----------------|
| | | Dis-missed | Orders to Cease and Desist | Total | |
| Organization (March 16, 1915 to June 30, 1915) | 0 | 0 | 0 | 0 | 0 |
| Ended June 30, 1916 | 5 | 0 | 0 | 0 | 0 |
| Ended June 30, 1917 | 9 | 1 | 3 | 4 | 0 |
| Ended June 30, 1918 | 154 | 7 | 71 | 78 | 0 |
| Ended June 30, 1919 | 135 | 13 | 75 | 88 | 4 |
| Ended June 30, 1920 | 308 | 43 | 112 | 155 | 7 |
| Ended June 30, 1921 | 177 | 37 | 118 | 155 | 19 |
| Totals | 788 | 101 | 379 | 480 | 30 |

Analysis of the charges in the formal complaints served up to June 30, 1921 shows that thirty-nine complaints have charged violations of Section 2 of the Clayton Act (prohibiting price discrimination); ninety-three complaints have

¹ A good many of these cases contained practically identical principles.

² The discrepancies in this and the table of applications between the number of applications going to formal complaints and the number of the latter served, are due, on the one hand, to the consolidation of applications against similar respondents, and, on the other, to the fact that some applications have several respondents who were preceded against individually.

charged violations of Section 3 of that act (prohibiting "tying contracts"); twenty-six complaints have charged violations of Section 7 of the act (prohibiting "holding companies"), two complaints have charged violations of Section 8 of the Clayton Act (prohibiting "interlocking directorates"); three complaints have charged violations of Section 4 of the Export Trade Act; and in eight hundred and twenty-one complaints there have been charges of violations of the general prohibition of unfair methods of competition contained in Section 5 of the Federal Trade Commission Act.

The list of the particular methods of competition that have been condemned by the commission as being unfair and in violation of the law, is a long one.³ Among the most wide-spread and far-reaching unfair methods of competition is commercial bribery. The commission has devoted much attention to this practice, and on May 15, 1918, submitted a special report on it to Congress in accordance with that part of Section 6 of the Federal Trade Commission Act which authorizes them to "make special reports to Congress and to submit therewith recommendations for additional legislation." The report called the attention of Congress to the fact that the commission has no criminal jurisdiction and in dealing with commercial bribery it was limited to one side, the giving side, and urged Congress to pass a strong law against the practice making both giving and receiving a crime. Furthermore, in several industries, notably the paint and varnish, the printing ink, and the ship chandlery and repair business, where bribery was very wide-spread, the commission not only has issued many complaints but also is coöperating with a trade association in each one to stamp out the practice.

Trade Practice Submittal. In 1919 the commission began a new procedure, the trade practice submittal, to supplement its restrictive procedure in preventing unfair methods of competition. This is an attempt to eliminate, simultaneously and by

³ A list of the most common and important of the methods condemned is published in the Annual Report of the Federal Trade Commission for the fiscal year ended June 30, 1920.

the consent of those engaged in a given industry, practices which are unfair in the opinion of the industry as a whole. It is employed in cases where a large number of complaints come to the commission, usually from persons in the industry, respecting a number of alleged unfair practices generally prevalent in the industry. A public meeting of representatives of the entire industry is held in the presence of the commission, at which are discussed the merits and demerits of the business practices which have been generally complained of. The findings of the meeting are submitted to the commission, as the judgment of the industry upon the practices prevailing in it. The commission makes no decisions or ruling and does not consider itself bound by the findings but does regard them as *prima facie* law merchant for the industry. Trade practice submittals have been obtained in the following industries: oil, pyroxylin plastics, knit goods, macaroni, used typewriters, creamery, and book and writing paper. The results vary, but those in the last mentioned industry are typical. After two conferences before the commission 600 dealers and manufacturers of book and writing paper signed an agreement pledging themselves; (1) not to label papers as "hand-made" unless they are actually made by hand and not by machine; (2) not to label, advertise, or sell papers that are given fabric or other material names because of a finish applied to them, under such name unless a qualifying word, or words, be used to indicate that the name is applied to indicate finish only; such as "linen finish," "Onyx finish," etc.; (3) not to label, advertise, or offer for sale under a foreign geographical name papers not of a foreign make, without the use of words indicating domestic manufacture, as "made in the U. S. A."; (4) not to label, advertise, or sell paper as parchment paper without the use of qualifying words to indicate its true character, as "artificial parchment" or "vegetable parchment."

Master in Chancery. The law provides that in certain circumstances the courts can refer suits in equity, brought by the direction of the Attorney General as provided in the anti-trust

acts, to the Federal Trade Commission as a master in chancery. Up to the present time this has not been done, but it constitutes a quasi-judicial duty which the commission may be called upon to perform at any time.

Economic Activities. The economic activities of the commission have in some cases led to quasi-judicial proceedings but for the most part are entirely distinct from the other work of the commission. They are divided into collecting corporation reports, making special investigations, and supervising export trade associations.

Corporation Reports. As indicated above the legislative history of the commission and the debates in Congress show it was contemplated that the commission would use extensively the powers given to it to require current reports from corporations engaged in interstate commerce. These were to make available to the government, to industry, to labor, and to the public, comprehensive and accurate data concerning the economic situation of the basic industries of the country. It was natural under these circumstances that this activity occupied a considerable part of the commission's attention immediately after it was organized. The commission found that, before any extensive plan could be put in operation, much educational work would be required to bring about an improvement in the methods of accounting used by business corporations, particularly with respect to accurate and uniform methods of cost accounting. Upon this depended the value of the corporation reports and the difficulty both to the commission and to the corporations of gathering and compiling them. Consequently the commission in coöperation with the American Association of Public Accountants prepared several publications to educate manufacturers and merchants in proper accounting methods.

During the first year of its existence the commission prepared a schedule of questions covering only certain fundamental data for which the books of every corporation should

furnish an answer. A total of 289,460 of these schedules were sent out to three classes of corporations as follows: (1) manufacturing and mining, 115,939; (2) mercantile, 74,512; (3) miscellaneous, 99,009. This request for information was supplemented by a "follow-up" letter in many instances, both being on a voluntary basis. The replies numbered only 87,079, and a considerable proportion of these showed the concerns addressed to be inactive or out of business. Even the returns received were disappointing, as a great many were incomplete and more were of doubtful accuracy. In view of these facts the commission felt constrained to withhold the issuance of the combined statements originally planned.

Further plans for securing general corporation reports and for compiling specific and current data regarding the most important industries were suspended on account of the pressure of war work. Although the war interfered with these the commission as a part of its cost of production war work did collect very complete and accurate reports from several important industries. Monthly cost reports were obtained in such basic industries as the iron and steel industry, the petroleum, the coal, the lumber, and the paper industry. In the coal industry in 1918, monthly reports giving complete information were received from nearly 2500 bituminous operators who mined between 90 and 95 per cent of the bituminous production during that year, while the reports from about one hundred anthracite operators represented about 99 per cent of the total anthracite production. These reports and also those of the other industries were discontinued after December, 1918. During the war they had been freely given by all the corporations concerned, and indeed if they had not been there is no doubt that the war powers of the President would have been sufficient to require them.

In January, 1920, the commission attempted to resume the collection of monthly reports in the coal industry under the authority given it in Section 6 of the Federal Trade Com-

mission Act. The National Coal Association questioned the authority of the commission, maintaining that the commission was demanding information about intrastate commerce and coal production. The Maynard Coal Company sought and obtained a temporary injunction restraining the commission from requiring such reports. The coal situation was complicated by the fact that the coal companies maintained that any power the commission might have under Section 6 of the Federal Trade Commission Act had been transferred by the President under the Overman Act to the Fuel Administration. As this complication was not present in the iron and steel industry the commission decided to postpone the coal case until the question of its powers to require reports of the cost of production of commodities by corporations engaged in interstate commerce could be settled by a suit in the iron and steel industry. Certain steel companies had refused to make reports of the cost of production demanded by the commission and had obtained a temporary injunction. Some corporations continued to make such reports voluntarily even after the temporary injunction was granted, but not enough to give the commission the comprehensive data necessary. Therefore, it was deemed inadvisable to publish summaries of the data filed. The cases are still pending in the courts.

Special Investigations. Most important among the economic activities of the commission are the special investigations it has conducted. The intention was that such investigations would disclose the true economic facts in any industry, and that if the conditions showed that regulation was necessary it would be obtained through the force of public opinion or through the action of some other governmental agency acting on the information brought to light by the investigation. Accordingly the commission was authorized to investigate:

(1) On its own initiative, any corporation engaged in inter-state commerce.

⁴A permanent injunction has since been granted by the district court.

(2) Upon the direction of the President or either house of Congress, any corporation alleged to be violating the anti-trust acts.

(3) On its own initiative or on the request of the Attorney-General, the manner in which a court decree dissolving a trust is being carried out.

(4) Upon the application of the Attorney-General, any corporation alleged to be violating the anti-trust acts, and to make recommendations for the readjustment of the business in order that the corporation might retain its organization, management, and conduct of business in accordance with the law.

Besides the special investigations conducted under the above powers the commission was ordered to finish the investigations being made by the Bureau of Corporations when it was absorbed into the commission. Up to April 1, 1921, the following investigations had been undertaken by the commission:

| Inquiry | Originating Authority | Form of Report | Date of First Volume |
|---|------------------------|----------------|----------------------|
| Pipe Line Transportation of Petroleum | Senate | Printed | Feb. 28, 1916 |
| Fertilizer Industry | Senate | Printed | Aug. 19, 1916 |
| Trade and Tariffs in So. America.. | President | Printed | June 30, 1916 |
| Coöperation in American Export Trade | Commission | Printed | June 30, 1916 |
| Beet Sugar | Bureau of Corporations | Printed | May 24, 1917 |
| Improved Accounting | Commission | Printed | July 1, 1916 |
| Industry Reports | Commission | No report | |
| Gasoline Prices | Senate | Printed | April 11, 1917 |
| Resale Price Maintenance | Bureau of Corporations | Printed | June 30, 1919 |
| Trade Associations | Commission | No report | |
| Mexican Sisal | Senate Com- mittee | Printed | May 9, 1916 |
| Anthracite Coal Industry..... | Senate | Printed | June 20, 1917 |
| Bituminous Coal Industry | House | Printed | June 20, 1917 |
| Newsprint Paper Industry | Senate | Printed | June 13, 1917 |
| Book Paper Industry | Senate | Printed | Aug. 21, 1917 |
| Interlocking Directorates | Commission | No report | |
| Prices of American Flags | House | Printed | July 26, 1917 |
| Meat Packing Industry | President | Printed | July 30, 1919 |
| Grain Trade | President | Printed | Sept. 15, 1920 |
| Flour Industry | President | Printed | April 4, 1918 |
| Canned Food Industries | President | Printed | May 15, 1918 |
| Marketing and Storage | President | Printed | June 30, 1919 |
| Private Car Lines | President | Printed | June 27, 1919 |
| Prices of Farm Implements | Senate | Printed | May 4, 1920 |
| Copper Costs (compilation of war time data) | President | Printed | June 30, 1919 |
| Wyoming Oil Industry | Commission | | Jan. 3, 1921 |

| Inquiry | Originating Authority | Form of Report | Date of First Volume |
|--|-----------------------------|------------------------|---|
| Rag Trade (compilation of war time data) | President | Printed | June 30, 1919 |
| Milk Products Industry | Senate | In Preparation | |
| Coal Costs (compilation of war time data) | President | Printed | June 30, 1919 Dec. 1917 (monthly) |
| Current Paper Statistics | Commission | Mimeograph-bulletins | |
| Current Coal Costs Statistics | Congress | Mimeographic Bulletins | April 20, 1920 |
| Current Steel Costs Statistics | Congress | No report | |
| Combed Cotton Yarn Industry..... | House | In Preparation | |
| California Petroleum Industry | Senate | With printer | |
| Advance in Petroleum Prices 1920 .. | House | Printed | June 1, 1920 |
| Leather and Shoe Industries | Commission | Printed | Aug. 21, 1919 |
| Animal Feeds Trade | Senate | With printer | |
| Sugar Supply and Prices | House | Printed | Nov. 15, 1920 |
| Fuel Oil Costs and Prices | President | Confidential | |
| Tobacco Costs and Prices | President | Confidential | |
| Milk Refunds | President | Confidential | |
| Southern Livestock Prices | Senate | Printed | Feb. 2, 1920 |
| Canned Food Speculation | Commission | No report | |
| Lumber Associations | Atty. General | In Preparation | |
| Canned Food Costs (compilation of war time data) | President | In Preparation | |
| Lumber Costs (compilation of war time data) | President | In Preparation | |
| Leaf Tobacco Prices | House | With printer | Dec. 13, 1920 |
| Wheat Prices in 1920 | President | Printed | |
| Meat Packers Decree | President and Atty. General | | |
| Shoe Industry | House | In Preparation | |

Of these, twenty-one originated with Congress, twenty with the President and executive departments, and nine with the commission itself. No detailed description of the methods of investigation can be given to apply to all the investigations, because they vary so much. Not only are the circumstances in different industries so different as to necessitate varied treatment, but the scope of the investigations varies also. Some last a few months while others have taken several years for completion. Two general methods are followed to secure facts. One is by means of schedules and questionnaires supplemented by the work of accountants and agents in the field, who examine the records of the corporations and compile data from them. The other is by means of public hearings where testimony is taken to supplement, correlate, and make

clear the facts recited in some of the documentary evidence.

Perhaps the most important and far-reaching investigation yet made by the commission was that made of foodstuffs. On February 7, 1917, the President directed the commission in coöperation with the Department of Agriculture "to investigate and report facts relating to the production, ownership, manufacture, storage and distribution of foodstuffs . . . to ascertain the facts bearing on alleged violations of the anti-trust acts, and particularly whether there are manipulations, controls, trusts, combinations, conspiracies or restraints of trade out of harmony with the law or public interest." Congress made a special appropriation for this purpose. The investigation covered primarily four branches of industry, namely, meat, flour, canned foods, and trading in grain. The commission made extensive reports on each, that on the meat packers being in six volumes. In this instance, as happened after several other investigations of the commission, the information disclosed led to action on the part of the Attorney-General under the anti-trust acts.

Supervision of Export Trade Associations. Among the economic activities of the commission is the supervision of the export trade associations formed under the Webb-Pomerene Act. So far this work has been relatively of minor character but it is growing in importance. Up to June 30, 1921, forty-eight associations comprising approximately one thousand concerns have taken advantage of the law permitting them to coöperate for purposes of export trade. The law requires each to file with the commission statements giving detailed information regarding the association. If the commission believes that an export trade association has committed an act or made an agreement in restraint of trade within the United States, or which is in restraint of the export trade of any domestic competitor, or which artificially depresses prices within the United States, it must then investigate that association. If the investigation shows that the law has been violated, the commission may recommend a readjustment of the bus-

iness to conform to the law. Where an association fails to comply with the recommendation, the commission is required to refer its findings and recommendations to the Attorney General for such action as he may deem proper.

Section 4 of the Export Trade Act extends the general prohibition of unfair methods of competition to the export trade even though the acts complained of have been done outside the territorial jurisdiction of the United States. The Departments of State and Commerce, as well as individuals, have lodged complaints charging unfair practices in foreign countries by commercial interests of this country toward each other. The basis of these complaints is usually information that has been gathered by our consular service, and transmitted by the State and Commerce Departments to the Federal Trade Commission with the request that they be investigated.

CHAPTER III

ORGANIZATION

There are three primary divisions of the Federal Trade Commission. They are:

1. Administrative Division
2. Legal Division
3. Economic Division

Administrative Division. The Administrative Division includes all sections carrying on the general business of the commission and the small divisions which perform the minor functions.

Of the 325 employees of the commission on July 1, 1921, 129 were in this division. There are fourteen subdivisions:

1. The commission, consisting of the five Commissioners, the Secretary of the commission, and a clerk-secretary for each Commissioner.

2. The Secretary's office consisting of six clerks. Of these employees one is clerk to the commission who with the Secretary attends all commission meetings and conferences. The Secretary is the custodian of the minutes, of all confidential papers, and of the seal of the commission; he signs all orders of the commission in formal docket cases and intra-office orders to all chiefs of divisions and employees. The clerks in this office attend to the writing up of minutes, preparation of answers to all inquiries from the general public and interested parties with reference to the status of formal and informal proceedings. They are also responsible for the service of all formal complaints and orders, and for notices of assignments of trial to interested parties in formal proceedings. It is the duty of this office also to arrange for re-

porting of all formal proceedings before the commission. This office is also responsible for certification of copies of formal records to the different circuit courts of appeal and to the United States Supreme Court, and of such documents as are requested by the public or other departments of the government.

3. The Personnel Section, in charge of all matters relating to appointments, promotions, demotions, transfers, changes in designation, and the relationship between the commission and the Civil Service Commission. It is composed of five clerks under the special agent, who is chief of the section.

4. The Docket Section, composed of eleven clerks. This section is somewhat comparable to the office of a clerk of a court. All applications for the issuance of complaints pass through the section; it files all correspondence, exhibits, and field and office reports in connection with the applications. It keeps the current docket record for the inspection of the public.

5. The Chief Clerk's Office, in charge of building and quarters, purchase of supplies and equipment, and supervision of the messenger, mechanical and laboring forces. There are twenty-eight employees.

6. The Publications Section, in charge of all matters having connection with the Public Printer and the Superintendent of Documents. In this section are handled the distribution of publications, maintenance of mailing lists, preparation of multigraph, mimeograph and photostat duplication work, and all of the clerical work necessary in keeping the records of this branch of the commission's activities. There are eighteen employees in this section.

7. The Disbursing Office, consisting of seven employees under the auditor and having charge of the fiscal affairs.

8. The Stenographic Section, composed of thirteen employees who do the stenographic and typewriting work for all the force.

9. The Library. Four persons are engaged in taking care of the library, which consists of economic and legal volumes and of corporation reports, association records, current financial and statistical service publications, newspapers, financial and trade journals, catalogues, trade lists and addresses. Much of this material is confidential.

10. The Mail and Files Section, where the receipt and distribution of the mail takes place and where all the papers and records of the commission except those of the docket section are finally received and cared for. There are ten clerks in this section.

11. The Hospital, under a graduate nurse.

12. The Board of Review, composed of a special examiner and two attorneys with two clerks.

13. The Patents and Trading-with-the-Enemy Section, consisting of two clerks who continue the war work the commission is still called upon to do under the Trading-with-the-Enemy Act.

14. Research and Foreign Trade Section, composed of four employees who have charge of the commission's work under the Export Trade Act.

Legal Division. Of the three hundred and twenty-five employees of the commission on July 1, 1921, sixty-nine were in the Legal Division. The three branch offices are maintained by this division which is divided into two subdivisions, or branches. They are:

The Investigational Branch. The duty of this branch of the Legal Division is to conduct all the investigations in connection with applications for the issuance of complaints and to gather evidence in preparation of formal cases for trial. It also furnishes the examiners who sit at the trial of formal cases. Including the clerical help there are eighteen employees under the Chief Examiner who is also an attorney.

The Trial Branch. This branch is composed of the lawyers and examiners who represent the commission in all

formal proceedings before the commission and in all cases in the courts. There are twenty-eight persons under the Chief Counsel, who is the chief legal adviser to the commission.

The Branch Offices. The commission maintains three branch offices, each under an attorney examiner. The New York and Chicago offices each have nine employees and the San Francisco office has three.

Economic Division. The Economic Division has no fixed organization. It has to adapt itself to the investigations being conducted, and as these are finished and new ones are begun, the organization varies repeatedly. The division is under the Chief Economist. On July 1, 1921, there were one hundred and twenty-seven employees in this division.

Personnel and Offices. Up to the present eleven men have served as commissioners. They are George Rublee (temporary because his nomination was not confirmed by the Senate), Edward N. Hurley (resigned), Will H. Parry (died), Joseph E. Davies (resigned), John Franklin Fort (resigned), William J. Harris (resigned), William B. Colver (term expired), John Garland Pollard (term expired), and the present commissioners, Victor Murdock, Huston Thompson, Nelson B. Gaskill and John F. Nugent. The number of employees of the commission has varied as follows:

| | |
|---------------------------------------|-----|
| March 16, 1915 (date of organization) | 144 |
| June 30, 1916 | 224 |
| “ 1917 | 193 |
| “ 1918 | 640 |
| “ 1919 | 367 |
| “ 1920 | 418 |
| “ 1921 | 315 |

The headquarters of the Federal Trade Commission are located in one of the Temporary office buildings constructed during the war at 2000 D. St. N. W. Washington, D. C. In order to decrease the expense incident to the investigation of applications for complaints and to the preparation of the va-

rious proceedings for hearings, the commission in June, 1918, established branch offices in New York City, Chicago, and San Francisco, all of which are still maintained.

APPENDIX I

OUTLINE OF ORGANIZATION

EXPLANATORY NOTE

The Outlines of Organization have for their purpose to make known in detail the organization and personnel possessed by the several services of the National Government to which they relate. They have been prepared in accordance with the plan followed by the President's Commission on Economy and Efficiency in the preparation of its outlines of the organization of the United States Government.¹ They differ from those outlines, however, in that whereas the commission's report showed only organization units, the presentation herein has been carried far enough to show the personnel embraced in each organization unit.

These outlines are of value not merely as an effective means of making known the organization of the several services. If kept revised to date by the services, they constitute exceedingly important tools of administration. They permit the directing personnel to see at a glance the organization and personnel at their disposition. They establish definitely the line of administrative authority and enable each employee to know his place in the system. They furnish the essential basis for making plans for determining costs by organization division and subdivision. They afford the data for a consideration of the problem of classifying and standardizing personnel and compensation. Collectively, they make it possible to determine the number and location of organization divisions of any particular kind, as for example, laboratories,

¹ House Doc. 458, 62d Congress, 2nd Session, 1912—2 vols.

libraries, blue-print rooms, or any other kind of plant possessed by the National Government, to what services they are attached and where they are located, or to determine what services are maintaining stations at any city or point in the United States. The Institute hopes that upon the completion of the present series, it will be able to prepare a complete classified statement of the technical and other facilities at the disposal of the Government. The present monographs will then furnish the details regarding the organization, equipment, and work of the institutions so listed and classified.

OUTLINE OF ORGANIZATION

FEDERAL TRADE COMMISSION

July 1, 1921

| <i>Organization Units; Classes of Employees</i> | <i>Number</i> | <i>Annual Salary Rate ²</i> |
|---|---------------|--|
| 1. ADMINISTRATIVE DIVISION | | |
| 1. The Commission | | |
| Commissioner | 5 | \$10,000 |
| Secretary | 1 | 5,000 |
| Clerk to Commissioner | 4 | 1,800 |
| | 1 | 1,600 |
| 2. SECRETARY'S OFFICE | | |
| Special Agent (Assistant Secretary) | 1 | 4,500 |
| Clerk (Clerk to Commission) | 1 | 3,000 |
| Clerk | 1 | 1,800 |
| | 1 | 1,600 |
| | 1 | 1,500 |
| | 1 | 1,400 |
| | 1 | 1,200 |
| 3. PERSONNEL SECTION | | |
| Special Agent (chief of section) | 1 | 3,300 |
| Clerk | 1 | 1,920 |
| | 1 | 1,740 |
| | 1 | 1,500 |
| | 2 | 1,320 |
| 4. DOCKET SECTION | | |
| Clerk (chief of section) | 1 | 3,000 |
| Clerk | 1 | 2,100 |
| Examiner (temp) | 1 | 1,500 |
| Clerk | 2 | 1,400 |
| | 1 | 1,320 |
| | 5 | 1,200 |
| 5. CHIEF CLERK'S OFFICE | | |
| Chief Clerk | 1 | 3,250 |
| Clerk | 1 | 2,100 |
| | 1 | 1,440 |
| | 2 | 1,320 |

² Net, or without the temporary "bonus" or additional compensation of 60 per cent on classes below \$400, of \$240 on classes of \$400 to \$2500, and of an amount necessary to make the total compensation \$2740 on classes of \$2500 to \$2740. This is subject to minor exceptions in special cases.

| | | |
|--|---|-------|
| General Mechanic | I | 1,260 |
| Laborer | I | 1,200 |
| Messenger | I | 1,060 |
| Telephone Operator | I | 900 |
| Messenger | I | 900 |
| Assistant Messenger | 7 | 900 |
| Messenger Boy | I | 900 |
| Skilled Laborer | I | 780 |
| Laborer | I | 780 |
| Telephone Operator | I | 720 |
| Assistant Messenger | I | 720 |
| Laborer | I | 600 |
| Messenger Boy | 6 | 480 |
| 6. PUBLICATIONS SECTION | | |
| Clerk (chief of section) | I | 3,000 |
| Clerk | I | 2,000 |
| Multigraph Operator | I | 1,800 |
| Clerk | I | 1,520 |
| | J | 1,400 |
| | 2 | 1,200 |
| Multigraph Operator | I | 1,200 |
| 7. DISBURSING OFFICE | | |
| Special Agent (Auditor and chief of section) | I | 3,600 |
| Disbursing Clerk | I | 2,880 |
| Special Agent | I | 2,000 |
| Clerk | I | 1,800 |
| | I | 1,560 |
| | I | 1,440 |
| | 2 | 1,200 |
| 8. STENOGRAPHIC SECTION | | |
| Clerk (chief of section) | I | 2,520 |
| Clerk | I | 1,440 |
| | 2 | 1,400 |
| | 4 | 1,380 |
| | I | 1,260 |
| | 4 | 1,200 |
| 9. LIBRARY | | |
| Examiner (chief of section) | I | 2,500 |
| Clerk | I | 1,800 |
| | I | 1,380 |
| | I | 1,200 |
| 10. MAIL and FILES SECTION | | |
| Clerk (chief of section) | I | 2,880 |
| Clerk | I | 1,800 |
| | 4 | 1,320 |
| | 2 | 1,200 |
| | I | 1,140 |
| | I | 900 |

OUTLINE OF ORGANIZATION

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| | | |
|---|---|-------|
| 11. <i>HOSPITAL</i> | | |
| Special Expert | 1 | 1,320 |
| 12. <i>BOARD OF REVIEW</i> | | |
| Special Examiner (chief of division) | 1 | 5,000 |
| Special Attorney | 1 | 5,000 |
| Attorney and Examiner | 1 | 3,800 |
| Clerk | 1 | 1,680 |
| | 1 | 1,500 |
| 13. <i>PATENTS and T. W. T. E. SECTION</i> | | |
| Clerk (chief of division) | 1 | 2,000 |
| Clerk | 1 | 1,400 |
| 14. <i>RESEARCH and FOREIGN TRADE SECTION</i> | | |
| Special Agent (chief of division) | 1 | 4,000 |
| Examiner | 1 | 2,740 |
| | 1 | 1,640 |
| Clerk | 1 | 1,400 |
| 2. <i>LEGAL DIVISION</i> | | |
| 1. <i>TRIAL BRANCH</i> | | |
| Attorney and Examiner (Chief Counsel) | 1 | 8,000 |
| Special Attorney | 1 | 5,000 |
| Attorney and Examiner | 2 | 5,000 |
| | 1 | 4,500 |
| | 2 | 4,200 |
| | 8 | 4,000 |
| | 1 | 3,800 |
| Special Attorney | 1 | 3,600 |
| Attorney and Examiner | 1 | 3,600 |
| | 1 | 3,500 |
| Examiner | 1 | 3,500 |
| Attorney and Examiner | 1 | 3,300 |
| Special Attorney | 1 | 3,200 |
| Examiner | 1 | 3,200 |
| Special Attorney | 1 | 3,000 |
| Examiner | 1 | 3,000 |
| | 1 | 2,940 |
| Special Agent | 1 | 2,400 |
| Clerk | 1 | 2,000 |
| | 1 | 1,800 |
| 2. <i>INVESTIGATIONAL BRANCH</i> | | |
| Attorney and Examiner (Chief Examiner) | 1 | 5,000 |
| Special Attorney | 1 | 3,600 |
| Attorney and Examiner | 2 | 3,600 |
| | 2 | 3,300 |
| | 4 | 3,000 |
| Examiner | 1 | 3,000 |
| Attorney and Examiner | 1 | 2,460 |
| Special Attorney | 1 | 2,280 |
| Examiner | 1 | 1,920 |
| | 1 | 1,800 |

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| | | |
|---|---|-------|
| Clerk | I | 1,500 |
| | I | 1,320 |
| | I | 1,200 |
| Examiner | I | 2,280 |
| 3. <i>NEW YORK OFFICE</i> | | |
| Attorney and Examiner (In Charge) | I | 4,200 |
| | I | 3,300 |
| | I | 2,820 |
| | I | 2,700 |
| Examiner | I | 2,400 |
| | I | 1,920 |
| Clerk | I | 1,620 |
| | 2 | 1,200 |
| 4. <i>CHICAGO OFFICE</i> | | |
| Attorney and Examiner (In Charge) | I | 4,200 |
| Examiner | I | 2,880 |
| Attorney and Examiner | I | 2,820 |
| Examiner | I | 2,820 |
| | I | 2,460 |
| | I | 2,280 |
| Clerk | 2 | 1,320 |
| | I | 1,200 |
| 5. <i>SAN FRANCISCO OFFICE</i> | | |
| Attorney and Examiner (In Charge) | I | 3,600 |
| Examiner | I | 2,640 |
| Clerk | I | 1,320 |
| 3. <i>ECONOMIC DIVISION</i> | | |
| Special Examiner (Chief Economist and Chief of Division) | I | 7,500 |
| Special Expert | I | 6,000 |
| Special Examiner | I | 6,000 |
| Examiner | 2 | 5,000 |
| Special Agent | I | 4,800 |
| Examiner | I | 4,800 |
| | I | 4,500 |
| | I | 3,600 |
| | I | 3,500 |
| Special Agent | 3 | 3,300 |
| Examiner | I | 3,300 |
| Special Agent | I | 3,100 |
| | 2 | 3,000 |
| Special Examiner | 2 | 3,000 |
| Special Expert | I | 3,000 |
| Examiner | 4 | 3,000 |
| | I | 2,880 |
| Special Agent | I | 2,820 |
| | I | 2,800 |
| | 3 | 2,500 |
| Examiner | I | 2,500 |

| | | |
|----------------|----|-------|
| Clerk | 1 | 2,500 |
| Special Agent | 3 | 2,400 |
| Examiner | 3 | 2,400 |
| | 1 | 2,340 |
| Special Agent | 4 | 2,280 |
| | 1 | 2,250 |
| Clerk | 1 | 2,220 |
| Examiner | 2 | 2,160 |
| Special Agent | 1 | 2,100 |
| Special Expert | 1 | 2,000 |
| Special Agent | 2 | 2,000 |
| Examiner | 3 | 2,000 |
| Clerk | 2 | 2,000 |
| Examiner | 1 | 1,920 |
| Clerk | 1 | 1,860 |
| Special Agent | 1 | 1,800 |
| Examiner | 6 | 1,800 |
| Clerk | 4 | 1,800 |
| | 1 | 1,740 |
| Examiner | 3 | 1,680 |
| Clerk | 3 | 1,680 |
| Examiner | 1 | 1,600 |
| | 3 | 1,500 |
| Clerk | 7 | 1,500 |
| Examiner | 3 | 1,440 |
| Clerk | 7 | 1,440 |
| Examiner | 1 | 1,380 |
| Clerk | 10 | 1,380 |
| | 7 | 1,320 |
| | 1 | 1,260 |
| Examiner | 1 | 1,200 |
| Draftsman | 1 | 1,200 |
| Clerk | 9 | 1,200 |

APPENDIX 2

CLASSIFICATION OF ACTIVITIES

EXPLANATORY NOTE

The Classifications of Activities have for their purpose to list and classify in all practicable detail the specific activities engaged in by the several services of the National Government. Such statements are of value from a number of standpoints. They furnish, in the first place, the most effective showing that can be made in brief compass of the character of the work performed by the service to which they relate. Secondly, they lay the basis for a system of accounting and reporting that will permit the showing of total expenditures classified according to activities. Finally, taken collectively, they make possible the preparation of a general or consolidated statement of the activities of the Government as a whole. Such a statement will reveal in detail, not only what the Government is doing, but the services in which the work is being performed. For example, one class of activities that would probably appear in such a classification is that of "scientific research." A subhead under this class would be "chemical research." Under this head would appear the specific lines of investigation under way and the services in which they were being prosecuted. It is hardly necessary to point out the value of such information in planning for future work and in considering the problem of the better distribution and coördination of the work of the Government. The Institute contemplates attempting such a general listing and classification of the activities of the Government upon the completion of the present series.

CLASSIFICATION OF ACTIVITIES

1. Quasi-judicial

1. Prevention of unfair methods of competition

- (a) Trade practice submittals

2. Acting as master in chancery in anti-trust cases when so designated by the court. (So far the commission has not been called upon to perform this duty.)

2. Economic

1. Collection of current reports from corporations engaged in interstate commerce.

2. Investigation, on its own initiative, of any corporation engaged in interstate commerce.

3. Investigation, upon direction of the President or either house of Congress, of any corporation alleged to be violating the anti-trust acts.

4. Investigation, either on its own initiative or on the request of the Attorney General, of the manner in which a court decree dissolving a trust is being carried out.

5. Investigation upon the application of the Attorney General of any corporation alleged to be violating the anti-trust acts and recommendation of the readjustment of the business in order that the corporation may maintain its organization, management, and conduct of business in accordance with law.

6. Publication of such information collected as deemed to be in the public interest and using it as a basis for recommending legislation to Congress.

7. Supervision of export trade associations formed under the provisions of the Webb-Pomerene Act.

APPENDIX 3

PUBLICATIONS

Annual Reports. The Federal Trade Commission is required by law to submit to Congress an annual report covering the work done during the fiscal year. These reports contain not only administrative details but also much material of general interest. Of particular importance is the list of all the formal complaints issued, with a brief description of each giving the names of the parties complained of, the charges and the status of the complaint.

Reports of Economic Investigation. The following list contains all the reports of economic investigations that had been printed up to April 1, 1921. They afford an insight into the economic conditions in many fields of activity. It is possible to purchase these publications from the Superintendent of Documents, Government Printing Office, Washington, D. C.

| Report | Dated |
|--|-----------------|
| Anthracite and Bituminous Coal | June 30, 1917 |
| Beet Sugar Industry | May 24, 1917 |
| Book Paper Industry | August 21, 1917 |
| Canned Vegetables and Fruits | May 15, 1918 |
| Canned Salmon | Dec. 27, 1918 |
| Coal, No. 1. Pennsylvania Bituminous | June 30, 1919 |
| “ “ 2. Pennsylvania Anthracite | “ “ “ |
| “ “ 3. Illinois Bituminous | “ “ “ |
| “ “ 4. Alabama, Tennessee & Kentucky Bituminous | “ “ “ |
| “ “ 5. Ohio, Indiana and Michigan | “ “ “ |
| “ “ 6. Maryland, West Virginia & Virginia | “ “ “ |
| “ “ 7. Trans-Mississippi States | “ “ “ |
| Coöperation on American Export Trade | June 30, 1916 |
| Copper Costs | June 30, 1919 |
| Commercial Wheat Flour Milling | Sept. 15, 1920 |
| Causes of High Prices of Farm Implements | May 4, 1920 |

| Report | Dated |
|---|-----------------|
| Fertilizer Industry | August 19, 1916 |
| Flour Milling and Jobbing | April 4, 1918 |
| Fundamentals of a Cost System for Manufacturers | July 1, 1916 |
| Grain Trade Vol. I. Country Grain Marketing | Sept. 15, 1920 |
| “ “ “ 2. Terminal Grain Markets and Exchanges | “ “ “ |
| “ “ “ 3. Future Trading Operations | “ “ “ |
| Leather and Shoe Industry | Aug. 21, 1919 |
| Maximum Profit Limitation on Meat Packing Industry | Sept. 25, 1919 |
| Meat Packing Industry | |
| Part 1. Extent and Growth of Power of the Five Packers in Meat and Other Industries | June 24, 1919 |
| “ 2. Evidence of Combination among Packers | Nov. 25, 1918 |
| “ 3. Methods of the Five Packers in Controlling the Meat Packing Industry | June 28, 1919 |
| “ 4. The Five Larger Packers in Produce and Grocery Foods | June 30, 1919 |
| “ 5. Profits of the Packers | June 28, 1919 |
| “ 6. Growing, Fattening and Marketing of Livestock | June 30, 1919 |
| Newsprint Paper Industry | June 13, 1917 |
| Petroleum Industry of Wyoming | Jan. 3, 1921 |
| Advances in Prices of Petroleum Products | June 1, 1920 |
| Pipe Line Transportation of Petroleum | Feb. 28, 1916 |
| Price of Gasoline in 1915 | Apr. 11, 1917 |
| Prices of American Flags | July 26, 1917 |
| Private Car Lines | March 26, 1920 |
| Southern Livestock Prices | Feb. 2, 1920 |
| Sugar Supply and Prices | Nov. 15, 1920 |
| System of Accounts for Retail Merchants | July 1, 1916 |
| Resale Price of Maintenance | June 30, 1919 |
| Trade and Tariffs in South America | June 30, 1916 |
| Wheat Prices in 1920 | Dec. 13, 1920 |
| Wholesale Marketing of Foods | June 30, 1919 |
| Woolen Rag Trade | June 30, 1919 |
| Commercial Bribery | March 18, 1920 |

Other Publications. Findings, Orders and Conference Rulings of April 15, 1920, Federal Trade Commission, Vol. I.

Findings and Orders of Federal Trade, June 30, 1920, Commission, Vol II.

Discussion of and Practice and Procedure under the Export Trade Act.

Extracts from the Trading with the Enemy Act and Executive Order of October 12, 1917.

APPENDIX 4

LAWS

(A) INDEX TO LAWS

Creation

| | |
|--------------------------------------|---------------------------|
| Federal Trade Commission established | 38 Stat. L., 717, Sec. 1. |
| Bureau of Corporations abolished | 38 Stat. L., 717, Sec. 3. |

Personnel

Positions established

| | |
|---------------|---------------------------|
| Commissioners | 38 Stat. L., 717, Sec. 1. |
| Secretary | 38 Stat. L., 717, Sec. 2. |

Method of appointment of

| | |
|--|---------------------------|
| Commissioners | 38 Stat. L., 717, Sec. 1. |
| Secretary | 38 Stat. L., 717, Sec. 2. |
| Attorney, special experts and examiner | 38 Stat. L., 717, Sec. 2. |
| All other employees | 38 Stat. L., 717, Sec. 2. |

Salaries of

| | |
|---------------|---------------------------|
| Commissioners | 38 Stat. L., 717, Sec. 2. |
| Secretary | 38 Stat. L., 717, Sec. 1. |

Activities

Quasi-judicial

| | |
|-------------------------------|---------------------------|
| Unfair methods of competition | 38 Stat. L., 717, Sec. 5. |
| Price discriminations | 38 Stat. L., 730, Sec. 2. |
| Tying contracts | 38 Stat. L., 730, Sec. 3. |
| Holding companies | 38 Stat. L., 730, Sec. 7. |
| Interlocking directorates | 38 Stat. L., 730, Sec. 8. |
| Master in Chancery | 38 Stat. L., 717, Sec. 7. |

Economic

| | |
|-------------------------------------|---------------------------------|
| Corporation reports | 38 Stat. L., 717, Sec. 6. |
| Special investigations | 38 Stat. L., 717, Sec. 6. |
| Supervision of Export Trade Assoc's | 40 Stat. L., 516, Sec. 4, 5. |

Items of Appropriation

Salaries

| | |
|--------------------|-------------------|
| Commissioners | 41 Stat. L., 1380 |
| Secretary | 41 Stat. L., 1380 |
| All other expenses | 41 Stat. L., 1380 |

(B) COMPILATION OF LAWS

1914—Act of September 26, 1914 (38 Stat. L., 717)—An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes.

[Sec 1.] 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. 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 a secretary, who shall receive a salary of \$5,000 a year, payable in like manner, and it shall have authority to employ and fix the compensation of such attorneys, special experts, examiners, clerks, and other employees, as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

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.

SEC. 3. That upon the organization of the Commission and election of its chairman, the Bureau of Corporations and the offices

of the Commissioner and Deputy Commissioner of Corporations shall cease to exist; and all pending investigations and proceedings of the Bureau of Corporations shall be continued by the Commission.

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

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

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

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

"Corporation" means any company or association incorporated or unincorporated, which is organized to carry on business for profit and has shares of capital or capital stock, and any company or association, incorporated, or unincorporated, without shares of capital or capital stock, except partnerships, which is organized to carry on business for its own profit or that of its members.

"Documentary evidence" means all documents, papers, and correspondence in existence at and after the passage of this act.

"Acts to regulate commerce" means the act entitled "An act to regulate commerce," approved February fourteenth, eighteen hundred and eighty-seven, and all acts amendatory thereof and supplementary thereto.

"Antitrusts acts" means the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety; also the sections seventy-three to seventy-seven, inclusive, of an act entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August twenty-seventh, eighteen hundred and ninety-four; and also the act entitled "An act to amend sections seventy-three and seventy-six of the act of August twenty-seventh, eighteen hundred and ninety-four, entitled 'An act to re-

duce taxation, to provide revenue for the Government, and for other purposes,'” approved February twelfth, nineteen hundred and thirteen.

SEC. 5. That unfair methods of competition in commerce are hereby declared unlawful.

The commission is hereby empowered and directed to prevent persons, partnerships, or corporation, except banks, and common carriers subject to the acts to regulate commerce, from using unfair methods of competition in commerce.

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 in commerce, and if it shall appear to the commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. Any person, partnership, or corporation may make application, and upon good cause shown may be allowed by the commission, to intervene and appear in said proceeding by counsel or in person. The testimony in such proceeding shall be reduced to writing and filed in the office of the commission. If upon such hearing the commission shall be of the opinion that the method of competition in question is prohibited by this act, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United States as hereinafter provided, the commission may at any time, upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

If such person, partnership, or corporation fails or neglects to obey such order of the commission while the same is in effect, the commission may apply to the circuit court of appeals of the United States, within any circuit where the method of competition in question was used or where such person, partnership, or corporation resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the commission. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person, partnership, or corporation and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such

transcript a decree confirming, modifying, or setting aside the order of the commission. The findings of the commission as to the facts, if supported by testimony, shall be conclusive if either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commission, the court may order such additional evidence to be taken before the commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by testimony shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section two hundred and forty of the Judicial Code.

Any party required by such order of the Commission to cease and desist from using such method of competition may obtain a review of such order in said circuit court of appeals by filing in the court a written petition praying that the order of the Commission be set aside. A copy of such petition shall be forthwith served upon the Commission, and thereupon the Commission forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the Commission as in the case of an application by the Commission for the enforcement of its order and the findings of the Commission as to the facts, if supported by testimony, shall in like manner be conclusive.

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

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

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

the manner of said service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

SEC. 6. That the Commission shall also have power—

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

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

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

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

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

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

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

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

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

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

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

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

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the Commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in

question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

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

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

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

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

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

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

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

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

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

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

1914—Act of October 15, 1914 (38 Stat. L., 730)—An Act
To supplement existing laws against unlawful re-
straints and monopolies, and for other purposes.

[Sec. 1] . . . "Commerce," as used herein, means trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or

any Territory or any insular possession or other place under the jurisdiction of the United States: *Provided*, That nothing in this act contained shall apply to the Philippine Islands.

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

SEC. 2. That it shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities, which commodities are sold for use, consumption, or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce: *Provided*, That nothing herein contained shall prevent discrimination in price between purchasers of commodities on account of differences in the grade, quality, or quantity of the commodity sold, or that makes only due allowance for differences in the cost of selling or transportation, or discrimination in price in the same or different communities made in good faith to meet competition: *And provided further*, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade.

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

* * * *

SEC. 7. That no corporation engaged in commerce shall acquire directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition may be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

No corporation shall require, directly or indirectly, the whole

or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such acquisition, or the use of such stock by the voting or granting of proxies or otherwise, may be to substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

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

Nor shall anything herein contained be construed to prohibit any common carrier subject to the laws to regulate commerce from aiding in the construction of branches or short lines so located as to become feeders to the main line of the company so aiding in such construction or from acquiring or owning all or any part of the stock of such branch lines, nor to prevent any such common carrier from acquiring and owning all or any part of the stock of a branch or short line constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property or an interest therein, nor to prevent such common carrier from extending any of its lines through the medium of the acquisition of stock or otherwise of any other such common carrier where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein is so acquired.

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

SEC. 8. That from and after two years from the date of the approval of this act no person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than \$1,000,000, engaged in whole or in part in commerce, other than banks, banking associations, trust companies, and common carriers subject to the act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the anti-trust laws. The eligibility of a director

under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this act it shall be lawful for him to continue as such for one year thereafter.

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

* * * *

SEC. II. That authority to enforce compliance with sections two, three, seven, and eight of this act by the persons respectively subject thereto is hereby vested: In the Interstate Commerce Commission where applicable to common carriers, in the Federal Reserve Board where applicable to banks, banking associations and trust companies, and in the Federal Trade Commission where applicable to all other character of commerce, to be exercised as follows:

Whenever the Commission or Board vested with jurisdiction thereof shall have reason to believe that any person is violating or has violated any of the provisions of sections, two, three, seven, and eight of this act, it shall issue and serve upon such person, a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the Commission or Board requiring such person to cease and desist from the violation of the law so charged in said complaint. Any person may make application, and upon good cause shown may be allowed by the Commission or Board to intervene and appear in said proceeding by counsel or in person. The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission or Board. If upon such hearing the Commission or Board, as the case may be, shall be of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations, and divest itself of the stock held or rid itself of the directors chosen contrary to the provisions of sections seven and eight of this act, if any there be, in the manner and within the time fixed by said order. Until a transcript of the record in such hearing shall have been filed in a circuit court of appeals of the United

States, as hereinafter provided the Commission or Board may at any time upon such notice and in such manner as it shall deem proper, modify or set aside, in whole or in part any report or any order made or issued by it under this section.

If such person fails or neglects to obey such order of the Commission or Board while the same is in effect, the Commission or Board may apply to the circuit court of appeals of the United States, within any circuit where the violation complained of was or is being committed or where such person resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceedings including all the testimony taken and the report and order of the Commission or Board. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript, a decree affirming, modifying, or setting aside the order of the Commission or Board. The findings of the Commission or Board as to the facts, if supported by testimony, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Commission or Board, the court may order such additional evidence to be taken before the Commission or Board and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission or Board may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by testimony, shall be conclusive, and its recommendation, if any, for the modification or setting aside of its original order, with the return of such additional evidence. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section two hundred and forty of the Judicial Code.

Any party required by such order of the Commission or Board to cease and desist from a violation charged may obtain a review of such order in said circuit court of appeals by filing in the court a written petition praying that the order of the Commission or Board be set aside. A copy of such petition shall be forthwith served upon the Commission or Board, and thereupon the Commission or Board forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the Commission or Board as in the case of an application by the Commission or Board for the enforcement of its order, and the findings of the Commission or Board as to the facts, if supported by testimony, shall in like manner be conclusive.

The jurisdiction of the circuit court of appeals of the United States to enforce, set aside, or modify orders of the commission or board shall be exclusive.

Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the Commission or Board or the judgment of the court to enforce the same shall in any wise relieve or absolve any person from any liability under the antitrust acts.

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

1918—Act of April 10, 1918 (40 Stat. L., 516)—An Act To promote export trade, and for other purposes.

[SEC. 1]. That the words "export trade" wherever used in this Act mean solely trade or commerce in goods, wares, or merchandise exported, or in the course of being exported from the United States or any Territory thereof to any foreign nation: but the words "export trade" shall not be deemed to include the production, manufacture, or selling for consumption or for resale, within the United States or any Territory thereof, of such goods, wares, or merchandise, or any act in the course of such production, manufacture, or selling for consumption or for resale.

That the words "trade within the United States" wherever used in this Act mean trade or commerce among the several States or in any Territory of the United States, or in the District of Columbia, or between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or between the District of Columbia and any State or States.

That the word "association" wherever used in this Act means any corporation or combination, by contract or otherwise, of two or more persons, partnerships, or corporations.

SEC. 2. That nothing contained in the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety, shall be construed as declaring to be illegal an association entered into for the sole purpose of engaging in export trade and actually engaged solely in such export trade, or an agreement made or act done in the course of export trade by such association, provided such associa-

tion, agreement, or act is not in restraint of trade within the United States, and is not in restraint of the export trade of any domestic competitor of such association: *And provided further*, That such association does not, either in the United States or elsewhere, enter into any agreement, understanding, or conspiracy, or do any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein.

SEC. 3. That nothing contained in section seven of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October fifteenth, nineteen hundred and fourteen, shall be construed to forbid the acquisition or ownership by any corporation of the whole or any part of the stock or other capital of any corporation organized solely for the purpose of engaging in export trade, and actually engaged solely in such export trade, unless the effect of such acquisition or ownership may be to restrain trade or substantially lessen competition within the United States.

SEC. 4. That the prohibition against "unfair methods of competition" and the remedies provided for enforcing said prohibition contained in the act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September twenty-sixth, nineteen hundred and fourteen, shall be construed as extending to unfair methods of competition used in export trade against competitors engaged in export trade, even though the acts constituting such unfair methods are done without the territorial jurisdiction of the United States.

SEC. 5. That every association now engaged solely in export trade, within sixty days after the passage of this act, and every association entered into hereafter which engages solely in export trade, within thirty days after its creation, shall file with the Federal Trade Commission a verified written statement setting forth the location of its offices or places of business and the names and addresses of all its officers and of all its stockholders or members, and if a corporation, a copy of its certificate or articles of incorporation and by-laws, and if unincorporated, a copy of its articles or contract of association, and on the first day of January of each year thereafter it shall make a like statement of the location of its offices or places of business and the names and addresses of all its officers and of all of its stockholders or members and of all amendments to and changes in its articles or certificate of incorporation or in its articles or contract of association. It shall also furnish to the commission such information as the commission may require as to its organization, business, conduct, practices, management, and relation to other associations, corporations, partnerships, and individuals. Any association which shall fail so to do shall not have the benefit of the provisions of section two and section three of this act, and it shall also forfeit to the United States the sum of \$100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the association has its principal office, or in

any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of the forfeiture. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Whenever the Federal Trade Commission shall have reason to believe that an association or any agreement made or act done by such association is in restraint of trade within the United States or in restraint of the export trade of any domestic competitor of such association, or that an association either in the United States or elsewhere has entered into any agreement, understanding, or conspiracy, or done any act which artificially or intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein, it shall summon such association, its officers, and agents to appear before it, and thereafter conduct an investigation into the alleged violations of law. Upon investigation, if it shall conclude that the law has been violated, it may make to such association recommendations for the readjustment of its business, in order that it may thereafter maintain its organization and management and conduct its business in accordance with law. If such association fails to comply with the recommendations of the Federal Trade Commission, said commission shall refer its findings and recommendations to the Attorney General of the United States for such action thereon as he may deem proper.

For the purpose of enforcing these provisions the Federal Trade Commission shall have all the powers, so far as applicable, given it in "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

1921—Act of March 4, 1921 (41 Stat. L., 1380)—An Act Making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1922, and for other purposes.

* * * *

Federal Trade Commission:

For five commissioners, at \$10,000 each; secretary \$5,000; in all, \$55,000.

For all other authorized expenditures of the Federal Trade Commission in performing the duties imposed by law or in pursuance of law, including personal and other services in the District of Columbia and elsewhere, supplies and equipment, law books, books of reference, periodicals, printing and binding, traveling expenses, per diem in lieu of subsistence not to exceed \$4, newspapers, foreign postage, and witness fees and mileage in accordance with section 9 of the Federal Trade Commission Act, \$900,000.

APPENDIX 5

FINANCIAL STATEMENT

EXPLANATORY NOTE

Statements showing appropriations, receipts, expenditures, and other financial data for a series of years constitute the most effective single means of exhibiting the growth and development of a service. Due to the fact that Congress has adopted no uniform plan of appropriation for the several services and that the latter employ no uniform plan in respect to the recording and reporting of their receipts and expenditures, it is impossible to present data of this character according to any standard scheme of presentation. In the case of some services the administrative reports contain tables showing financial conditions and operations of the service in considerable detail; in other financial data are almost wholly lacking. Careful study has in all cases been made of such data as are available, and the effort has been made to present the results in such a form as will exhibit the financial operations of the services in the most effective way that circumstances permit.

The Federal Trade Commission began operations on the balance of the appropriations originally made for the Bureau of Corporations. This fund was made available for the use of the commission by the ruling of the Comptroller of the Treasury under section three of the act creating the commission (38 Stat. L., 717). Since 1916 the commission has received regular annual appropriations from Congress. Prior to 1919 the appropriations for "printing and binding" were made under the general appropriations for

“printing and binding.” Subsequent to 1918 the sums available for printing and binding have been included in the commission’s appropriation for “all other expenses.” Of the total appropriation for the fiscal year 1919, \$200,000.00 was returned to the general fund of the treasury in accordance with the act of July 19, 1919. The expenditures listed in the following tables are figured on a cash basis. That is, the amounts given as expended represent the amount expended out of a specific appropriation during the current fiscal year only.

FEDERAL TRADE COMMISSION
* APPROPRIATIONS AND EXPENDITURES: FISCAL YEARS 1915 TO 1922, INCLUSIVE

| Appropriation | 1915 | | 1916 | | 1917 | | 1918 | |
|--|---------------|---------------------------|---------------|---------------|---------------|---------------|-----------------|------------------------|
| | Appropriation | Expenditure | Appropriation | Expenditure | Appropriation | Expenditure | Appropriation | Expenditure |
| Balance, Bureau of Corporations ^a | \$ 75,964.08 | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Federal Trade Commission ^e | 89,718.78 | ^d \$ 75,025.35 | ..... | ..... | ..... | ..... | ..... | ..... |
| Salaries of Commissioners and Secretaries | 18,333.37 | 18,333.37 | \$ 55,000.00 | \$ 52,000.00 | ..... | ..... | ..... | ..... |
| Salaries of Commissioners, Civil Service Employees, etc. .... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| Salaries, Travel Expenses, etc., of Special Attorneys, Agents, etc. .... | ..... | ..... | ..... | ..... | \$ 154,580.00 | 124,425.94 | \$ 172,920.00 | 157,146.43 |
| All Other Expenses ..... | ..... | ..... | ..... | ..... | 294,500.00 | 294,387.75 | 300,000.00 | 265,253.71 |
| Increase of Compensation ^e ..... | ..... | ..... | 300,000.00 | 299,995.98 | 15,000.00 | 13,081.42 | 20,000.00 | 17,226.62 |
| Witness Fees and Mileage ..... | ..... | ..... | ..... | ..... | ..... | ..... | 14,900.00 | 14,900.00 |
| For Printing and Binding ..... | ..... | ..... | ..... | ..... | 15,000.00 | 1,411.05 | 15,000.00 | 3,338.54 |
| Rent ..... | ..... | ..... | 15,000.00 | 14,997.55 | 25,000.00 | 23,610.54 | 30,000.00 | ^f 11,114.06 |
| Foodstuff Investigation ..... | ..... | ..... | ..... | ..... | 15,000.00 | 34.26 | 15,000.00 | 13,636.35 |
| Allotment, National Security and Defense Fund ^g ..... | ..... | ..... | ..... | ..... | ..... | ..... | 250,000.00 | 250,000.00 |
| Expenses under "Trading with the Enemy Act" ^h ..... | ..... | ..... | ..... | ..... | 100,000.00 | ..... | 650,000.00 | 687,071.18 |
| Totals | \$ 184,016.23 | \$ 93,358.72 | \$ 370,000.00 | \$ 394,921.21 | ..... | ..... | 20,000.00 | 13,903.78 |
| | | | | | \$ 619,080.00 | \$ 472,501.20 | \$ 1,487,820.00 | \$ 1,438,264.25 |

^a Data from Annual Reports, Federal Trade Commission.

^b Made available for the Federal Trade Commission until expended.

^c Includes settlement of vouchers, contingent expenses 1917; appropriation for contingent expenses for said year being insufficient.

^d Includes \$2,206.29 from "Contingent Expenses, Department of Commerce, 1915" and \$87,512.49 from "Bureau of Corporations 1915."

^e Figured on the accrual basis.

^f Indefinite appropriation based on amount necessary to pay bonus.

^g In addition \$6,103.93 included in expenditures of "National Security and Defense" and \$263.40 under "Trading with the Enemy Act."

^h Available until expended.

ⁱ Does not include accrued expenditures as follows: 1917, \$4,248.59; 1918, \$14,047.71.

FINANCIAL STATEMENT

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APPROPRIATIONS AND EXPENDITURES: FISCAL YEARS 1915 TO 1922, INCLUSIVE—Continued

| Appropriation | 1919 | | 1920 | | 1921 | | 1922 | |
|--|-----------------|------------------------------|---------------|------------------------------|-----------------|----------------------------|---------------|--------------|
| | Appropriation | Expenditure | Appropriation | Expenditure | Appropriation | Expenditure | Appropriation | Expenditure |
| Balance, Bureau of Corporations ^a | | \$ 1,305.95 | | \$ 9,143.89 | | \$ 485.32 | | |
| Federal Trade Commission | | | | | | | | |
| Salaries of Commissioners and Secretaries | | | \$ 55,000.00 | 46,527.77 | \$ 55,000.00 | \$ 51,972.21 | \$ 55,000.00 | |
| Salaries of Commissioners, Employees, etc. | \$ 177,540.00 | 139,480.82 | | | | | | |
| Salaries, Travel Expenses, etc., of Special Attorneys, Agents, etc. | | | | | | | | |
| All Other Expense | 1,500,000.00 | 1,312,126.73 | 1,000,000.00 | b 909,295.88 | 900,000.00 | 798,435.00 | 900,000.00 | |
| Increase of Compensation | 45,234.15 | 45,234.15 | 65,500.00 | 65,500.00 | 57,000.00 | 57,000.00 | | |
| Witness Fees and Mileage | | | | | | | | |
| For Printing and Binding | | | | | | | | |
| Rent | | | | | | | | |
| Foodstuff Investigation | | | | | | | | |
| Allotment, National Security and Defense Fund | | 57,629.23 | | d 375.04 | | | | |
| Expenses under "Trading with the Enemy Act" | | 745.22 | | d 3.06 | | | | |
| Totals | \$ 1,722,774.15 | ^e \$ 1,556,515.60 | 1,270,500.00 | ^e \$ 1,030,845.64 | \$ 1,012,000.00 | ^e \$ 907,892.62 | \$ 955,000.00 | ^f |

^a Available for the Federal Trade Commission until expended.
^b Includes expenditures on account of "Foodstuff investigation."
^c Expenditure included under "all other expenses."
^d Balance of allotment returned to principal account.
^e Does not include accrued expenditures as follows: 1919, \$25,939.95; 1920, estimated, \$84,600.70; 1921, estimated, \$29,281.18.
^f Figures not yet available.

APPENDIX 6

BIBLIOGRAPHY ¹

FEDERAL TRADE COMMISSION

EXPLANATORY NOTE

The bibliographies appended to the several monographs aim to list only those works which deal directly with the services to which they relate, their history, activities, organization, methods of business, problems, etc. They are intended primarily to meet the needs of those persons who desire to make a further study of the services from an administrative standpoint. They thus do not include the titles of publications of the services themselves, except in so far as they treat of the services, their work and problems. Nor do they include books or articles dealing merely with technical features other than administrative of the work of the services. In a few cases explanatory notes have been appended where it was thought they would aid in making known the character or value of the publication to which they relate.

After the completion of the series the bibliographies may be assembled and separately published as a bibliography of the Administrative Branch of the National Government.

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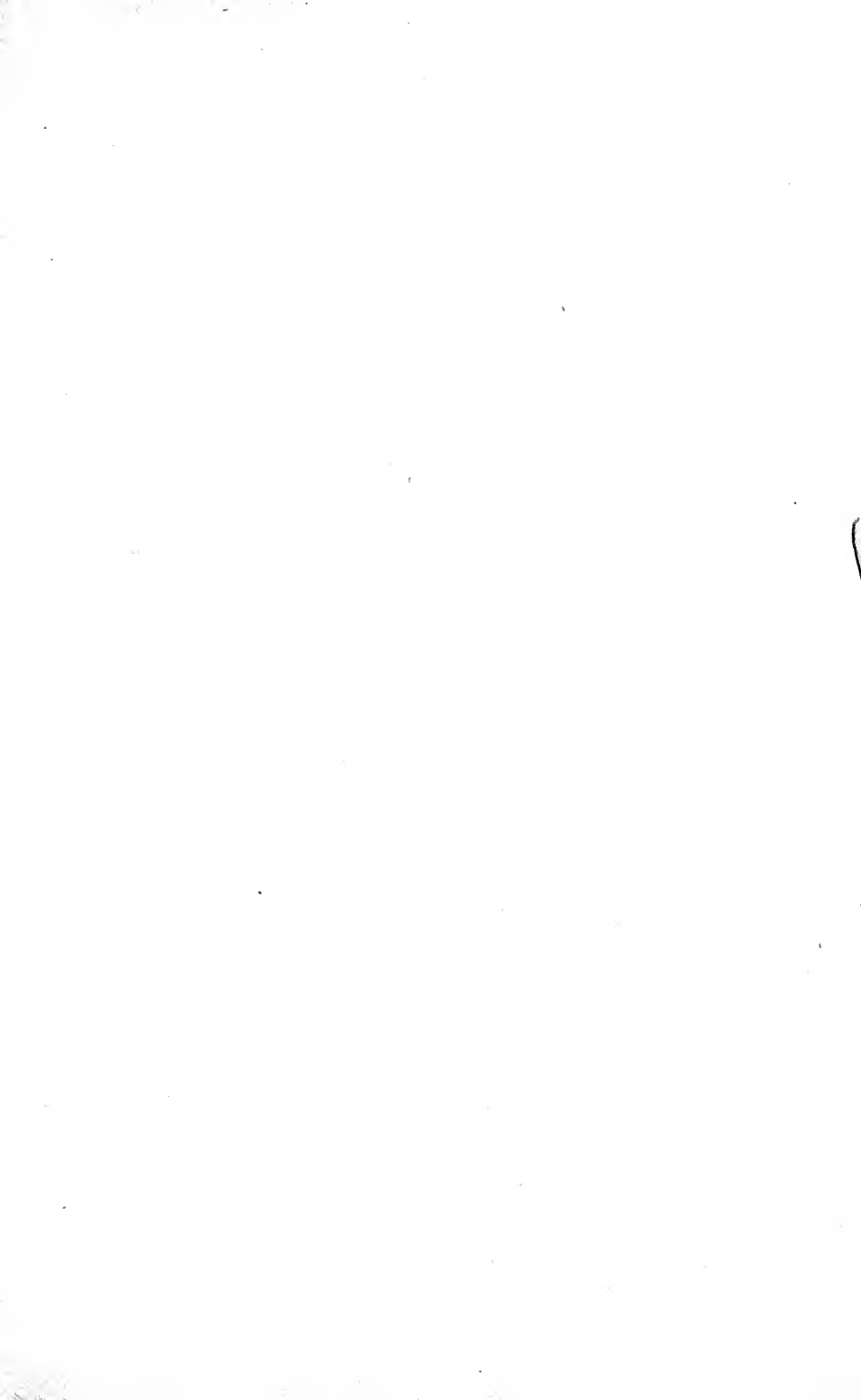
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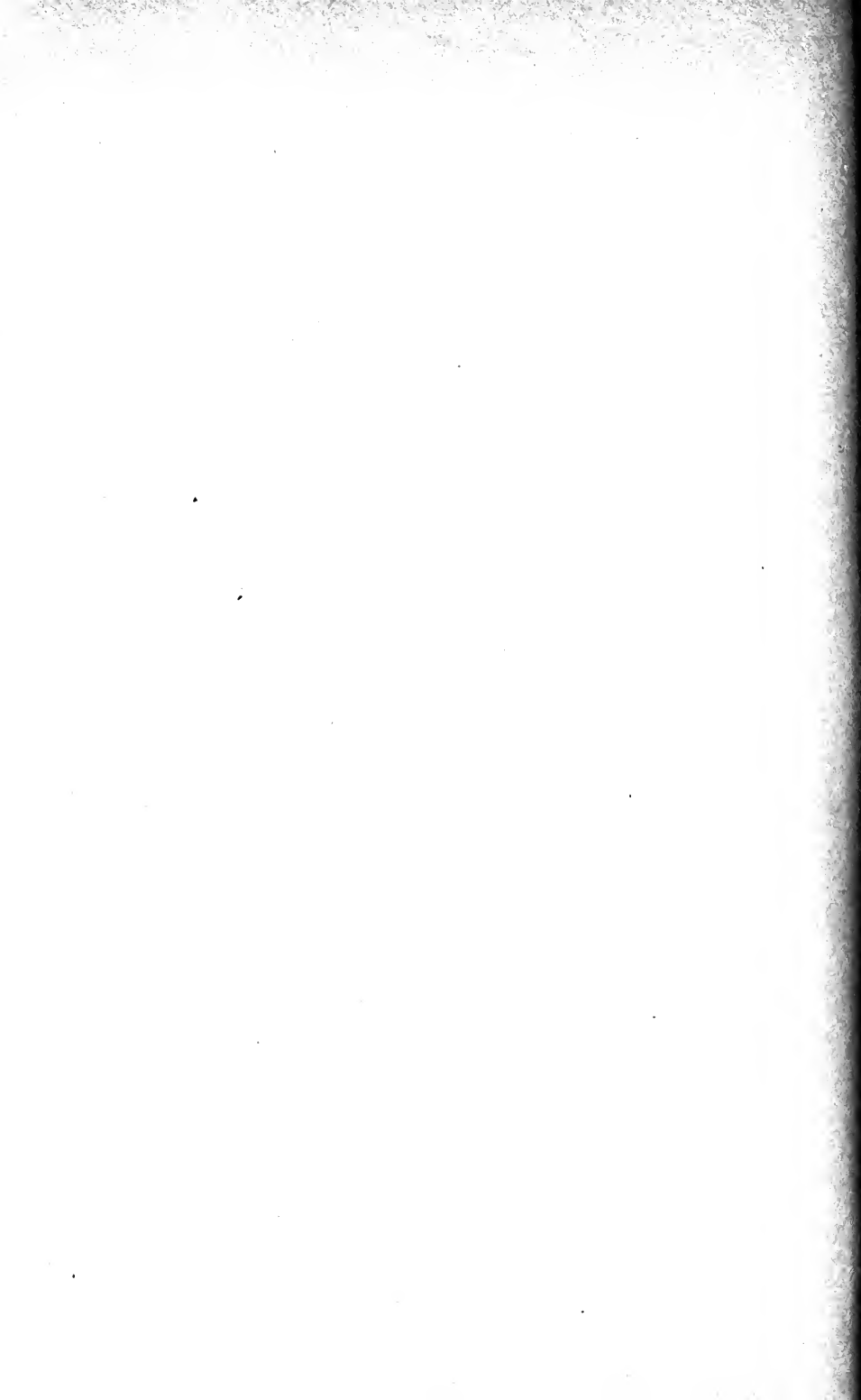
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